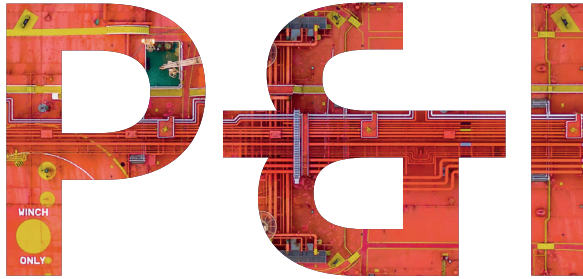


CLASS 3
BRITANNIA P&I
RULE BOOK
2021/22*



PROTECTION
& INDEMNITY
RULES

* POLICY YEAR

Contents

I	INTRODUCTORY	
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Rule 1	Articles of Association	7
Rule 2	Definitions	7
Rule 3	Nature of Cover	12
	(1) Extent of Cover	12
	(2) Conditions	12
	(3) Contributions	12
	(4) Sanctions	12
	(5) Insurance Act 2015	13
Rule 4	Membership	14
Rule 5	Right of Recovery	15

II	ENTRY AND CONTRIBUTION	
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Rule 6	Entry	20
	(1) Application	20
	(2) Fair presentation	20
	(3) Certificate of Entry	21
	(4) Entered Tonnage	21
	(5) Subject to Rules	22
	(6) Variation of Cover	22
	(7) Contract of Insurance	22
	(8) Refusal of Application	22
	(9) ITOPF	22

Rule 7	Special Insurances	22
Rule 8	Joint Entries	23
Rule 9	Period of Insurance	25
Rule 10	Contribution by way of calls	26
Rule 11	Calls	27
Rule 12	Payment	29
	(1) Instalments	29
	(2) Notification	29
	(3) Currencies	29
	(4) Tax	29
	(5) Set-off	30
	(6) Penalty for late payment	30
	(7) Bad debts	30
	(8) Effect of Member's non-payment	30
Rule 13	Laid-up Returns	31
Rule 14	Release	31
Rule 15	Recovery of Contributions	32
Rule 16	Fleet Entry	33
Rule 17	Mortgagees	33
Rule 18	Cover for Associated Companies	34

III RISKS COVERED

Rule 19	Risks Covered	36
	(1) Seamen	36
	(2) Passengers	39
	(3) MLC 2006	40
	(4) Third Party illness, injury or death	40
	(5) Stowaways or persons saved at sea	42
	(6) Diversion Expenses	42
	(7) Repatriation	43
	(8) Life Salvage	43
	(9) Collisions	43
	(10) Damage to Property	46
	(11) Non-Contact Damage to Ships	48
	(12) Pollution	48
	(13) Removal of Wreck	53
	(14) Towage	54
	(15) Contracts of Indemnity or Guarantee	56
	(16) Quarantine	56
	(17) Responsibilities in Respect of Cargo	57
	(18) General Average	64
	(19) Fines	65
	(20) Legal Costs, Sue and Labour	67
	(21) Risks Incidental to Ship Owning	68
	(22) Special Cover	69
	(23) Special Cover for Salvors	69
	(24) Special Cover for Charterers	71
	(25) Liabilities arising out of the Carriage of Cargo	71

IV EXCLUSIONS, LIMITATIONS AND WARRANTIES

Rule 20	Risks Specifically Excluded	73
	(1) Damage to the Entered Ship	73
	(2) Equipment on board the Entered Ship	73
	(3) Repairs to the Entered Ship	73
	(4) Cargo and freight	73
	(5) Pollution	74
	(6) Salvage	74
	(7) Charter parties	74
	(8) Road Vehicles	74
	(9) Employers' liability	74
	(10) Bad debts	74
	(11) Fraud	74
	(12) Demurrage and delay	74
	(13) Towage and Salvage	75
	(14) Carriage of Through Transit Cargo	75
	(15) Diving	75
	(16) Sanctions	75
Rule 21	Exclusion of certain specialist risks	76
	(1) Salvage tugs	76
	(2) Heavy Lift Ships	76
	(3) Drilling and Production Operations	76
	(4) Storage Ships	76
	(5) Waste Ships	77
	(6) Entertainment Ships	77
	(7) Underwater Operations	77
	(8) Specialist Operations	77

Rule 22	Imprudent trading	78
Rule 23	Exclusion of nuclear risks	78
Rule 24	Exclusion of risks covered by Hull Policies	81
Rule 25	Exclusion of War Risks	81
	(1) General Exclusion	81
	(2) War Risks	82
Rule 26	Other Insurances	83
Rule 27	Limitation of liability	83
Rule 28	Classification and condition of Ships	86
Rule 29	Bye-Laws	90

V CLAIMS

Rule 30	Obligation of the Member in respect of claims	91
Rule 31	Powers of the Managers relating to the handling and settlement of claims	92
Rule 32	Powers of the Board and the Committee relating to the settlement of claims on the Association	95

VI CESSER OF INSURANCE

Rule 33	Cesser of all insurances	97
	(1) Failure to pay	97
	(2) Failure of individual	97
	(3) Failure of corporation	97
	(4) Sanctions	98
Rule 34	Cesser of Ship Entry	98
	(1) Transfer of interest	98
	(2) Change of management	98

	(3) Total loss	98
	(4) Ship missing	98
	(5) Mortgage	98
	(6) Classification	98
	(7) Termination of Entry	99
	(8) Sanctions	99
Rule 35	Effect of Cesser	99
Rule 36	Contributions due on Cesser of Insurance	100
<hr/>		
VII	THE FUNDS OF THE ASSOCIATION	
<hr/>		
Rule 37	Closing of Policy Years	103
Rule 38	Reinsurance and pooling	105
Rule 39	Reserves	105
Rule 40	Investment	107
<hr/>		
VIII	GENERAL TERMS AND CONDITIONS	
<hr/>		
Rule 41	Forebearance	109
Rule 42	Assignment	109
Rule 43	Delegation	110
Rule 44	Disputes and differences	110
Rule 45	Notices	113
Rule 46	Jurisdiction	115
	INDEX TO RULES	117

I Introductory

RULE 1 ARTICLES OF ASSOCIATION

These Rules are subject to the Articles of Association of The Britannia Steam Ship Insurance Association Europe or The Britannia Steam Ship Insurance Association Limited as applicable.

RULE 2 DEFINITIONS

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.

The Association The Britannia Steam Ship Insurance Association Europe or The Britannia Steam Ship Insurance Association Limited as named in the Certificate of Entry.

Associated Company 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 18.

The Board 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.

Call Rate In relation to any Entered Ship, the rate per ton of the Entered Tonnage at which an Estimated Total Call is payable to the Association in accordance with Rule 11(1).

Calls Any monies payable to the Association in respect of an Entered Ship pursuant to Rule 11.

Certificate of Entry 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 3-Protection and Indemnity.
- 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 or Overspill Call or Fixed Premium levied by the Association pursuant to Rule 7 and Rule 11.
- Convention Limit** The limit of liability of the owner of an Entered Ship for Claims (other than claims for loss of life or personal injury) determined in accordance with Article 6.1 (b) of the International Convention on Limitation of Liability for Maritime Claims 1976 (but applying 334 SDRs to each ton up to 500 tons) and converted from Special Drawing Rights into United States Dollars at the rate of exchange conclusively certified by the Association as being the rate prevailing on the Overspill Claim Date. Any Entered Ship shall be deemed to be a seagoing ship to which the Convention applies, notwithstanding any provision in the Convention to the contrary; but if a tonnage less than the Full Tonnage of the Ship was entered in the Association, the Convention Limit shall be the proportion of the limit of liability, determined and converted as aforesaid, which the Entered Tonnage bears to the Full Tonnage of the Ship.
- 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.
General Excess Loss Reinsurance Contract	The excess of loss reinsurance policies effected by parties to the Pooling Agreement.
The Hague Visby Rules	The International Convention for the Unification of Certain Rules Relating to bills of lading signed at Brussels on 25th August 1924 as amended by the Protocol to that Convention signed at Brussels on 23rd February 1968.
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.

Overspill Call	Any monies payable to the Association in respect of an Entered Ship pursuant to Rule 11(4) for the purpose of providing funds to pay part of an Overspill Claim.
Overspill Claim	The Association's contribution to that part of any claim, including the costs and expenses associated therewith, (whether arising out of the Terms of Entry of any Entered Ship or out of the terms of the Pooling Agreement) which exceeds or may exceed the maximum sum recoverable in respect of that claim under the General Excess Loss Reinsurance Contract.
Overspill Claim Date	The date on which the incident or occurrence giving rise to an Overspill Claim occurred, or if that date falls in a Policy Year which is closed under Rule 37(2) the 20th August in the oldest Policy Year remaining open under the automatic closing provisions of Rule 37(2) in respect of Overspill Calls at the time when the notice under Rule 37(2) that an Overspill Claim might arise was given.
Passenger	A person carried on board an Entered Ship by virtue of holding a ticket of passage.
Personal Effects	Personal property, documents, navigational or other technical instruments and tools brought on board, or being taken to or from, the Entered Ship by a Seaman but excluding cash, valuables, or any other article which in the opinion of the Board (or, in the case of claims not exceeding USD 2 million, the Committee) is not an essential requirement for a Seaman.
Policy Year	A year from noon GMT on any 20th February to noon GMT on the next following 20th February.
Pooling Agreement	The agreement, to which the Association is a party, between certain Protection and Indemnity Associations dated 20th February 1998 and any addendum to, or variation or replacement of, the said agreement, or any other agreement of a similar nature or purpose.

Prohibited Area	Any country, zone, area, port or place which the Association from time to time may declare to be excluded from cover provided under Rule 25(2).
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 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.

RULE 3 NATURE OF COVER

- Extent of Cover 3(1)** The cover provided by this Class of the Association is as set out in these Rules and provides insurance for a Member against loss, damage, liability or expense incurred by him which arises:
- (A) In respect of the Member's interest in an Entered Ship; and
 - (B) Out of events occurring during the period of entry of the Ship in the Association; and
 - (C) In connection with the operation of the Ship.
- Conditions 3(2)** The risks covered as set out in Rule 19 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 19.
- Contributions 3(3)** 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(4)** Notwithstanding and without prejudice to any other provision of these Rules, including Rule 3(2), and the provisions of the 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(5) 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.

RULE 4 MEMBERSHIP

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 in 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.

RULE 5 RIGHT OF RECOVERY

5(1) If a Member shall become liable as hereinafter set out in Rule 19, in damages or otherwise, or shall incur any costs or expenses in respect of a Ship which was entered in the Association at the time of the casualty or event giving rise to such liability, costs or expenses, such Member shall be entitled to recover out of the funds of this Class of the Association the amount of such liability, costs or expenses 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.
- Incident 5(4)** Any liabilities, costs and expenses which a Member may incur in accordance with Rule 5(1) above in respect of the entry of any one Ship arising from any one incident or occurrence, including any claim in respect of liability for the removal or non-removal of any wreck, shall be treated for the purposes of these Rules as if they were one claim by the Member for recovery of the total amount of such liabilities, costs and expenses out of the funds of this Class of the Association.
- Currency 5(5)** 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.
- 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 the Pooling Agreement, General Excess Loss Reinsurance Contract or any reinsurance(s) arranged by the Association or the Managers, because of a shortfall in recovery from such parties or 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 parties or reinsurers. For the purposes of this Rule 5(6) "shortfall" includes any failure or delay in recovery by the Association by reason of such parties or reinsurers making payment into a designated account in compliance with the requirements of any state, international organisation or other competent authority.

Recoverability 5(7)(A)

**Overspill
Claims**

Without prejudice to any other applicable limit, any Overspill Claim on the Association shall not be recoverable from the Association in excess of the aggregate of

- (i) that part of the Overspill Claim which is eligible for pooling under the Pooling Agreement but which, under the terms of the Pooling Agreement, is to be borne by the Association; and
- (ii) the maximum amount that the Association is able to recover from the other parties to the Pooling Agreement as their contributions to the Overspill Claim.

(B) The aggregate amount referred to in paragraph (A) above shall be reduced to the extent that the Association can evidence

- (i) that costs have been properly incurred by it in collecting or seeking to collect

- (a) Overspill Calls levied to provide funds to pay that part of the Overspill Claim referred to in paragraph (A) (i) above; or

- (b) the amount referred to in paragraph (A) (ii) above; or

- (ii) that it is unable to collect an amount equal to that part of the Overspill Claim referred to in paragraph (A) (i) above that it had intended to pay out of the levy of Overspill Calls because any

Overspill Calls so levied, or parts thereof, are not economically recoverable, provided that if, due to a change in circumstances, such amounts subsequently become economically recoverable, the aggregate amount referred to in paragraph (A) above shall be reinstated to that extent.

(C) In evidencing the matters referred to in paragraph (B) (ii) above the Association shall be required to show that

(i) it has levied Overspill Calls on all its Members in respect of the Overspill Claim referred to in paragraph (A) above in accordance with and in the maximum amount permitted under Rule 11(4); and

(ii) it has levied those Overspill Calls in a timely manner, has not released or otherwise waived a Member's obligation to pay those Calls and has taken all reasonable steps to recover those Calls.

**Funding of 5(8)(A)
Overspill Claims**

The funds required to meet any Overspill Claim on the Association shall be provided

(i) from such sums as the Association is able to recover from the other parties to the Pooling Agreement as their contributions to the Overspill Claim; and

(ii) from such sums as the Association is able to recover from any special insurance which may, in the discretion of the Association, have been effected to protect the Association against the risk of payments of Overspill Claims; and

(iii) from such proportion of any reserves established under Rule 39(1) as the Board may in its discretion determine to utilise;

(iv) by levying one or more Overspill Calls irrespective of whether the Association has sought to recover or has recovered all or any of the sums referred to in paragraph (A) (ii) above but provided the Association shall first have made a determination in accordance with paragraph (A) (iii) above; and

(v) from the funds held in any Overspill Reserve created under Rule 39(2).

- (B) To the extent that funds required to meet any Overspill Claim on the Association are to be provided in the manner specified in paragraph (A) (iv) above the Association shall only be required to pay such Overspill Claim as and when such funds are received by it, provided that it can show from time to time that in seeking to collect such funds, it has taken the steps referred to in Rule 5(7)(C) paragraphs (i) and (ii).

**Recoverability 5(9)
of Overspill Calls** Any issues arising under Rules 5(7) and 5(8)(B) above in relation to whether

- (A) costs have been properly incurred in collecting or seeking to collect funds to pay Overspill Claims; or
- (B) any Overspill Call or part thereof is economically recoverable; or
- (C) in seeking to collect the funds referred to in Rule 5(8)(B) above the Association has taken the steps referred to in that Rule;

shall be referred to a panel which acting as a body of experts and not as an arbitration tribunal shall be constituted in accordance with the arrangements established in the Pooling Agreement and operate in accordance with Rule 44(4).

II Entry and Contribution

RULE 6 ENTRY

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(5), 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 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:
- Entry**
- (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. The names shall be listed in the order in which their names appear on the Certificate of Entry and 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 other than the Full Tonnage of such Ship.
- Tonnage**

Subject to 6(5) The terms and conditions upon which a Ship is accepted
Rules for 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 6(6) If at any time the Managers and the Member agree to vary
of cover 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) Every Certificate of Entry issued as aforesaid shall be
Insurance conclusive evidence of the contract of insurance.

Refusal of 6(8) The Managers may in their discretion and without giving
application 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.

ITOPF 6(9) Any person who wishes to enter a Ship for insurance in this Class of the Association shall himself become a member or associate of the International Tanker Owners Pollution Federation (ITOPF) as appropriate and shall enter the Ship in ITOPF. The Managers shall have the authority to arrange such membership, association and entry and to pay the fees due to ITOPF in respect of any such Ship from the funds of the Association.

RULE 7 SPECIAL INSURANCES

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.

PROVIDED ALWAYS THAT:

If the terms on which a Ship is entered or an insurance is given are such that the Member or person insured is not liable to contribute to Overspill Calls then his maximum recovery from the Association in respect of any claim shall be limited to a lesser sum than the maximum sum recoverable in respect of that claim under the General Excess Loss Reinsurance Contract.

RULE 8 JOINT ENTRIES

- 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) 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 in 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.

Cover

Limits of 8(5) Where any Ship is entered in the names of or on behalf of 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.

Cover

Communications 8(6) 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.

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.

RULE 9 PERIOD OF INSURANCE

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) conditions The insurance shall continue for the next Policy Year upon 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) the Member shall be deemed to have agreed to and accepted such decision 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.

RULE 10 CONTRIBUTION BY WAY OF CALLS

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 liabilities, costs and expenses 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, (including any contribution to any Overspill Claim) 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, Exceptional and Overspill Calls in accordance with the provisions of Rule 11.

RULE 11 CALLS

- 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 in accordance with Rule 37(1)) 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.

- Overspill 11(4)(A) Calls** If the Board considers that a claim may become an Overspill Claim it may direct at any time or times during or after the end of a Policy Year (but not after such Policy Year has been closed in accordance with Rule 37(2)) that an Overspill Call shall be paid by each Member in respect of Ships entered on the Overspill Claim Date of such amount as the Board may think fit.
- (B)** If the Board decides that an Overspill Claim may arise in a Policy Year which is closed under Rule 37(2) in respect of Overspill Calls, then any Overspill Call which the Board directs to be paid in respect of that Overspill Claim shall be levied on and paid by the Members in respect of Ships entered on the Overspill Claim Date notwithstanding that the incident or occurrence giving rise to the Overspill Claim took place at a time when such Ships may not have been entered in the Association.
- (C)** Any Overspill Call directed by the Board to be paid under this Rule shall be levied on and payable by all Members in respect of all Ships entered on the Overspill Claim Date at such percentage of the Convention Limit of each Ship as the Board in its discretion shall decide. *Provided always* that no such Overspill Call shall be levied in respect of any such Ship where the Member's Certificate of Entry or any endorsement thereof shall specifically exclude liability to contribute to an Overspill Call.

Member Limit (D) The Association shall not levy on any Member in respect of the entry of any one Ship an Overspill Call or Calls in respect of any one Overspill Claim exceeding in the aggregate two and one half percent of the Convention Limit of that Ship.

(E) Any funds raised by the Association in respect of an Overspill Call shall only be utilised in accordance with the provisions of Rule 39(2).

RULE 12 PAYMENT

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

Notification 12(2) As soon as reasonably practical after the amount of any Estimated Total Call or the rate of any Exceptional or Overspill 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)
late payment** 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 a 12(8)
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.

RULE 13 LAID-UP RETURNS

Subject to any terms and conditions which may have been agreed in accordance with the provisions of Rule 6(5), if an Entered Ship shall be laid-up in any safe port or place for a period of thirty or more consecutive days after finally mooring there (such period being computed from the day on which it finally moored to the day of departure, one day only being excluded), and the said Entered Ship shall be completely free of cargo, the Member shall be allowed a return of Calls payable in respect of such Ship for the said period, such return being calculated at a rate of not more than 50% on a pro rata daily basis. If during such period the Ship is also without crew the return shall be as aforesaid but at a rate of not more than 95%. The return of Calls referred to herein shall be calculated after the deduction of such amount for reinsurance, liabilities of the Association under the Pooling Agreement and administrative expenses as the Managers may from time to time determine. No return of Calls shall be made by the Association unless the Managers receive written notification within three months of the end of the period in respect of which the returns are claimed.

Provided always that:

- (i) the Managers shall determine whether the port or place is a safe port or place for the purposes of this Rule; and
- (ii) there shall be no return of Calls in respect of Overspill Calls.

RULE 14 RELEASE

- 14(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. Such release shall be upon such terms and including the payment of such amount, as the Managers may, in their sole discretion, deem to be appropriate after taking into account the release formula determined from time to time by the Board. In the absence of a request from the Member 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. Upon payment of such assessment and fulfilment of such other terms as the Managers, in their sole discretion, may deem to be appropriate in the circumstances, the Member shall be released from liability for further contribution to Calls in respect of such Ship.

The Managers may release a Member from liability from further contribution to one or more of the Estimated Total Call, Exceptional Calls made under Rule 11(3) and Overspill Calls made under Rule 11(4).

- 14(2)** As from the date of the release of an Entered Ship under Rule 14(1) in respect of the Estimated Total Call, Exceptional Calls or Overspill Calls as the case may be the Member shall be under no further liability to contribute to the corresponding 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 either Rule 37(3) or Rule 39(2) or both as the case may be in respect of that Ship.

RULE 15 RECOVERY OF CONTRIBUTIONS

- Recovery 15(1)** 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.

Lien 15(2) The Association shall have a lien on all ships owned or bareboat chartered by any Member (whether entered in the Association or not) in respect of monies payable by the Member to the Association.

Other Jurisdiction 15(3) Nothing in these Rules (including the provisions of Rule 44 Disputes and Differences and Rule 46 Jurisdiction) shall affect or prejudice the right of the Association to take action in accordance with local law in any jurisdiction to enforce a right in rem or exercise a lien on ships or to obtain security by seizure, attachment or arrest of assets for any amounts payable to the Association.

RULE 16 FLEET ENTRY

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.

RULE 17 MORTGAGEES

At the request of a mortgagee and with the consent of the Member, the Managers may in their discretion, and subject to the provisions of Rule 42, agree:

(a) to pay to the mortgagees, or to their order, any recovery the Member is entitled to receive from the funds of the Association in respect of any liability, costs or expenses incurred by the Member on receipt of notice from the mortgagees that the Member is in default under the mortgage;

(b) to inform the mortgagees if notice is given to the Member in respect of the Entered Ship under Rule 9(3) that his insurance in the Association in respect of such Ship is to cease;

(c) to give the mortgagees 14 days' notice of the Association's intention to cancel the insurance of the Member by reason of his failure to pay when due and demanded any sum due from him to the Association.

RULE 18 COVER FOR ASSOCIATED COMPANIES

18(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 18(2) reimbursement The liability of the Association to the Member and to Associated Companies to whom cover is extended in accordance with Rule 18(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 18(3) reimbursement The receipt by the Member, or any Associated Company to whom cover has been extended in accordance with Rule 18(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.

PROVIDED ALWAYS THAT:

The provisions of Rule 27(1) (limitation of liability) shall apply to any cover given under this Rule so that in circumstances where the Member could have (in the opinion of the Board) or has limited his liability, then the amount to which he could have (in the opinion of the Board) or has so limited his liability shall be the total amount recoverable from the Association.

III Risks Covered

RULE 19 RISKS COVERED

Unless otherwise agreed between the Member and the Managers, the Member shall be insured by the Association against the following liabilities, costs and expenses arising in respect of his interest in an Entered Ship, out of events occurring during the period of entry of the Ship in the Association and in connection with the operation of the Ship.

19(1) Liabilities in respect of Seamen

Liabilities which a Member may incur, together with costs and expenses incidental thereto, in respect of Seamen.

The following shall be recoverable:

**Illness, injury (A)
and death**

Medical, hospital, funeral and other expenses necessarily incurred and wages, maintenance, compensation and damages payable by reason of the illness or death of, or injury to, a Seaman.

Notwithstanding the proviso to Rule 5(1), where a Member has failed to discharge or pay a liability for wages, maintenance, compensation or damages for the illness or death of, or injury to, a Seaman, the Association shall discharge or pay such liability on the Member's behalf directly to such Seaman or dependant thereof.

Provided always that:

- (i) the Seaman or dependant has no enforceable right of recovery from any other party and otherwise would be uncompensated;

(ii) subject to (iii) below, the Association shall in no circumstances be liable for any sum in excess of the amount which the Member would have been able to recover from the Association under these Rules and the Member's terms and conditions of entry;

(iii) where the Association is under no liability in respect of the claim by virtue of Rules 33(1) and 35(1), the Association shall nevertheless discharge or pay the claim to the extent that it arises from an event occurring prior to the cesser of the insurance, but only as agent of the Member and the Member shall reimburse the Association in full.

Shipwreck (B)
unemployment
indemnity

Wages payable to a Seaman during unemployment in consequence of the wreck or loss of an Entered Ship and other payments made to Seamen in consequence of such wreck or loss under statutory obligation.

Provided always that any such wages and other payments which exceed two months basic wages shall not be recoverable from the Association.

Loss of effects (C)

Compensation in respect of loss of or damage to the Personal Effects of a Seaman or a relative of a Seaman while on board the Entered Ship.

Substitutes (D)

Expenses necessarily incurred in providing a substitute for a Seaman who is unfit for duty, or has been left behind for any reason where liability for such expenses could not reasonably have been avoided.

Provided always that wages shall only be recoverable as part of the said expenses when the Member is legally obliged to pay wages to two Seamen simultaneously for the same job and is unable to recover such double wages from any other source.

- Distressed (E)** Expenses incurred by or chargeable to a Member under statutory obligation in respect of a distressed Seaman or Seamen who desert or go on strike, where such expenses are not recoverable under any other paragraph of this Rule and where such expenses cannot be recovered from the Seaman himself.
- Seamen, Deserters and Strikers**
- Diversion (F)** Diversion expenses associated with liabilities covered under this Rule which are payable in accordance with Rule 19(6).
- Repatriation (G)** Repatriation expenses associated with liabilities covered under this Rule which are payable in accordance with Rule 19(7).
- Collective (H) and special agreements** The liabilities, costs and expenses covered under this Rule may be extended to include those for which a Member may be liable under collective or special agreements which have received the prior approval of the Managers.

However, there shall be no recovery under this Rule arising out of a Member's liability under a contract of indemnity or guarantee between the Member and a third party (see Rule 19(15)).

PROVIDED ALWAYS THAT:

There shall be no recovery under this Rule 19(1) in respect of liabilities, costs or expenses:

(i) which arise as a result of the termination of an agreement of service in accordance with the terms thereof, or by mutual consent, or from any other discretionary act of the Member, or from the sale of an Entered Ship; or

(ii) in respect of Seamen employed as catering staff on board the Entered Ship when moored (otherwise than on a temporary basis) and open to the public as a hotel, restaurant, bar or other place of entertainment.

19(2) Liabilities in respect of Passengers

Liabilities which a Member may incur, together with costs and expenses incidental thereto, in respect of Passengers.

The following shall be recoverable:

Illness, injury (A) and death Liabilities arising out of the illness or death of, or injury to, a Passenger, including the diversion and repatriation expenses specified in Rules 19(6) and 19(7) associated therewith.

Baggage (B) Liability arising out of the loss of or damage to a Passenger's baggage.

Casualty (C) Liability to a Passenger consequent upon an incident or condition on board involving either:

(i) collision, stranding, explosion, fire or any other cause affecting the physical condition of the Entered Ship so as to render it incapable of safe navigation to its intended destination; or

(ii) a threat to the life, health or safety of Passengers.

PROVIDED ALWAYS THAT:

(i) the ticket of passage shall relieve the Member of liability, costs and expenses to the maximum extent permitted by the appropriate law, and

(ii) there shall be no recovery in respect of the cost of forwarding Passengers to their destination or returning them to their port of embarkation, or of their maintenance ashore except insofar as such costs may arise as a consequence of an incident covered under sub-paragraphs (A) and (C) of this Rule.

(iii) there shall be no recovery in respect of liabilities arising out of any contract other than the ticket of passage or a charter party.

(iv) there shall be no recovery in respect of liabilities arising or remaining with the Member as a result of any waiver of rights of recourse against any third party in respect of an excursion by a passenger away from the Entered Ship.

(v) there shall be no recovery in respect of liabilities, costs or expenses incurred as a result of the carriage of a Passenger by air except where such liabilities, costs or expenses arise during the repatriation of a Passenger by air in circumstances covered under paragraphs (A) or (C) of this Rule or, subject always to proviso (iii) of this Rule 19(2), during an excursion from an Entered Ship.

(vi) there shall be no recovery in respect of loss of or damage to specie, bullion, precious or rare materials or stones, plate, jewellery or other objects of a rare or precious nature, bank notes or other forms of currency, bonds or other negotiable instruments whether carried as cargo or a Passenger's baggage, unless the value has been declared to the Managers prior to any such carriage, any additional premium paid and any directions made by the Managers for safe custody and carriage complied with.

19(3) MLC 2006

The cover afforded to Members in respect of their liabilities under the 2006 Maritime Labour Convention (MLC 2006) or domestic legislation by a State implementing MLC 2006 are detailed in the relevant Certificate of Entry of the Entered Ship.

19(4) Liabilities in respect of illness or injury or death of third parties

Compensation and damages for which the Member is liable which are payable by reason of the illness or death of, or injury to, any person, other than a Seaman or Passenger, and the diversion expenses specified in Rule 19(6) associated with the said illness, death or injury.

Provided always that:

(i) cover under this Rule 19(4) is limited to liabilities, costs and expenses arising out of a negligent act or omission on board or in relation to the operation of the Entered Ship, or in relation to the handling of its cargo from the time of receipt of that cargo at the port of shipment until delivery of that cargo at the port of discharge; and

(ii) the Member shall take all appropriate steps permitted by law to recover such liabilities, costs and expenses from any other person or insurer concerned with such third party; and

(iii) there shall be no recovery under this Rule 19(4):

(a) unless the Managers have (except in the case of a relative of a Seaman) approved of the presence of the third party to travel on board the Entered Ship and the terms and conditions on which he is carried and the Member had paid or agreed to pay such additional Call or premium as may be required by the Association; or

(b) in respect of personnel (other than those employed for marine purposes) on board the Entered Ship (being an accommodation Ship) employed by someone other than the Member where either:

(i) such Ship is moored or anchored within 500 metres of any oil or gas production or exploration facility; or

(ii) there has not been a contractual allocation of risks as between the Member and the employer of the said personnel which has been approved by the Association (see Rule 19(15)); or

(c) in respect of hotel, restaurant, bar or other guests or visitors on board the Entered Ship when moored (other than on a temporary basis) and open to the public as a hotel, restaurant, bar or other place of entertainment.

19(5) Liabilities in respect of stowaways or persons saved at sea

The cost to a Member necessarily incurred in maintaining, landing, deporting or repatriating stowaways or persons saved at sea, including diversion expenses under Rule 19(6) and repatriation expenses under Rule 19(7).

Provided always that:

(i) the Member shall take all appropriate steps permitted by law to recover such expenses from the stowaway or person saved at sea, or from any other person or insurer, or from any national or international bodies or organisations concerned with such persons; and

(ii) there shall be no recovery in respect of any consequential loss of profit or depreciation.

19(6) Diversion Expenses

The cost to a Member in respect of diversion expenses in circumstances which could entitle the Member to recover under Rule 19(1), Rule 19(2), Rule 19(3), Rule 19(4) (notwithstanding proviso (i) to that Rule) or Rule 19(5), but confined to the net loss to the Member (over and above the expenses that would have been incurred but for the diversion or delay) in respect of port charges, bunkers, insurance, Seamen's wages, stores and provisions necessarily incurred as a result of the diversion, while securing medical attention for sick or injured persons on board the ship, or while awaiting a substitute, or for the purpose of attempting to save life at sea.

19(7) Repatriation

The cost to a Member of maintaining, repatriating or deporting persons in circumstances which would entitle the Member to recover under Rule 19(1), Rule 19(2), Rule 19(3), Rule 19(4) or Rule 19(5).

19(8) Life Salvage

Sums awarded to third parties by reason of the fact that they have saved or attempted to save the life of any person on or from an Entered Ship but only if, and to the extent that, such payments are not recoverable under the Hull Policies of the Entered Ship or from cargo owners or underwriters.

19(9) Liabilities arising from Collisions

Liabilities which a Member may incur, together with costs and expenses incidental thereto, as a result of a collision between an Entered Ship and any other ship.

The following shall be recoverable:

Collision Clause (A) The one-fourth of the Member's liability (or such other proportion as may be applicable and agreed by the Managers) which is not covered under Clause 8 of the Institute Time Clauses Hulls 1/10/83 or under other forms of Hull Policies on the Entered Ship approved by the Managers.

Excess collision (B) liabilities That part of the Member's liability which exceeds the amount recoverable under the Hull Policies on the Entered Ship and any amount recoverable under paragraph (A) above solely by reason of such liability exceeding the valuation under the said policies.

- Collision liability (C)** Loss of or damage to cargo carried in an Entered Ship, arising out of a collision between the Entered Ship and another ship caused by the fault both of the Entered Ship and of the other ship, for which a Member may be liable to indemnify the owner or charterer of such other ship solely by reason of responsibility for such loss or damage being determined in a country where the liability for such loss or damage is joint and several and the “Both to Blame Collision Clause” is held invalid.
- to cargo**
- Provided always* that there shall be no cover under this paragraph unless the Member shall have covered his liabilities in respect of cargo under Rule 19(17) and cover under this paragraph shall be in accordance with the provisions of Rule 19(17).
- Injury and Death (D)** The liability of a Member for the injury to, or death of, Seamen or others insofar as such liability may be covered under Rule 19(1), Rule 19(2) and Rule 19(4).
- Property (E)** Liability for loss of or damage to property (other than the ship with which the Entered Ship collided, or cargo or other property in that other ship) insofar as such liability may be covered under Rule 19(10).
- Damage**
- Non-contact (F)** Liability for losses caused to any other ship or cargo or other property therein insofar as such liability may be covered under Rule 19(11).
- damage to Ships**
- Pollution (G)** Liability in respect of an escape or discharge or threatened escape or discharge of oil or any other substance insofar as such liability may be covered under Rule 19(12).
- Wreck removal (H)** Liability for removal of wrecks insofar as such liability may be covered under Rule 19(13).
- Cargo (J)** The liability of a Member for cargo insofar as such liability may be covered under Rule 19(17).

PROVIDED ALWAYS THAT:

- Hull Policies (i) a Member shall not be entitled to recover any amounts which would be recoverable under the Hull Policies on the Entered Ship or which would have been recoverable had there been no franchise or deductible applicable to those policies;
- Proper value (ii) for the purposes of paragraph (B) of this Rule the Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall determine whether the Entered Ship was insured for a proper value under the Hull Policies on that Ship. If the Board (or, in the case of claims not exceeding USD 2 million, the Committee) determines the amount actually insured to be less than the proper value, the Member shall only be entitled to recover the excess of such proper value; **(Note: In determining whether the Ship was insured for a proper value the Board (or, in the case of claims not exceeding USD 2 million, the Committee) will need to be satisfied that the said Hull Policies have been the subject of periodic review in the light of proper advice on market conditions. A proper value will be a figure which is reasonably close to the equivalent of the free uncommitted market value of the Ship at the time of the collision.)**
- Both to Blame (iii) unless otherwise provided for under a form of Hull Policy on the Entered Ship approved by the Managers, if both ships are to blame then, when the liability of either or both of the ships in collision becomes limited by law, claims under this Rule 19(9) shall be settled on the principle of single liability. Otherwise claims under this Rule 19(9) shall be settled on the principle of cross-liabilities, as if the owner of each ship had been compelled to pay the owner of the other ship such proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Member in consequence of the collision;

Member's own ship (iv) if a collision occurs involving two or more ships belonging to the same Member, or where a claim arises in respect of cargo belonging to a Member, the Member shall be entitled to recover from the Association and the Association shall have the same rights as if the ships had belonged to different owners, or as if the cargo had belonged to a third party.

19(10) Damage to Property

Liabilities which a Member may incur, together with costs and expenses incidental thereto, to pay damages or compensation for any loss of, or damage to, or infringement of rights in connection with, property.

The following shall be recoverable:

- Fixed and (A) Floating Objects** Liability arising out of any loss of or damage to any harbour, dock, pier, jetty, land or anything whatsoever moveable or immoveable (not being another ship or cargo or other property therein or cargo or other property carried in the Entered Ship) by reason of contact between the Entered Ship and such harbour, dock, pier, jetty, land or moveable or immoveable object.
- Passengers' (B) Baggage** Liability arising out of the loss of or damage to a Passenger's baggage insofar as such liability may be covered under Rule 19(2).
- Excess Liabilities (C)** That part of the Member's liability which exceeds the amount recoverable under the Hull Policies on the Entered Ship in respect of the liabilities set out in paragraph (A) above, subject always to provisos (i) and (ii) to Rule 19(9).
- Non-contact (D) damage to ships** Liability for losses caused to the owner of any other ship, or cargo or other property therein, insofar as such liability may be covered under Rule 19(11).

Pollution (E) Liability in respect of an escape or discharge or threatened escape or discharge of oil or any other substance insofar as such liability may be covered under Rule 19(12).

Wreck removal (F) Liability for the removal of wrecks insofar as such liability may be covered under Rule 19(13).

Other Property (G) Liability for loss of, or damage to, or infringement of rights
Losses in connection with, the property of any person (other than those persons interested in cargo carried in the Entered Ship).

Provided always that this paragraph excludes liabilities which may be covered under paragraphs (A), (B), (C), (D), (E) and (F) hereof.

PROVIDED ALWAYS THAT:

(i) there shall be no recovery under this Rule 19(10) in respect of expenditure arising out of a Member's liability under a contract of indemnity or guarantee between a Member and a third party (see Rule 19(15));

(ii) there shall be no recovery under this Rule 19(10) in respect of any liabilities which a Member may incur to persons interested in another ship, or cargo or other property therein, by reason of a collision between the Entered Ship and that other ship (see Rule 19(9)) or to persons interested in cargo carried in the Entered Ship (see Rule 19(17));

(iii) if the loss, damage or expense relates to any property belonging to the Member (other than that carried on board the Entered Ship - see Rule 20(2)), such Member shall be entitled to recover from the Association, and the Association shall have the same rights, as if such property belonged to a third party, but to the extent only that such loss, damage or expense is not recoverable under any other insurances upon the said property.

19(11) Non-Contact Damage to Ships

Liabilities which a Member may incur, together with costs and expenses incidental thereto, as a result of damage caused to another ship otherwise than by collision between that other ship and the Entered Ship.

The following shall be recoverable:

- Other ship or (A) cargo** Liability for loss of or damage to any other ship, or other property therein, together with damages resulting therefrom.
- Injury and death (B)** Liability for the injury to, or death of, Seamen or others insofar as such liability may be covered under Rule 19(1), Rule 19(2) and Rule 19(4).
- Pollution (C)** Liability in respect of an escape or discharge or threatened escape or discharge of oil or any other substance insofar as such liability may be covered under Rule 19(12).
- Wreck removal (D)** Liability for the removal of wrecks insofar as such liability may be covered under Rule 19(13).

PROVIDED ALWAYS THAT:

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

19(12) Pollution

Liabilities which a Member may incur, together with costs and expenses incidental thereto, as the result of an escape or discharge or threatened escape or discharge of oil or any other substance from the Entered Ship or from other property.

The following shall be recoverable:

Damages (A) Liability for damages or compensation payable to any person arising from an escape or discharge or threatened escape or discharge of oil or any other substance from the Entered Ship or from other property.

Clean-up (B) The costs of any measures reasonably taken for the purpose of preventing, minimising or cleaning up an escape or discharge of oil or any other substance from the Entered Ship or from other property together with any liability for losses or damages arising from any measures so taken.

Provided always that the value of any ship or wreck and of any stores and materials, or cargo or other property, removed and saved as the result of any such measures shall either be credited to the Association or deducted from any recovery due from the Association.

Agreement (C) Liability which a Member may incur, together with costs and expenses incidental thereto, as a party to any agreement relating to oil pollution, for loss, damage or expenses, including expenditure reasonably incurred in accordance with the Member's obligations under such agreement.

Provided always that such agreement has been approved by the Managers and the Member has paid or agreed to pay such additional Call or premium as may be required by the Association.

Government (D)
order The costs or liabilities incurred as a result of compliance with any order or direction given by any Government or authority as a consequence of an incident involving an escape or discharge or threatened escape or discharge of oil or any other substance for the purpose of preventing or reducing any such escape, discharge or threat or damage incidental thereto.

Provided always that:

(i) such costs or liabilities shall not be recoverable where the compliance with such an order or direction is a requirement prior to the normal operation or salvage or repair of the Entered Ship; and

(ii) such costs or liabilities are not recoverable under the Hull Policies on the Entered Ship.

**Salvors' (E)
special
compensation**

Liability which a Member may incur to pay special compensation to a salvor of an Entered Ship under the terms of the Special Compensation P&I Club (SCOPIC) Clause or in respect of work done or measures taken to prevent or minimise damage to the environment under the provisions of Article 14 of the International Convention on Salvage 1989 or the terms of a standard form salvage agreement equivalent thereto approved by the Association.

Fines (F)

Liability which a Member may incur for the payment of fines in respect of an escape or discharge or threatened escape or discharge of oil or any other substance insofar as such liability may be covered under Rule 19(19).

PROVIDED ALWAYS THAT:

(i) there shall be no recovery in respect of losses, liabilities, or the costs and expenses incidental thereto, arising as the result of an escape or discharge or threatened escape or discharge of oil or any other substance other than under this Rule 19(12) and all recoveries hereunder shall be subject to any limit of liability set out in the Certificate of Entry; and

(ii) there shall be no recovery under this Rule 19(12) of any liabilities in respect of cargo which come within the provisions of Rule 19(17) (cargo); and

(iii) there shall be no recovery under this Rule 19(12) of any liabilities in respect of expenditure which forms or could form a part of General Average expenditure under any unamended version of the York/Antwerp Rules; and

(iv) there shall be no recovery under this Rule 19(12) of any liabilities arising as a consequence of the escape or discharge or threatened escape or discharge of any oil or other substance (previously carried on the ship) from any land based dump, storage or disposal facility, unless the escape or discharge results directly from an error in the management or navigation of the ship, or unless the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion decides otherwise; and

(v) unless otherwise limited to a lesser sum, the Association's aggregate liability in respect of losses, liabilities, or the costs and expenses incidental thereto arising as a result of an escape or discharge or threatened escape or discharge of oil to all Joint Members under any one Certificate of Entry shall be limited to the amount set out in the Certificate of Entry for each Entered Ship in respect of any one incident or occurrence except that:

(a) where an Entered Ship is also separately insured on behalf of any person (other than a charterer who is not a demise or bareboat charterer) by the Association or by another association which participates in the Pooling Agreement, the aggregate of claims in respect of losses, liabilities, or the costs and expenses incidental thereto arising as a result of an escape or discharge or threatened escape or discharge of oil recoverable from the Association and/or such other association(s), shall be limited to the amount set out in the Certificate of Entry in respect of any one incident or occurrence. If such claims exceed this limit, the liability of the Association in respect of each Certificate of Entry shall be limited to that proportion of the limit that claims

recoverable from the Association under that Certificate bear to the aggregate of the said claims recoverable from the Association and from such other association(s), if any; and

(b) when the Entered Ship and other ships provide salvage or other assistance to another ship following a casualty and such other ships are insured for losses, liabilities, or the costs and expenses incidental thereto arising as a result of an escape or discharge or threatened escape or discharge of oil with the Association and or with any other association which participates in the Pooling Agreement and General Excess Loss Reinsurance Contract, the aggregate of claims from the Entered Ship and such other ships in respect of losses, liabilities, or the costs and expenses incidental thereto arising as a result of an escape or discharge or threatened escape or discharge of oil arising from the said salvage or other assistance recoverable from the Association and/or such other association(s), shall be limited to the amount set out in the Certificate of Entry. If such claims exceed this limit, the liability of the Association in respect of each Entered Ship shall be limited to that proportion of the limit that claims recoverable from the Association in respect of that Ship bear to the aggregate of the said claims recoverable from the Association and from such other association(s), if any; and

(vi) (a) where an Entered Ship is a 'relevant ship' as defined in the Tanker Oil Pollution Indemnification Agreement 2006 (or as subsequently amended) (TOPIA), the Member shall be a party to that agreement for the period of entry of the ship in the Association unless the Association otherwise agrees in writing. Where an Entered Ship is a 'relevant ship' as defined in the Small Tanker Oil Pollution Indemnification Agreement 2006 (or as subsequently amended) (STOPIA), the Member shall be a party to that agreement for the period of entry of the ship in the Association unless the Association otherwise agrees in writing. There shall be no recovery under this Rule in respect of any event

arising during a period when the Member is not in compliance with such requirements unless the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion decides otherwise.

(b) the Association is the agent of the Member in respect of any Entered Ship which is a 'relevant ship' as defined in TOPIA or STOPIA as regards any and all communications and dealings under those agreements.

19(13) Removal of Wreck

Liabilities which a Member may incur, together with costs and expenses incidental thereto, in respect of:

Entered Ship (A) The raising, removal, destruction, lighting or marking of the wreck of an Entered Ship, or of any cargo, equipment or other property which is or was carried on board an Entered Ship.

(B) The presence or involuntary shifting of the wreck of an Entered Ship, including any cargo, equipment or other property which is or was carried on board.

Other ship (C) The raising, removal, destruction, lighting or marking of the wreck of any other ship, and of any cargo or other property which is or was on board any other ship.

PROVIDED ALWAYS THAT:

(i) the costs of raising, removal, destruction, lighting or marking were compulsory by law, or the costs thereof were legally recoverable from the Member under a contract approved by the Managers;

(ii) the value of the wreck itself and of the stores and materials, or cargo or other property, saved shall either be credited to the Association or deducted from any recovery due from the Association;

(iii) there shall be no recovery under this Rule 19(13) if the Member shall, without the consent of the Managers in writing, transfer his interest in the wreck, cargo or other property (otherwise than by abandonment) prior to the said raising, removal, destruction, lighting or marking;

(iv) there shall be no recovery under Rule 19(13) in respect of any liability incurred more than two years after the ship, cargo, equipment or other property became a wreck, or was lost, unless the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion decides otherwise; and

(v) the Entered Ship became a wreck as a result of an event occurring during the period of entry of the Ship in the Association, in which case the Association shall continue to be liable for the claim notwithstanding that in other respects the liability of the Association shall have terminated pursuant to Rule 34.

19(14) Towage

Towage of an (A) Entered Ship

Liability which a Member may incur, together with costs and expenses incidental thereto, arising out of the towage of an Entered Ship:

(i) under the terms of a contract entered into for the purpose of entering or leaving port, or manoeuvring within the port, during the ordinary course of trading;

(ii) in the ordinary course of trading of an Entered Ship which is habitually towed from port to port or from place to place.

Provided always that:

(a) such liability shall only be covered by the Association to the extent that the Member is not insured against such liability under the Hull Policies on the Entered Ship; and

(b) such Ship has been so declared to the Managers;

(iii) under the terms of any other contract for the towage of an Entered Ship.

Provided always that the towage contract has been approved by the Managers and the Member has paid, or agreed to pay, such additional Call or premium as may be required by the Association.

**Towage by an (B)
Entered Ship**

Liability which a Member may incur, together with costs and expenses incidental thereto, arising out of the towage by an Entered Ship of any ship or object.

Provided always that:

(i) an Entered Ship specially designed or converted for the purpose of towage shall have been declared as such to the Managers at the time of entry or at the time of conversion for the purpose of towage; and

(ii) the towage contract has been approved by the Managers and the Member has paid or agreed to pay such additional Call or premium as may be required by the Association; or

(iii) the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion shall, having regard to all the circumstances, consider the terms of the towage contract as reasonable and the liability as coming within the scope of the cover afforded by the Association; however

(iv) there shall be no recovery from the Association in respect of any liability for loss of, damage to or wreck removal of, a towed ship or object or of any cargo or other property carried thereon, whether such liability arises under the terms of a contract or otherwise, unless the Managers have agreed in writing to cover such liability.

19(15) Contracts of Indemnity or Guarantee

Liability which a Member may incur, together with costs and expenses incidental thereto, for illness or death of, or injury to, any person or for loss of, or damage to, cargo (subject to Rule 20(4)) or other property, arising under the terms of a contract made by the Member in relation to services to be provided to or by an Entered Ship.

Provided always that:

- (i) the contract has been approved by the Managers and the Member has paid, or agreed to pay, such additional Call or premium as may be required by the Association; or
- (ii) the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion decides that the Member should be reimbursed.

19(16) Quarantine

Extraordinary expenses incurred by a Member, as a direct consequence of an outbreak of infectious disease, for disinfection of an Entered Ship or the cargo or persons on board such Ship, or in respect of quarantine.

Provided always that:

- (i) the ordinary expenses of loading and discharging cargo, and of provisions for Seamen or Passengers, and of bunkers during the period of detention while in quarantine, shall be deducted from the actual expenses incurred and the balance only shall be recoverable;
- (ii) in the case of an Entered Ship, which is not already under contract, being ordered or chartered to proceed to a port where it is known or should be reasonably anticipated that such Ship

will, as a result, be subjected to quarantine there or elsewhere there shall be no recovery of expenses arising at, or consequent upon the Ship having been at, such port.

19(17) Responsibilities in Respect of Cargo

Liabilities which a Member may incur, or expenditure which he may be unable to recover, together with costs and expenses incidental thereto, in respect of cargo intended to be, or being, or having been carried in an Entered Ship, which arises out of a breach by the Member or by persons for whose acts, neglect or default the Member is liable, of the Member's obligations or duties as a carrier properly to load, handle, stow, carry, keep, care for, discharge or deliver the cargo or out of unseaworthiness or unfitness of the Entered Ship.

The following shall be recoverable:

- Loss, shortage (A) and damage** Liability for loss or shortage of, or damage to, or other responsibility for, cargo (other than cargo carried under a contract of through carriage).
- Damaged cargo (B)** The additional costs of discharging, disposing of, or restowing, damaged cargo insofar as these costs cannot be recovered from any other party.
- Unrecoverable (C) expenditure** The additional costs of discharging and disposing of, or of restowing, cargo which are necessarily incurred in order to continue the safe prosecution of the voyage following a casualty, insofar as these costs cannot be recovered from any other party and could not form part of general average expenditure.
- Through (D) transit** Liability for loss or shortage of, or damage to, or other responsibility for cargo carried under a contract of through carriage, including transit by land, water or air to or from the Entered Ship.

Provided always that such contract has been approved by the Managers and the Member has paid, or agreed to pay, such additional Call or premium as may be required by the Association.

Contracts of (E) indemnity Liabilities arising from the terms of a contract of indemnity which relates to the handling or custody of cargo insofar as such liability may be covered under Rule 19(15) subject always to Rule 20(4).

Collision liability (F) to cargo Liability for loss of or damage to cargo carried in an Entered Ship under Rule 19(9)(C).

Disposing of (G) cargo The additional costs of storing and disposing of cargo rejected or not collected by receivers insofar as these costs cannot be met out of the salvaged value of such cargo or recovered from any other party, even where such rejection or failure to collect does not arise out of a breach by the Member or any other person of their obligations or duties as a carrier. *Provided always* that there shall be no recovery in respect of storage costs for the first 30 days following discharge.

PROVIDED ALWAYS THAT:

Hague Visby Rules (i) unless special cover has been agreed in writing by the Managers, if a Member enters into a contract of carriage by sea which is on terms less favourable to the carrier than those contained in the Hague or Hague Visby Rules, the Board (or, in the case of claims not exceeding USD 2 million, the Committee) may in its discretion reject any claim or reduce it to the extent by which the Board (or, in the case of claims not exceeding USD 2 million, the Committee) considers such claim would have been reduced had the contract of carriage been on terms as favourable to the carrier as those contained in the Hague or Hague Visby Rules;

- Deviation (ii) there shall be no recovery where the Member has become liable in consequence of a deviation from the contractually agreed voyage unless in the case of a deviation authorised by the Member, prior notice of the intended deviation has been given to the Managers or, in the case of a deviation without the Member's authority, the earliest possible notice has been given to the Managers after the Member has received information thereof and, in either case, the Managers have confirmed to the Member that his cover under this Rule continues unprejudiced. Nevertheless, the Board (or, in the case of claims not exceeding USD 2 million, the Committee) may allow such a claim either in part or in whole if, in its discretion, it considers that the Member had reasonable grounds for believing that no deviation was to be or had been made. If, upon receiving information of the deviation, the Managers advise the Member that his cover under this Rule is prejudiced and the Member then requests the Managers to arrange a special insurance to cover his liabilities under this Rule, the cost of such insurance shall be borne by the Member;
- Loading and Discharge (iii) 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 recovery in respect of a Member's liability:
- (a) for the cost of carrying cargo to the port of destination stipulated in the contract of carriage from another port at which the cargo was discharged from an Entered Ship, or for storage or other charges; or
 - (b) arising, otherwise than under a bill of lading already issued, out of the failure to arrive or late arrival of an Entered Ship at a port of loading, or out of failure to load, or late loading of, any particular cargo or cargoes in an Entered Ship; or

(c) arising out of the delivery of cargo carried under a negotiable bill of lading or similar document of title (including an electronic bill of lading) without production (or the equivalent thereof in the case of an electronic bill of lading) by the person to whom delivery is made of the relevant bill of lading or document of title, except where cargo has been carried on the Entered Ship either under the terms of a non-negotiable bill of lading, waybill or other non-negotiable document (and has been properly delivered as required by that document) and liability arises under the terms of a negotiable bill of lading or other similar document of title issued on behalf of a party other than the Member providing for carriage partly by a means of transport other than the Entered Ship or under the terms of an approved electronic trading system and has been properly delivered to the person so entitled in accordance therewith; or

(d) arising out of the delivery of cargo carried under a non-negotiable bill of lading, waybill or similar document without production of such document by the person to whom delivery is made, where such production is required by the express terms of that document or the law to which that document, or the contract of carriage contained in or evidenced by it, is subject, except where the Member is required by any other law to deliver, or relinquish custody or control of the cargo, without production of such document; or

(e) arising out of the discharge of cargo at a port or place other than the port or place provided in the contract of carriage; or

(f) arising from the mistaken, imprudent or illegal exercise of a lien over cargo; or

(g) in respect of the issue of an antedated or postdated bill of lading, waybill or other document containing or evidencing the contract of carriage; or

(h) in respect of a bill of lading, waybill or other document containing or evidencing the contract of carriage issued with an incorrect description of the cargo, its quantity or condition, or of its port of loading or discharge with the knowledge either of the Member (or of any agent appointed by the Member in which the Member has a substantial interest) or of the Master of the Entered Ship.

Ad Valorem Bills of Lading (iv) where cargo or other property is carried under an Ad Valorem Bill of Lading or other document of title, contract of carriage or waybill in which a value of more than two thousand five hundred Dollars (USD2,500) (or the equivalent in any other currency) is declared and/or inserted by reference to a unit, piece, package or otherwise, where the effect of such a declaration/insertion is to deprive the Member of any right or rights of limitation to which he would otherwise have been entitled and cause him to incur a greater liability than he would have done but for such declaration/insertion, to the extent that such liability thereby exceeds two thousand five hundred Dollars (USD2,500) (or the equivalent in local currency) in respect of any such unit, piece or package there shall be no recovery, unless the Member has given notice as soon as practicable of such higher valuation to the Managers to enable them to insure the excess at the expense of the Member or of the Association;

Rare and Valuable Cargo (v) there shall be no recovery in respect of loss of or damage to specie, bullion, precious or rare metals or stones, plate, jewellery or other objects of a rare or precious nature, bank notes or other forms of currency, bonds or other negotiable instruments, unless the contract of carriage and the spaces, apparatus and means used for the carriage and the instructions given for the safe custody thereof, have been approved by the Managers prior to any such carriage and any directions made by the Managers have been complied with;

Refrigerated Cargo	(vi) the Managers may at any time require to be satisfied as to the spaces, plant and apparatus used, and the instructions given, for the carriage of cargo in insulated or refrigerated chambers or containers and the terms of the contract of carriage under which such cargo is to be carried, and the Member shall upon request supply the relevant information to the Managers. If the Managers are not so satisfied and therefore withhold their approval, and so notify the Member, such Member shall not be entitled to recover from the Association in respect of any loss of or damage to such cargo the carriage of which began after the serving of such notice;
Member's Own Cargo	(vii) where the cargo in respect of which a claim arises belongs to a Member, such Member shall be entitled to recover from the Association, and the Association shall have the same rights, as if such cargo belonged to a third party and that third party had entered into a contract of carriage with the Member.
Paperless Trading	(viii) there shall be no recovery from the Association for any liability, cost or expense arising from the use of any electronic trading system, other than an electronic system approved in writing by the Managers, to the extent that such liability, cost or expense would (save insofar as the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion otherwise determines) not have arisen under a paper trading system. For the purposes of this proviso: (a) an electronic trading system is any system which replaces or is intended to replace paper documents used for the sale of goods and/or their carriage by sea or partly by sea and other means of transport which; (i) are documents of title, or (ii) entitle the holder to delivery or possession of the goods referred to in such documents, or

(iii) evidence a contract of carriage under which the rights and obligations of either of the contracting parties may be transferred to a third party.

(b) a “document” shall mean anything in which information of any description is recorded including, but not limited to, computer or other electronically generated information.

Slot Charters (ix) a Member who is a slot or space charterer of an Entered Ship may recover under this Rule for his liabilities, together with costs and expenses incidental thereto, to persons interested in other cargoes carried in the Entered Ship, whether or not he is a carrier;

Deck Cargo (x) there shall be no recovery where the Member has become liable in consequence of the carriage of cargo on deck unless the cargo is suitable for carriage as loaded on the deck of the Entered Ship and either:

(a) special cover has been agreed by the Managers after receiving prior notice from the Member or the earliest possible notice after the Member has received notice of the said carriage; or

(b) the contract of carriage is specially claused to the effect that the cargo is carried on deck and either provides that the carrier is free from all liability for loss or damage to such cargo or provides the carrier with rights, immunities and limitations no less favourable than those contained in the Hague Rules or Hague Visby Rules; or

(c) the contract of carriage contains an appropriate liberty to carry cargo on deck and provides for the Hague Rules or Hague Visby Rules to apply to such cargo; or

(d) where the contract of carriage is compulsorily subject to the Hamburg Rules by operation of law, the Member has complied with the provisions of paragraphs 1 and 2 of Article 9 thereof.

Nevertheless, the Board (or, in the case of claims not exceeding USD 2 million, the Committee) may allow such a recovery in

whole or in part if, in its discretion, it considers that the Member had reasonable grounds for believing that the conditions of this proviso had been complied with.

19(18) General Average

**Ship's (A)
Proportion of
General Average**

The Entered Ship's proportion of general average expenditure (including salvage) and sue and labour expenses not recoverable under the Hull Policies by reason of the value of the Ship being assessed for contribution to general average or salvage at a sound value in excess of the insured value under such policies.

The Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall determine whether the Entered Ship was insured for a proper value under the Hull Policies on that Ship. If the Board (or, in the case of claims not exceeding USD 2 million, the Committee) determines the amount actually insured to be less than the proper value, the Member shall only be entitled to recover the excess of such proper value.

(Note: In determining whether the Ship was insured for a proper value the Board (or, in the case of claims not exceeding USD 2 million, the Committee) will need to be satisfied that the said policies have been the subject of periodic review in the light of proper advice on market conditions. A proper value will be a figure which is reasonably close to the equivalent of the free uncommitted market value of the Ship at the time of the General Average Act.)

**Unrecoverable (B)
General Average
Contribution**

The cost to the Member of that proportion of general average expenditure (including salvage) and special charges which should be paid by cargo or by some other party to the maritime adventure, but which are not so paid after the exhaustion of all legal remedies against such parties solely by reason of a breach of the contract of carriage. Subject always to provisos (i), (ii), (iii) and (viii) of Rule 19(17) insofar as they are capable of application.

PROVIDED ALWAYS THAT:

General Average shall be adjusted according to the York/Antwerp Rules 1974, 1994 or 2016 or on other contractual terms approved by the Managers. If it is not, then any recovery from the Association shall be limited to what would be recoverable if General Average were adjusted according to the law and practice of the place where the adventure ended.

19(19) Fines

Fines or other penalties, together with costs and expenses incidental thereto, imposed in respect of the Entered Ship by any court, tribunal, or authority of competent jurisdiction, upon a Member or upon any Seaman or person whom the Member may be legally liable to reimburse (other than under the terms of a contract or indemnity, unless and only to the extent such terms have been previously approved by the Managers) or reasonably reimburses with the approval of the Managers, for:

Cargo (A) Short or over delivery of cargo or failure to comply with regulations relating to declaration of goods or to documentation of the cargo (other than fines or penalties arising from the smuggling of goods or cargo or any attempt thereat), subject always to the Member having cover for his responsibilities in respect of cargo under Rule 19(17).

Immigration (B) Breach of any immigration law or regulation.
laws

Pollution (C) The accidental escape or discharge of oil or any other substance subject always to:

(i) the Member having cover for his liabilities together with the costs and expenses incidental thereto, in respect of such accidental escape or discharge under Rule 19(12); and

(ii) any overall limit of liability in respect of such escape or discharge contained in the Certificate of Entry.

Other faults (D) Any other act, neglect or default of a Seaman or other servant or agent of the Member in the course of their duties in respect of the Entered Ship and which, in the discretion of the Board (or, in the case of claims not exceeding USD 2 million, the Committee), comes within the scope of the cover afforded by the Association.

PROVIDED ALWAYS THAT:

There shall be no recovery from the Association of a fine or other penalty (nor of the costs and expenses relating thereto):

(i) imposed for the overloading of an Entered Ship; or

(ii) imposed for illegal fishing (including the costs and expenses incurred in defending any allegation of illegal fishing); or

(iii) imposed for the infringement of regulations relating to safe navigation (including the maintenance of proper charts), unless the Board (or, in the case of claims not exceeding USD 2 million, the Committee) is satisfied that the Member had taken all reasonable steps to prevent the infringement which gave rise to the fine or other penalty; or

(iv) imposed for a criminal activity which the Member had knowledge of, recklessly disregarded, or failed to take reasonable steps to prevent; or

(v) imposed for an infringement of MARPOL regulations where the ship's oily water separator or similar pollution prevention device has been bypassed or rendered inoperable.

(vi) involving the confiscation of an Entered Ship by reason of the infringement of any customs law or customs regulation unless the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion authorises the recovery, in whole or in part, by the Member of his loss arising by reason of such confiscation.

The Board (or, in the case of claims not exceeding USD 2 million, the Committee) in exercising its discretion under proviso (vi) above shall take account of the following:

(a) the amount recoverable from the Association shall in no circumstances exceed the market value (without commitment) of the Entered Ship at the date of the confiscation;

(b) the Member shall satisfy the Board (or, in the case of claims not exceeding USD 2 million, the Committee) that he took all reasonable steps to prevent the infringement which gave rise to the confiscation;

(c) the Board (or, in the case of claims not exceeding USD 2 million, the Committee) will only consider authorising such a recovery after the Member has been deprived of his interest in the Entered Ship

19(20) Legal Costs, Sue and Labour

Legal costs (A) Legal costs and expenses which a Member may incur in respect of any liability or expenditure against which the Member is insured under these Rules.

Sue and labour (B) Losses, costs and expenses necessarily incurred by a Member after an incident in order to avoid or reduce a liability or expenditure against which the Member is insured by the Association, even if such losses, costs and expenses would otherwise be excluded by these Rules. Administrative expenses incurred by a Member including the salary or retainer of any employee or third party shall be excluded.

Special direction (C) Losses, costs and expenses which a Member may be required to incur by special direction of the Association in cases in which the Board (or, in the case of claims not exceeding USD 2 million, the Committee) decides that it is in the interests of the Association that the direction be given, even if such losses, costs and expenses would otherwise be excluded by these Rules.

PROVIDED ALWAYS THAT:

(i) no such losses, costs or expenses shall be recoverable unless either they have been incurred with the prior agreement of the Managers or the Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall determine that such losses, costs and expenses were reasonably incurred;

(ii) unless otherwise agreed the costs and expenses incurred under paragraph (A) shall be free of deductible and any losses, costs and expenses incurred under paragraphs (B) or (C) shall bear the same deductible as the liability or expenditure so avoided or reduced would have borne;

(iii) costs and expenses incurred in respect of a formal enquiry into a casualty involving an Entered Ship shall be recoverable to such extent only as the Board (or, in the case of claims not exceeding USD 2 million, the Committee) may determine;

(iv) losses, costs and expenses arising from or related to ransom demands or extortion shall be recoverable only to such extent as the Board may determine.

19(21) Risks Incidental to Ship Owning

Liabilities, costs and expenses incidental to the business of owning, operating, chartering or managing Ships 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 may decide that the Member should recover from the Association.

19(22) Special Cover

Subject always to the Articles of Association of the Association, and save insofar as expressly prohibited by these Rules, the Managers may insure a Member against the risks specified in these Rules whether or not such risks arise in connection with an Entered Ship (despite the provisions of Rule 3(1)).

Provided always that the nature and extent of the risks and the terms of the cover shall have been expressly agreed in writing between the Member and the Managers.

19(23) Special Cover for Salvors

Without prejudice to the generality of Rule 19(22) a Member may be insured against liabilities, together with costs and expenses incidental thereto, which may be incurred in connection with any salvage service or attempted salvage service provided to a ship by the Member or by any sub-contractor of the Member or any of their respective servants or agents.

The following may be covered:

Salvage (A) ships Liabilities, together with costs and expenses incidental thereto, arising in respect of the Member's interest in an Entered Ship out of events occurring during the period of entry of the Ship in the Association and in connection with the operation of the Ship.

Oil pollution (B) Liabilities, together with costs and expenses incidental thereto, caused by an escape or discharge of oil which occurs during such salvage services in accordance with the provisions of Rule 19(12), whether or not they are in respect of a Member's interest in an Entered Ship (despite the provisions of Rule 3(1)).

- Salvors' (C) liabilities** Liabilities, together with costs and expenses incidental thereto, caused by events occurring during such salvage services, and which are not covered under paragraphs (A) or (B) above, whether or not they are in respect of a Member's interest in an Entered Ship (despite the provisions of Rule 3(1)).
- PROVIDED ALWAYS THAT:
- Specific cover (i) there shall be no recovery under this Rule unless cover has been specifically extended in writing by the Managers and the Member has paid or agreed to pay such additional Call or premium as may be required by the Association;
- Risks covered (ii) the cover given under this Rule 19(23) in connection with any salvage or attempted salvage service provided to a ship shall be in all respects the same as that given under Rule 19(1) to Rule 19(21) inclusive in respect of the operation of Entered Ships, save that in the case of cover given under paragraphs (B) or (C) of this Rule the liability need not have been imposed or incurred in respect of an Entered Ship;
- Contracts of indemnity or guarantee (iii) there shall be no recovery against any liability which would not have been incurred but for the provisions of a contract of indemnity or guarantee given by the Member or his sub-contractor, or any of their respective servants or agents, unless the Managers shall have approved such contract in advance and the Member has paid or agreed to pay such additional Call or premium as may be required by the Association (see Rule 19(15));
- Condition precedent (iv) it is a condition precedent of every insurance under paragraphs (B) and (C) of this Rule that the Member and each of his Associated Companies, shall at the time when insurance is given under this Rule and thereafter within 30 days before the beginning of each Policy Year, apply to enter for insurance in the Association every ship of which they are then in possession or control, being a ship used or intended to be used in connection

with salvage operations, on terms that every such application may be accepted in respect of such one or more ships as the Managers may in their discretion determine.

19(24) Special Cover for Charterers

Without prejudice to the generality of Rule 19(22) a Member may be insured against liabilities, together with costs and expenses incidental thereto, which may be incurred by reason of his interest as charterer of a Ship or part thereof (other than a demise or bareboat charterer) and/or as owner of cargo in accordance with these Rules and his Certificate of Entry.

The following may be covered on such special terms as may be agreed in writing by the Managers:

P & I (A) The Member's liability, together with costs and expenses incidental thereto, for risks covered in accordance with Rules 19(1) to 19(23) inclusive.

Hull Damage (B) The Member's liability, together with costs and expenses incidental thereto, for damage to or loss of the Entered Ship.

Bunkers (C) Loss incurred by the Member as a result of the loss of or damage to bunkers, fuel or other property of the Member on board the Entered Ship.

**Loss of Freight (D)
or Hire** Loss of freight or hire payable under a charter party.

19(25) Liabilities arising out of the Carriage of Cargo

Without prejudice to the generality of Rule 19(22) a Member may be insured against liabilities, together with costs and expenses incidental thereto, arising out of the carriage of any cargo or container by or on behalf of a Member.

The following may be covered on such special terms as may be agreed in writing by the Managers:

Illness, injury (A) and death Compensation and damages for which the Member is liable which are payable by reason of the illness or death of, or injury to, any person, other than a Seaman, Passenger or any person on board the Entered Ship.

Damage to (B) Property Liability of the Member for loss of or damage to any fixed or moveable property whatsoever (not being cargo or other property carried in the Entered Ship).

PROVIDED ALWAYS THAT:

(i) there shall be no recovery under this Rule for liabilities arising out of the carriage of any cargo or container whilst it is on board the Entered Ship; and

(ii) the cargo or container, as the case may be, is intended to be or has been carried on an Entered Ship, including one entered by virtue of Rule 19(24) (Special Cover for Charterers); and

(iii) the liability does not arise out of the terms of a contract of indemnity or guarantee between the Member and a third party (See Rule 19(15)); and

(iv) the liability does not fall within the terms of Rule 19(17) (Responsibilities in Respect of Cargo); and

(v) there shall be no recovery under this Rule for loss of or damage to any ship and/or water borne conveyance in which the cargo or container is carried.

IV Exclusions, Limitations and Warranties

RULE 20 RISKS SPECIFICALLY EXCLUDED

There shall be no recovery from the Association, except as otherwise provided in this Rule, in respect of:

- Damage to the 20(1)
Entered Ship** Loss of, or damage to, the Entered Ship or any part thereof other than such loss or damage as may be covered under Rule 19(24) (cover for charterers) or losses as a result of the confiscation of the Entered Ship as may be agreed to be recoverable by the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in the exercise of its discretion under proviso (vi) to Rule 19(19) (fines).
- Equipment 20(2)** Loss of, or damage to, any equipment on board the Entered Ship or any containers, lashings, stores, spares or fuel thereon to the extent that the same are owned or leased by the Member or by any Associated Company of the Member or by any company under the same management as the Member.
- Repairs to the 20(3)
Entered Ship** The cost of repairs to the Entered Ship or of cleaning any part of the Entered Ship, or any charges or expenses in connection therewith, other than such as may be covered under Rule 19(12) (pollution), or Rule 19(18) (general average), or specifically covered by agreement in writing under Rule 19(24) (cover for charterers).
- Cargo and 20(4)
freight** Loss of or damage to, or liabilities arising in respect of, cargo intended to be, or being, or having been carried in the Entered Ship or loss of freight or hire relating to the Entered Ship, or any proportion thereof, unless such loss, damage or liability forms part of the measure of damages or expenditure paid by

the Member and recoverable under Rule 19(9)(C) (collision liability to cargo), Rule 19(17) (cargo) or Rule 19(18)(B) (general average).

Pollution 20(5) Losses or liabilities arising as the result of an escape or discharge or threatened escape or discharge of oil or any other substance other than in accordance with Rule 19(12).

Salvage 20(6) Salvage of an Entered Ship or services in the nature of salvage provided to an Entered Ship and any costs and expenses in connection therewith other than such as may be covered under Rule 19(8) (life salvage), Rule 19(12)(E) (pollution) or Rule 19(18) (general average).

Charter parties 20(7) Loss arising out of breach of or cancellation of a charter or other engagement of an Entered Ship, other than such as may relate to cargo liabilities under Rule 19(17), General Average under Rule 19(18), losses of charterer's property on board the Entered Ship under Rule 19(10)(G) or Special Cover for Charterers under Rule 19(24).

Road Vehicles 20(8) Liabilities which a Member may incur as the owner or operator of a road vehicle.

Employers' 20(9) The breach of any obligation to an employee (other than
Liability Seamen) owed by a Member as an employer.

Bad debts 20(10) Loss arising out of irrecoverable debts or out of the insolvency of any person.

Fraud 20(11) Loss arising out of the fraud of agents, or of an Associated Company or of employees of the Member acting as an agent, unless the Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall, in its discretion, otherwise determine.

Demurrage 20(12) Claims relating to demurrage on or detention of an Entered
and delay Ship.

Towage 20(13) and Salvage Liabilities arising out of the towage, salvage or wreck removal by an Entered Ship of any other ship or object save where such towage, salvage or wreck removal was necessary for the purpose of saving or attempting to save life at sea, unless such liabilities are covered under the terms of Rule 19(14)(B) (towage by an Entered Ship) or Rule 19(23) (special cover for salvors).

Carriage of 20(14) Through Transit Cargo Losses or liabilities arising out of the carriage of cargo by a means of transport other than the Entered Ship, when the cargo is carried under a contract of through carriage, unless and to the extent that cover has been agreed under Rule 19(17)(D) or Rule 19(25).

Diving 20(15) Losses or liabilities arising out of the activities of professional or commercial divers where the Member is responsible for such activities, unless:

- (i) cover has been extended in respect of such operations under the terms of Rule 19(23) (Special Cover for Salvors); 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.

PROVIDED ALWAYS THAT:

The foregoing exceptions shall not apply to losses, costs and expenses incurred under Rule 19(20) either to avoid or reduce a liability or expenditure or by the special direction of the Association.

Sanctions 20(16) Losses or liabilities 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.

RULE 21 EXCLUSION OF CERTAIN SPECIALIST RISKS

There shall be no recovery from the Association in respect of any claim relating to liabilities, costs and 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 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 under Rule 19(23).

Heavy Lift Ships 21(2) A semi-submersible heavy lift ship or other ship designed exclusively for the carriage of heavy lift cargo where the claim arises out of the loss of or damage to or wreck removal of cargo, unless the cargo is being carried under a contract on Heavycon terms or any other contract approved by the Managers in writing.

**Drilling and 21(3)
Production
Operations** Used for drilling, core sampling, or production operations in connection with oil or gas exploration or production when the claim arises out of or during such operations. In respect of any Entered Ship employed to carry out production operations in connection with oil or gas production, the exclusion shall apply from the time that a connection, whether directly or indirectly, has been established between the Entered Ship and the well pursuant to a contract under which the Entered Ship is employed, until such time that the Entered Ship is finally disconnected from the well in accordance with that contract.

Storage Ships 21(4) Used for the storage of oil when either:

- (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 or during such separation.

Waste Ships 21(5) Used for waste incineration or waste disposal operations, when the claim arises out of those operations.

**Entertainment 21(6)
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(7)
Operations** Used as or in connection with the operation of a submarine, mini-submarine or diving bell.

**Specialist 21(8)
Operations** Used for dredging, blasting, pile-driving, well-intervention, cable or pipe-laying, construction, installation or maintenance work, core sampling, depositing of spoil, and power generation and decommissioning, and such other operations as may be determined by the Managers from time to time, to the extent that such liabilities, costs and expenses arise as a consequence of:

(i) Claims brought by any party for whose benefit the work has been performed, or by any third party (whether connected with any party for whose benefit the work has been performed or not); or

(ii) The failure to perform such specialist operations by the Member or the fitness for purpose or quality of the Member's work, products or services; or

(iii) Any loss of or damage to the contract work.

PROVIDED ALWAYS THAT:

(i) special cover may be agreed between the Member and the Managers under Rule 7.

(ii) to the extent that the Member has cover in accordance with these Rules, the exclusion in Rule 21(8) shall not apply to liabilities, costs and expenses incurred by a Member in respect of:

(a) loss of life, injury or illness of crew and other personnel on board the Entered Ship;

(b) the wreck removal of the Entered Ship;

(c) oil pollution emanating from the Entered Ship or the threat thereof.

RULE 22 IMPRUDENT TRADING

The Association shall not insure a Member against any liabilities, costs or expenses 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 which the Ship was engaged was imprudent, unsafe, unduly hazardous or improper.

RULE 23 EXCLUSION OF NUCLEAR RISKS

General Exclusion 23(1) 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.

Certificates 23(2)

Notwithstanding the exclusions in Rules 23(1) and 25(1), the Association will discharge on behalf of the Member liabilities, costs, expenses arising under a demand made pursuant to the issue by the Association on behalf of the Member of:

- (a) a guarantee or other undertaking given by the Association to the Federal Maritime Commission under Section 2 of US Public Law 89-777, or
- (b) a certificate issued by the Association in compliance with Article VII of the International Convention on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof, or
- (c) an undertaking given by the Association to the International Oil Compensation Fund 1992 in connection with the Small Tanker Oil Pollution Indemnification Agreement 2006 (STOPIA 2006), or
- (d) a certificate issued by the Association in compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, or
- (e) a non-war certificate issued by the Association in compliance either with Article IV bis of the Athens Convention relating to Carriage of Passengers and their Luggage by Sea, 2002 and Guidelines for its implementation or Regulation (EC) No. 392/2009

of the European Parliament and of the Council which gives effect thereto, or

(f) a certificate issued by the Association in compliance with Article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007.

(g) certificates in compliance with Regulation 2.5.2, Standard A2.5.2, Regulation 4.2 and Standard A4.2.1(b) of the Maritime Labour Convention 2006, as amended (MLC 2006) or domestic legislation by a state party implementing MLC 2006.

PROVIDED ALWAYS THAT:

(i) The Member shall indemnify the Association to the extent that any payment under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses is or would have been recoverable in whole or in part under a standard P&I war risk policy had the Member complied with the terms and conditions thereof, and

(ii) The Member agrees that:

(a) any payment by the Association under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses shall, to the extent of any amount recovered under any policy of insurance or extension to the cover provided by the Association, be by way of loan; and

(b) there shall be assigned to the Association to the extent and on the terms that it determines in its discretion to be practicable all the rights of the Member under any other insurance and against any third party.

RULE 24 EXCLUSION OF RISKS COVERED BY HULL POLICIES

Unless otherwise agreed in writing, the Association shall not, except only as provided by Rule 19(9)(A) and (B) (collision), Rule 19(10)(C) (damage to property), Rule 19(18)(A) (general average) and Rule 19(24) (cover for charterers), insure a Member to any extent whatsoever against any of the risks, liabilities, costs or expenses against which the Member would be insured if the Entered Ship were fully insured 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 and with no deductible or franchise applicable to claims under those policies.

RULE 25 EXCLUSION OF WAR RISKS

General 25(1) Unless otherwise agreed in writing there shall be no recovery
Exclusion from the Association against any liabilities, costs or expenses incurred as a result of:

- (A) An incident caused by war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, or any act of terrorism;

Provided always that in the event of any dispute as to whether or not any act constitutes an act of terrorism the decision of the Board shall be final.

- (B) Capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;
- (C) An incident caused by mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war (save for those liabilities, costs or expenses which arise solely by reason of the transport of any such weapons whether on board the Entered Ship or not).

Provided always that this exclusion shall not apply to the use of such weapons, either as a result of government order or with the agreement of the Managers or the Board, where the reason for such use is the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the cover given by the Association.

PROVIDED ALWAYS THAT:

(i) the exclusion set out in this Rule 25(1) shall apply irrespective of whether a contributory cause of any liability, cost or expense being incurred was negligence on the part of the Member or of his servants or agents, and

(ii) the exclusion set out in this Rule 25(1) shall be subject to Rule 23(2).

War Risks 25(2) Where the Association has agreed in writing to provide cover against any or all of the risks set out in Rule 25(1) above such cover shall be subject to such terms and conditions as may have been agreed between the Member and the Managers including any war risks clause endorsement applicable to the Certificate of Entry. The Association shall have the power to declare Prohibited Areas; which

(i) may at any time and from time to time be changed by the Association giving seven days notice of such change;

(ii) shall automatically extend to all countries, zones, areas, ports and places upon the hostile detonation of a nuclear device, the outbreak of war between any of the following countries United Kingdom, United States of America, France, The Russian Federation, The People's Republic of China, or upon requisition either for title or use of the Entered Ship, and there shall be no cover in respect of the event giving rise to such automatic extension.

RULE 26 OTHER INSURANCES

Double 26(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 liabilities, costs or expenses 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 26(2) Where a Member has provided evidence of financial responsibility to any authority in respect of any liability, cost or expense, or potential liability, cost or expense, by producing to that authority evidence of insurance other than evidence of insurance under these Rules, there shall be no contribution by the Association to the Member or to any other person in respect of such liability, cost or expense.

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.

RULE 27 LIMITATION OF LIABILITY

General 27(1) Limitation Subject to these Rules and to any special terms and conditions upon which a Ship may be entered, the Association insures the liability of a Member in respect of an Entered Ship as this liability may ultimately be determined and fixed by law, including any laws pertaining to limitation of liability. The Association shall in no circumstances be liable for any sum in excess of such legal

liability. If the Ship is entered for less than its Full Tonnage the liability of the Association shall be limited to the proportion that the Entered Tonnage bears to the Full Tonnage.

**Passengers 27(2)(A)
and Seamen**

For the purposes of this Rule 27(2) and the provisos hereto, and without prejudice to any other provision of these Rules, a “Passenger” shall mean a person carried onboard a ship under a contract of carriage or who, with the consent of the carrier, is accompanying a vehicle or live animals covered by a contract for the carriage of goods and a “Seaman” shall mean any other person onboard a ship who is not a Passenger.

- (B)** Unless otherwise limited to a lesser sum, the Association’s aggregate liability in respect of any one Entered Ship for losses, liabilities and the costs and expenses incidental thereto shall not exceed:
- (i) USD2,000,000,000 any one event in respect of Passengers; and
 - (ii) USD3,000,000,000 any one event in respect of Passengers and Seamen.

PROVIDED ALWAYS THAT:

Where an Entered Ship is also separately insured on behalf of any person (other than a charterer who is not a demise or bareboat charterer) by the Association or by any other association which participates in the Pooling Agreement:

- (a) the aggregate amount recoverable in respect of Passengers recoverable from the Association and/or such other associations shall not exceed USD2,000,000,000 any one event and the liability of the Association shall be limited to such proportion of that sum as the amount recoverable in respect of Passengers from the Association bears to the aggregate of all such amounts otherwise recoverable in respect of Passengers from the Association and all such insurers;

(b) the aggregate amount recoverable in respect of Passengers and Seamen recoverable from the Association and/or such other associations shall not exceed USD3,000,000,000 any one event and the liability of the Association shall be limited;

(i) where liability in respect of Passengers has been limited to USD2,000,000,000 in accordance with proviso (a) to such proportion of the balance of USD1,000,000,000 as the amount recoverable in respect of Seamen bears to the aggregate of all such claims otherwise recoverable in respect of Seamen from the Association and all such associations; and

(ii) in all other cases, to such proportion of USD3,000,000,000 as the amounts recoverable in respect of Passengers and Seamen bear to the aggregate of all such claims otherwise recoverable from the Association and all such associations.

(C) Where liabilities to Passengers include liabilities arising under a non-war certificate issued by the Association in compliance with either Article 4 bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol thereto of 2002 or Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23rd April 2009 on the liability of carriers of passengers by sea in the event of accidents ("Certified Liabilities") and all liabilities to Passengers exceed or may exceed in the aggregate the limit of cover specified in Rule 27(2):

(i) the Managers may in their absolute discretion, until the Certified Liabilities, or such part of the Certified Liabilities as the Managers may decide, have been discharged, defer payment of a claim in respect of other liabilities to Passengers or any part thereof; and

(ii) if and to the extent any Certified Liabilities discharged by the Association exceed the said limit any payment by the Association in respect thereof shall be by way of loan and the Member shall indemnify the Association in respect of such payment.

RULE 28 CLASSIFICATION AND CONDITION OF SHIPS

Classification 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 from 28(5)**Classification****Society**

Should the Association wish to approach the classification society direct for information, the Member will provide the necessary authorisation.

Survey before 28(6)**Entry or****Re-Entry**

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)**Management****Appraisal**

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 or they may treat it as an expense reimbursable by the Association under Rule 19(20) (legal costs, sue and labour). 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 19 (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 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 or they may treat it as an expense reimbursable by the Association under Rule 19(20) (legal costs, sue and labour).

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 19 (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.

Disclosure of 28(9)

Surveys

Every Member or prospective Member:

(i) consents to and authorises the disclosure by the Managers to any association which is a party to the Pooling Agreement any survey of a Ship made under Rule 28(6) or Rule 28(8); and

(ii) waives any rights or claims against the Association or the Managers of whatsoever nature arising in respect of or relating to the contents of or opinions expressed in any survey so disclosed.

Provided always that

(a) such survey may only be disclosed to another association when an application for entry of such Ship is made thereto; and

(b) the disclosure of the survey shall be for the limited purpose only of that association considering an application to enter such Ship for insurance.

**Right of 28(10)
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(11)
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.

RULE 29 BYE-LAWS

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.

Recommend- 29(2) actions 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.

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

RULE 30 OBLIGATION OF THE MEMBER IN RESPECT OF CLAIMS

- Notice 30(1)** Every Member shall be bound to give prompt notice in writing to the Managers of every incident likely to give rise to a claim under these Rules and of any legal or arbitration proceedings commenced against him. The Member shall furnish the Managers as soon as reasonably possible thereafter with all documents or information relevant thereto.
- Mitigation 30(2) of Loss** Upon the occurrence of any incident which may give rise to a claim under these Rules, the Member shall take such steps as at the time shall appear proper for the purpose of averting or minimising any loss, damage, expense or liability in respect of which the Member may be insured under these Rules.
- 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 limit for 30(4) notice** Every claim against the Member in respect of an incident referred to in Rule 30(1), above, shall be notified to the Association as soon as possible, but in no case later than twelve months after the Member has received notice that the claim is being, or may be, made against him in respect of such incident. The Member shall give notice to the Association in writing of the

commencement of any legal or arbitration proceedings against him as soon as possible, but in no case later than 30 days after the Member has received service of the said proceedings.

Time limit for 30(5) reimbursement

All requests by a Member for reimbursement of any losses, costs or expenses recoverable from the Association under these Rules and the Certificate of Entry must be made to the Association within twelve months of the incurring of the loss or the payment of the cost or expense by the Member.

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

Control 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 loss, damage, expense or liability 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.

Refusal 31(2) If the Member does not settle, compromise or dispose of a claim or proceedings in accordance with the requirements of the Managers under Rule 31(1) (control), any eventual recovery by the Member in respect of such claim or proceedings from the Association shall be limited to the amount he would have recovered if he had acted as required by the Managers.

Abandonment 31(3) In the event of an Entered Ship becoming an actual or constructive total loss, the Association shall, subject to the hull underwriters' rights in the matter, be entitled to request the Member concerned to abandon the Ship to the Association or to such other person (including the world at large) as the Association shall nominate. If the Member concerned does not abandon the Ship having received such a request from the

Association, the Association shall not be responsible for any claim that could have been avoided had the Member abandoned the Ship as aforesaid, and the burden of proving that the claim could not have been avoided by such abandonment shall be upon the Member.

**Appointment 31(4)(A)
of Experts**

Without prejudice to any other provision of these Rules and without waiving any of the Association's rights hereunder, 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 advising them upon investigating or dealing with any matter which may result in loss, damage, expense or liability in respect of which the Member is or may be insured under these Rules, including taking or defending legal or other proceedings in connection therewith. 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)(A) 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 claim in respect of which the bail or other security is given. In no case shall cash deposits be made by the Association.

(B) It shall be a condition of the provision of bail or other security on behalf of any Member, that the Member shall indemnify the Association for any costs associated with the provision of such bail or other security and for any liability the Association may incur to a third party under or in connection with such bail or other security. *Provided always* that the indemnity shall not extend to those amounts that the Member would have been entitled to recover from the Association under these Rules had he paid them directly.

**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.

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

Meetings 32(1) 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.

Claims 32(2) 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:

- (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 Member has failed fully to comply with the recommendations of a surveyor appointed by the Managers under Rule 28 (classification and condition of Ships);
- (iv) 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;
- (v) 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;
- (vi) the Member shall have failed to comply with any of his obligations under Rule 30.

Interest 32(3) Save only as provided in Rule 3(5) a Member shall not be entitled to be paid interest on his claim against the Association.

VI Cesser of Insurance

RULE 33 CESSER OF ALL INSURANCES

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 33(1) pay** 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) Individual** 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) Corporation** If, being a corporation, an effective resolution is passed for 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 its 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.

RULE 34 CESSER OF SHIP ENTRY

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.

Change of 34(2) Management 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.

Ship 34(4) Missing If the Ship shall be missing for ten days from the date it was last heard of or from it 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 and condition of Ships).

Termination 34(7) If the entry of the Ship shall have been terminated in accordance with Rule 9(3) (termination of cover by 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.

RULE 35 EFFECT OF CESSER

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 35(2) other 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 35(3)
of 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.

RULE 36 CONTRIBUTIONS DUE ON CESSER OF INSURANCE

36(1) Subject to his liability being otherwise agreed or assessed under Rule 14 (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 Rules 37(1) (Exceptional Calls) and 37(2) (Overspill Calls) 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 Board or Managers); or

(ii) such cesser arises upon the happening of any of the events specified under Rules 34(1) to (6) (transfer of interest or management, total loss or disappearance, lack of classification) 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

Security for 36(3) If

Overspill

- Calls (A)**
- (i) the Association makes a declaration in accordance with Rule 37(2) that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls, and
 - (ii) a Member who is liable to pay any such Overspill Call or Calls as may be levied by the Association ceases or has ceased to

be insured by the Association for any reason, or the Association determines that the insurance of any such Member may cease the Association may require such Member to provide to the Association by such date as the Association may determine (the “due date”) a guarantee or other security in respect of the Member’s estimated future liability for such Overspill Call or Calls, such guarantee or other security to be in such form and amount (the “guarantee amount”) and upon such terms as the Association in its discretion may deem to be appropriate in the circumstances.

- (B)** Unless and until such guarantee or other security as is required by the Association has been provided by the Member, the Association shall not be liable for any claims under these Rules in respect of any Ship entered by the Member or on his behalf for any Policy Year.
- (C)** If such guarantee or other security is not provided by the Member to the Association by the due date, a sum equal to the guarantee amount shall be due and payable by the Member to the Association on the due date, and shall be retained by the Association as a security deposit on such terms as the Association in its discretion may deem to be appropriate in the circumstances.
- (D)** The provision of a guarantee or other security as required by the Association (including a payment in accordance with paragraph (C) above) shall in no way restrict or limit the Member’s liability to pay such Overspill Call or Calls as may be levied by the Association.

VII The Funds of the Association

RULE 37 CLOSING OF POLICY YEARS

- Exceptional Calls 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 in respect of Exceptional Calls made under Rule 11(3).
- Overspill 37(2)
Calls** A Policy Year shall be closed automatically in respect of Overspill Calls upon the expiry of a period of three years from the commencement of that Policy Year. *Provided always* that this automatic closure shall be suspended if prior to the expiry of that period any of the parties to the Pooling Agreement sends a notice in accordance with the Pooling Agreement giving notice of a possible Overspill Claim for which the Overspill Claim Date would fall in that Policy Year, in which event the Association shall, as soon as is practicable, declare that the said Policy Year shall remain open for the purpose of levying Overspill Calls. Once such a declaration has been made the Policy Year shall remain open for the purpose of levying Overspill Calls until such time as the Board may determine that all liabilities in respect of the Overspill Claim or Claims have been satisfied or sufficient provision made therefor.
- Disposal of 37(3)
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(1); 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 14 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(4)
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(5)
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).

RULE 38 REINSURANCE AND POOLING

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 (including any risk which may arise under the Pooling Agreement) with such reinsurers and on such terms as the Managers shall consider appropriate.

Pooling 38(3) Agreement The Association may continue to be a party to the Pooling Agreement or to any other agreement of a similar nature or purpose.

Retained 38(4) Risks The Board may, in its discretion, reinsure or cede on behalf of the Association, with such reinsurers and on such terms as the Board shall consider appropriate, the whole or any part of the risks or liabilities of the Association which are or might be payable out of any General Reserve which has been or might be established under Rule 39(1).

RULE 39 RESERVES

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 39(1) 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.

Overspill 39(2) Reserve The Board shall create an Overspill Reserve or Reserves from the proceeds of any Overspill Call or Calls.

- (A)** Any Overspill Reserve so created shall be made up from the proceeds of one Overspill Call only and shall be specified to be in respect of a particular Overspill Claim (whether such claim has occurred or is anticipated).
- (B)** Any Overspill Reserve shall be invested by the Board as a separate fund and any gains (including dividends, interest, or accruals of interest) or losses, in the funds so invested, shall be credited or debited, as the case may be, to the said Overspill Reserve.
- (C)** Each Member who has made a contribution to an Overspill Call which has been used to create an Overspill Reserve shall (subject to the powers of the Board under this Rule 39(2)) have an interest in such Overspill Reserve proportional to the amount actually contributed by him to the Overspill Call which was used to create the said Overspill Reserve.
- (D)** Any sums standing to the credit of an Overspill Reserve shall be used to eliminate or reduce the burden of the specified Overspill Claim or to pay such claim in whole or in part, or shall be returned to the Members in accordance with paragraph (F) hereof.

- (E) If more than one Overspill Call has been made in respect of one Overspill Claim and more than one Overspill Reserve created in accordance with the provisions of paragraph (A) hereof in respect of such Overspill Claim then such Overspill Reserves shall be utilised by the Board for the payment of such Overspill Claim in the order in which they were established.
- (F) If at any time it shall appear to the Board that the sum standing to the credit of an Overspill Reserve is greater than is required to meet the actual or anticipated Overspill Claim for which it was established the Board may order the whole or part of such surplus to be returned to the Members who contributed by way of Overspill Call to such Overspill Reserve. Any such return shall be made to Members in proportion to their interests in the said Overspill Reserve as set out in paragraph (C) hereof.

Provided always that:

- (i) the Association shall be entitled to set-off any sums owing to the Association by a Member against any such return; and
- (ii) if in the opinion of the Board it appears impossible or impracticable to make such a return to one or more Members then the amounts which would otherwise have been due to be returned shall be transferred to General Reserve; and
- (iii) no return shall be made in respect of Contributions levied on any Ship which has been released under Rule 14.

RULE 40 INVESTMENT

**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, subject to the provisions of Rule 39(2) (overspill reserve), 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

RULE 41 FORBEARANCE

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 forgo 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.

RULE 42 ASSIGNMENT

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.

RULE 43 DELEGATION

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 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.

RULE 44 DISPUTES AND DIFFERENCES

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 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 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 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.

Overspill 44(4)(A)
Claims

- Any of the issues referred to in Rule 5(9) shall be referred to a panel (the "Panel"), which shall act as a body of experts and not as an arbitration tribunal and be constituted in accordance with arrangements established in the Pooling Agreement.
- (B)** If the Panel has not been constituted at a time when a Member wishes to refer an issue to it, the Association shall, on request by the Member, give a direction for the constitution of the Panel as required under the Pooling Agreement.
 - (C)** The Association may (and, on the direction of the Member, shall) give such direction as is required under the Pooling Agreement for the formal instruction of the Panel to investigate any issue and to give its determination as soon as reasonably practicable.
 - (D)** The Panel shall in its discretion decide what information, documents, evidence and submissions it requires in order to determine an issue and how to obtain these, and the Association and the Member shall co-operate fully with the Panel.
 - (E)** In determining any issue referred to it under Rule 5(9) the Panel shall endeavour to follow the same procedures as it follows in determining issues arising in respect of the relevant Overspill Claim which are referred to it under the Pooling Agreement.
 - (F)** In determining an issue the members of the Panel shall rely on their own knowledge and expertise and may rely on any information, documents, evidence or submission provided to it by the Association or the Member as the Panel sees fit.
 - (G)** If the three members of the Panel cannot agree on any matter, the view of the majority shall prevail.

- (H) The Panel shall not be required to give reasons for any determination.
- (J) The Panel's determination shall be final and binding upon the Association and the Member (subject only to paragraph K below) and there shall be no right of appeal from such determination.
- (K) If the Panel makes a determination on an issue, the Association or the Member may refer the issue back to the Panel, notwithstanding paragraph (J) above, if it considers that the position has materially changed since the Panel made its determination.
- (L) The costs of the Panel shall be paid by the Association.
- (M) Costs, indemnities and other sums payable to the Panel by the Association in relation to any Overspill Claim, whether the reference to the Panel has been made under this Rule 44(4) or under the Pooling Agreement, shall be deemed to be costs properly incurred by the Association in respect of that Overspill Claim for the purposes specified in Rule 5(7) (B) (i).

RULE 45 NOTICES

- 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) 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.

RULE 46 JURISDICTION

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, save as provided in Rule 19(1)(A), 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.

Index to Rules

	Rule number
Ad Valorem bills of lading	19 (17) Proviso (iv)
Affiliated company	2
Arbitration	
Obligations of Members	30 (1), 30 (4)
Disputes and differences	44
Arrest, see 'Bail'	31 (5)
Assignment	42
Associated companies, cover for	18
Bad debts	12 (7), 20 (10)
Bail	31 (5)
Bank notes	19 (2) Proviso (vi)
Bankruptcy	33 (3)
Bills of lading	
Ad valorem	19 (17) Proviso (iv)
Dating of	19 (17) Proviso (iii) (g)
Delivery without production	19 (17) Proviso (iii) (c)
Description of cargo	19 (17) Proviso (iii) (h)
Board powers	32
Bunkers	19 (24) (c)
Bye-laws	29

	Rule number
Calls	
Estimated Total Call	11(1) , 11(2)
Closing of policy years	37
Contribution by way of	10
Exceptional	11 (3), 37 (1)
Laid-up returns	13
Overspill	11 (4), 37 (1)
Release	14
Cargo	
Carried on deck	19 (17) Proviso (x)
Collision liability	19 (9), (C), (E), (J)
Failure to load	19 (17) Proviso (iii)
Fines	19 (19) (A)
General average	19 (18) (B)
Liabilities arising	19 (25)
Responsibilities in respect of	19 (17)
Certificate of entry	6 (3)
Cessation of Membership	4 (4)
Cesser of insurance	14, 33, 35, 36
Cesser of ship entry	34
Charterers, special cover for	19 (24)

	Rule number
Claims	
Appointment of experts	31 (4)
Cesser of insurance, effect on claims	35
Committee, meetings to settle claims	32 (1)
Handling and Settlement	31
Notice of claim	30 (1)
Notification, time limits	30 (4)
Obligation of Member	30
Overspill claims	5(7), 5(8)
Payment first by Member	5 (1)
Settlement	31, 32
Classification of ships	28, 34 (6)
Closing of policy years	37
Collision liabilities	19 (9)
Committee powers	32
Conditions of cover	3 (2)
Condition of ships	28
Condition Survey	28 (8)
Contraband	22
Contract of insurance	6 (7)
Contributions	
By way of calls	10
Due on cesser of insurance	36
Recovery of	15

	Rule number
Convention Limit, definition	2
Costs	
Cargo, costs relating to	19 (17)
Legal costs	19 (20)
Incidental to ship owning	19 (21)
Pollution, costs relating to	19 (12)
Recovery of costs	31 (6)
Sue and labour costs	19 (20)
Wreck removal	19 (13)
Towage	19 (14)
Cover, nature of	3
Crew, see 'Seamen'	19 (1)
Cross-liabilities	19 (9) Proviso (iii)
Currency	5 (5), 12 (3)
Customs regulation	
Confiscation of ship	19 (19) Proviso (vi)
Fines	19 (19) (B)
Death	
Members	45 (5)
Passengers	19 (2) (A)
Seamen	19 (1) (A)
Third parties	19 (4)

	Rule number
Debts	
Bad debts	12 (7)
Irrecoverable debts	12(6), 20 (10)
Member's non-payment	12 (8)
Deck cargo	19 (17) Proviso (x)
Definitions	2
Delay	20 (12)
Delegation of powers	43
Delivery of cargo	
Short or over delivery	19 (19) (A)
Without production of bill of lading	19 (17) Proviso (iii) (c)
Demurrage	20 (12)
Detention	20 (12)
Deviation	19 (17) Proviso (ii)
Disinfection of entered ship	19 (16)
Disputes	44
Diversion expenses	19 (6)
Diving, exclusion	20 (15)
Double insurance	26 (1)
Drilling, exclusion of	21 (3)
Effects, personal	19 (1) (C)
Entered ship, definition of	2
Entered tonnage, definition of	2, 6 (4)

Rule number

Entry

Application for entry 6 (1)

Certificate of entry 6 (3)

Cesser of ship entry 34

Fleet entry 16

Joint entry 8 (1)

Ship 4 (1)

Survey 28 (6)

Tonnage entered 6 (4)

Warranty 6 (2)

Equipment exclusion 20 (2)

Excess collision liabilities 19 (9) (B)

Exclusion of cover 20, 21, 23, 24, 25

Expenses incidental to ship owning 19 (21)

Experts, appointment of 31 (4)

Fair presentation 6 (2)

Fines

General 19 (19)

Not covered 19 (19) Provisos (i)–(vi)

Pollution 19 (12) (F), 19 (19) (D)

Smuggling 19 (19) (A)

Fixed and floating objects 19 (10) (A)

Fleet entry 16

	Rule number
Forbearance	41
Freight	
Charterer's cover	19 (24) (D)
Exclusion	20 (4)
Funeral expenses	19 (1) (A)
General average	
Proper value of ship	19 (9) Proviso (ii)
Ship's proportion	19 (18) (A)
Unrecoverable contribution	19 (18) (B)
Hague Visby Rules	19 (17) Proviso (i)
Hamburg Rules	19 (17) Proviso (x)
Heavy lift ships, exclusion	21 (2)
Hire, exclusion	20 (4)
Hospital expenses	19 (1) (A)
Hull policies	
Definition	2
Exclusion	24
Illness	
Passengers	19 (2) (A)
Seamen	19 (1) (A)
Third parties	19 (4), 19 (25) (A)
Immigration, fines relating to	19 (19) (C)
Imprudent trading	22

	Rule number
Incidental risks	19 (21)
Indemnity	
Contracts of indemnity	19 (15)
Seamen, Members' failure to pay	19 (1) (I)
Injury	
Seamen	19 (1) (A)
Passengers	19 (2) (A)
Third parties	19 (4)
Instalments	12 (1)
Institute Time Clauses Hulls	19 (9) (A), 24
Insurance	
Act	3 (5)
Assignment of	42
Cesser of	14 , 33, 35, 36
Contract of	6 (7)
Double insurance	26 (1)
Period of	9
Termination of	9 (3)
International Tanker Owners	
Pollution Federation	6 (9)
Interest	
Payment by Member	12 (6)
Payment by Association	32 (3)

	Rule number
ITOPF	6 (9)
Investment	40
Joint entries	8
Jurisdiction	15 (3), 46
Laid-up returns	13
Late payment, penalty	12 (6)
Lawyers, appointment of	31 (4)
Legal costs	19 (20)
Lien	15 (2)
Life salvage	19 (8)
Limitation of liability	27
Lloyd's Marine Policy	24
Management of ships	
Change of	34 (2)
Ship management appraisal	28 (7)
Mitigation of loss	30 (1)
Membership	4
MLC 2006	19 (3)
Mortgage of entered ship	34 (5)
Mortgagees	17
Nature of cover	3
Non-contact damage to ships	19 (11)
Notices, service of	45

Rule number

Notice

Of claim by Member 30 (1)

Of termination of entry 9 (3)

Nuclear Risks, exclusion of 23

Objects, fixed and floating 19 (10) (A)

Obligations, member 30

Other insurances 26

Overloading of entered ship 19 (19) Proviso (i)

Overspill calls 11 (4) (A)

Overspill claim

Closing of policy year 37 (2)

Funding of 5 (8) (A)

Overspill reserve 39 (2)

Payment 12

Recovery of 5 (7) (A), 5 (9)

Security 36 (3)

Overspill reserves 39 (2)

Paperless Trading 19 (17) proviso (viii)

Passengers

Baggage 19 (10) (B)

Liability to 19 (2)

Limitation of liability 27 (2)

Quarantine 19 (16)

	Rule number
Payment of calls	12
Period of insurance	9
Personal effects	19 (1) (C)
Policy year	
Closing of	37
Definition	2
Pollution	
Fines	19 (19)
Risks covered	19 (12)
Salvors' expenses	12 (23) (B)
Pooling agreement	
Definition	2
Reinsurance	38 (3)
Precious metals	19 (2) Proviso (vi), 19 (17) Proviso (v)
Property	
Collisions	19 (9) (E)
Damage to	19 (10)
Other property losses	19 (10) (G)
Quarantine	19 (16)
Radioactive matter, exclusion	23
Ransom	19 (20) Proviso (iv)

	Rule number
Recovery	
Right of	5
Of contributions	15
Of costs	31 (6)
Of overspill claims	5 (7)
Refusal of application	6 (8)
Reinsurance	4 (3), 38
Release	14
Removal of wreck	19 (13)
Repairs to entered ship, exclusion	20 (3)
Repatriation	
General	19 (7)
Maritime Labour Convention (MLC) 2006	19 (3)
Passengers	19 (2) (A)
Seamen	19 (1) (G)
Stowaways	19 (5)
Reserves	39
Retained risks	38 (4)
Returns	
Of call	11
Laid up	13
Risks	
Covered	19
Excluded	20, 21, 22, 23, 24, 25

	Rule number
Rules of the Association, disputes	44
Sale of entered ship	19 (1) Proviso (i)
Salvage	
Exclusion	20 (6), 20 (13)
Life salvage	19 (8)
Salvors' liability	19 (23) (C)
Salvors' special compensation	19 (12) (E)
Salvors' special cover	19 (23)
Ship's proportion of salvage	19 (18)
Sanctions	
Nature of cover	3 (4)
Right of recovery	5 (6)
Exclusions	20 (16)
Cesser	33(4), 34(8)
Seamen	
Definition	2
Liabilities, in respect of	19 (1)
Limitation of liability	27 (2)
Security see 'Bail'	31(5)
Set-off	5 (3), 12 (5), 36 (2)
Settlement of claims	31,32
Ship, definition of	2

	Rule number
Shipwreck, seamen	19 (1) (B)
Shortage	
Cargo	19 (17) (A)
Fines	19 (19) (A)
Slot charters	19 (17) Proviso (ix)
Smuggling, fines	19 (19) (A)
Special Cover	19 (22), 19 (23), 19 (24)
Special Insurances	7
Specialist risks, exclusion	21
Statutory requirements	28 (4)
STOPIA 2006	19 (12) Proviso (vii) (a)
Stores, exclusion	20 (2)
Storage ships, exclusion	21 (4)
Stowaways	19 (5)
Subrogation	5 (2)
Sue and labour	19 (20) (B)
Survey, classification of ships	28
Tax	12 (4)
Termination	
Of entry	9 (3), 28 (7), 28 (8), 34 (7)
Of insurance	36
Third parties	19 (4)
Through transit	19 (17) (D)

	Rule number
Time limits	30 (4), 30 (5)
Tonnage	
Entered tonnage, definition	2
Full tonnage, definition	2
Limitation	27 (1)
TOPIA 2006	19 (12) Proviso (vii) (a)
Total loss	
Abandonment	31 (3)
Cesser of insurance	34 (3)
Towage	
By an entered ship	19 (14) (B)
Of an entered ship	19 (14) (A)
Salvage	20 (13)
Unlawful trade, exclusion	22
Valuable cargo	19 (17) Proviso (v)
Valuation	
Of ship in hull policies	19 (9) (B)
Of cargo in ad valorem bills of lading	19 (17) Proviso (iv)
Variation of cover	6 (6)
War risks	
Exclusion	25 (1)
P&I war risks	25 (2)

Rule number

Waste

Nuclear, exclusion

2

Ship, exclusion

21 (5)

Wreck

Collisions

19 (9) (H)

Non-contact damage

19 (11) (D)

Property damage

19 (10) (F)

Removal

19 (13)

York / Antwerp Rules 1994

19 (12) Proviso (iii), 19 (18) (B)