

2007/08

THE AMERICAN CLUB
BY-LAWS & RULES



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as of January 1,

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BY-LAWS

American Steamship Owners Mutual Protection and Indemnity Association, Inc.

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ARTICLE I MEMBERS

Section 1

Every holder of a Certificate of Entry issued by the Association in respect of a vessel or vessels insured thereunder shall be a Member of the Association during the period for which such Certificate is effective to insure risks and, as such Member, shall be entitled to vote, provided always, however, unless otherwise agreed, that when one party has nominal or beneficial ownership, management or control over one or more vessel(s) insured under one or more Certificate(s), such party shall be the only Member entitled to vote as provided herein and to share in dividends or return of mutual premium as provided in the Association's Rules, notwithstanding that any other party may have been named as a Member on the relevant Certificate(s) of Entry. No membership shall exist under any contract of reinsurance, unless specifically provided therein, nor under any mortgage clause or loss payable clause of a Certificate of Entry. In these By-Laws, all pronouns shall be understood to include such gender(s) as may be appropriate.

Section 2

The Members shall assemble in an annual meeting to be held in the City of New York, on a Thursday in June in each year, at a location to be duly announced, the Members and the New York State Insurance Department to receive written notice of the location and date at least thirty days prior to the annual meeting. One-third of the Members shall constitute a quorum for the transaction of business. Any meeting at which there is not a quorum present may be adjourned by those present to a future time and place. Members not present in person may be represented by proxy authorized in writing provided the same be dated and executed not more than three months before the meeting and be filed and recorded with the Secretary before the meeting. No proxy given by a Member to vote at any meeting of the Association shall be valid or effective after the meeting for which it was issued. Each Member shall have one vote, except as provided in Article I, Section 1.

Section 3

Special meetings of the Members may be called by the Chairman, Secretary or two of the Directors at any time. Special meetings of the Members must be called by the Secretary or by the Manager upon the written request of ten or more Members. Every notice of a special

ARTICLE I MEMBERS

meeting must briefly set forth the purpose or purposes thereof, and no other business may be transacted at any special meeting. The provisions of the preceding Sections as to quorum, proxies, voting and adjournment shall apply to a special meeting.

Section 4 Notice of every special meeting of the Members shall be given to each Member by the Secretary or Manager by mailing or delivering the same at least fourteen days before the time fixed for the meeting; provided, however, that should a party become a Member fourteen days or less before the time fixed for the meeting, notice shall be given promptly after the party so becomes a Member. Every Member shall, for all purposes, be deemed to have been duly notified of any meeting if he shall be present thereat in person or by proxy, or shall before or after the meeting file with the Secretary a waiver of the notice thereof.

Section 5 At each annual meeting of the Members provision shall be made for the appointment of independent auditors.

ARTICLE II DIRECTORS

Section 1 The business of the Association shall be conducted by a Board of Directors who shall arrange for a suitable principal office for the Association and may provide for such offices elsewhere as they deem necessary, shall fix the compensation of all officers and employees of the Association, shall employ a Manager as hereinafter provided, shall select depositories for the Association's funds, shall adopt a seal for the Association, and shall have all other powers necessary or proper for the management and conduct of the business and affairs of the Association that are not by law or these By-Laws required to be exercised otherwise.

Section 2 The Board of Directors shall consist of such number of persons, not less than thirteen and not more than twenty-five, as shall be determined at each annual meeting of the Members which persons shall be either

ARTICLE II DIRECTORS

Members of the Association or officers of Member corporations, except that up to four Directors need not be either Members or officers of Member corporations. If a government or governmental agency be a Member, any person or persons duly authorized in writing thereby shall be accredited as such Member for purposes of service on the Board of Directors. A majority of the Directors shall be citizens and residents of the United States, and not less than three Directors shall be residents of the State of New York. At least two of the principal officers of the Association shall be members of the Board of Directors. In no case shall as many as a quorum of the Directors be officers or salaried employees of the Association or of the Manager. The Directors shall be elected at the annual meetings of the Members by a majority of the votes cast thereat. A person, to be eligible for election as a Director, must be nominated by a Member other than himself or a corporation of which he is an officer, by written nomination filed with the Secretary at least fifteen days before the meeting at which Directors are to be elected, provided, however, that a Director qualified and serving at the time of the meeting shall be eligible for nomination for reelection without advance notice. The Directors shall hold office until their successors are chosen and have qualified. Vacancies in the Board of Directors occurring in the interval between annual meetings shall be filled by a majority vote of the remaining Directors as soon as possible after the vacancy occurs, and the persons so elected shall hold office until their successors are chosen and have qualified. In the interval between annual meetings of the Members, the number of Directors (within the above prescribed limits) may be increased, but not decreased, by a three-fourths vote of those present at any meeting of the Board of Directors, but in any event not less than a majority of the entire Board; and vacancies in the Board shall be deemed to exist to the extent of such increase.

Section 3 The Directors shall receive for their services each year such compensation as shall be determined by the Members at their annual meeting. Each Director shall, in addition, be entitled to be reimbursed for any expense incurred by him in connection with his duties as Director.

ARTICLE II DIRECTORS

Section 4 The Board of Directors shall hold an annual meeting immediately following the Members' annual meeting and such further regular meetings (not less than three per annum) at such times, places, and at such intervals as may be fixed by resolution of the Board of Directors; and the Chairman, Secretary or two Directors shall have power to call a special meeting of the Directors upon two days notice. Every Director shall, for all purposes, be deemed to have been duly notified of any meeting if he shall be present thereat in person, or shall before or after the meeting file with the Secretary a waiver of the notice thereof. One meeting of the Board of Directors shall be held within the State of New York and the three other regular meetings may be held elsewhere. A majority of the Directors shall constitute a quorum for the transaction of business and the concurrence of a majority of the Directors present shall be sufficient for any action except as may be otherwise provided herein or in the Association's Charter or in law. If a quorum be not present those in attendance may adjourn the meeting to a future time and place. Any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting if all Members of the Board of Directors or committee consent in writing to the adoption of a resolution authorizing the action.

Section 5 No Director shall act upon any claim against the Association in which he, or any corporation of which he is an officer, director, employee or stockholder, is interested.

Section 6 The Board of Directors shall cause the accounts of the Association to be audited every fiscal year by the auditor appointed by the Members, and such audited accounts shall be presented to the Board of Directors at the annual meeting each year.

Section 7 The Board of Directors, by resolution adopted by a majority of the entire Board, may designate from among its members an Executive Committee and other committees, each consisting of one or more directors, and each of which, to the extent provided in the resolution and permitted by the Charter or By-Laws, shall have all the authority

ARTICLE II DIRECTORS

of the Board, consistent with the laws of the State of New York. The Board may designate one or more Directors as alternative members of any such committee, who may replace any absent or disqualified member or members at any meeting of such committees. Each such committee shall serve at the pleasure of the Board.

ARTICLE III OFFICERS

Section 1 At each annual meeting of the Board of Directors, they shall elect from their number a Chairman and a Deputy Chairman, and shall appoint a Secretary who need not be a Member.

Section 2 The Board of Directors may appoint such other officers, agents and employees as they shall deem necessary who shall have such authority and shall perform such duties as from time to time shall be prescribed by the Board of Directors.

Section 3 The salaries of all officers of the Association shall be fixed by the Board of Directors.

Section 4 The officers of the Association shall hold office until removed or until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Directors. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5 The Chairman shall be the chief executive officer of the Association, shall preside at all meetings of the Members and Directors, and shall have general charge and oversight of the business of the Association and its affairs.

ARTICLE III OFFICERS

Section 6 The Deputy Chairman in the absence or disability of the Chairman, shall perform the duties and exercise the powers of the Chairman, and shall perform such other duties as may be conferred or imposed upon him by the Board of Directors.

Section 7 The Secretary shall keep a complete record of the proceedings of all meetings of the Members, the Executive Committee and other committees, and shall perform generally such other duties as are required by law or by the By-Laws or by the Board of Directors. He shall keep in safe custody the seal of the Association and when authorized by the Board of Directors, affix it when required to any instrument. If the Secretary is absent or unable to act, the Chairman shall have power to appoint a person temporarily to exercise the duties and powers of the Secretary.

ARTICLE IV MANAGER

Section 1 The Board of Directors shall appoint and fix the terms of employment and the compensation of a Manager who may be an individual, a partnership or a New York corporation, but who shall have a principal business office within the State of New York.

Section 2 The Manager, subject to the direction and control of the Board of Directors, shall have power to arrange the terms and conditions of insurance or reinsurance issued or placed by the Association; to undertake the investigation of any occurrence which might develop into a claim against a Member; to undertake the investigation and defense of any claim made against a Member with respect to which such Member shall be or may claim to be insured by the Association; to adjust and direct the payment of losses and claims; to employ and discharge counsel, clerks, agents or other assistants required in the conduct of the business of the Association, or for the investigation or defense of claims or lawsuits, and the Manager shall have such other powers and authority as the Board of Directors may delegate.

ARTICLE IV MANAGER

Section 3 The Manager, subject to the direction and control of the Board of Directors, shall collect and receive and account for all the monies, funds and securities of the Association; shall keep full and accurate books of account and records of all transactions and of all sums owing to or by the Association and of all receipts and payments made for or by it; and shall have power to sign and to endorse checks in the name of the Association. The books of account and records of the Association shall, at all reasonable times, be open to the inspection of any Director or Member. The Manager shall furnish to the Members at the annual meeting, and to the Board of Directors whenever requested, a statement truly exhibiting the financial condition of the Association.

Section 4 All contracts of insurance shall be issued by the Manager on behalf of the Association, and the Manager shall have the power to issue certificates for and to execute such contracts in the name of the Association. The rate and amount of premium to be charged on all contracts shall be fixed by the Manager subject to the direction and control of the Board of Directors. Every Certificate of Entry issued to a Member of the Association shall clearly state whether or not the insurance is mutual or fixed premium insurance. Certificates of Entry evidencing mutual insurance shall contain a clear statement of the liability of the Member for the payment of his proportionate share of any deficiency as provided by law within the limit provided by the contract of insurance, and shall further state that any premiums and calls shall be for the exclusive benefit of Members who are subject to such a contingent liability.

ARTICLE V INDEMNIFICATION

Section 1 Subject to the laws of the State of New York, every Director and every officer of the Association and the Manager (as defined by Section 2 of this Article) shall be indemnified by the Association against, and it shall be the duty of the Directors to pay out of the funds of the Association, all losses, costs and expenses which any such Director or officer or the Manager may incur or become liable

ARTICLE V**INDEMNIFICATION**

to pay by reason of any contract entered into, or any act or thing done, or in any other way by him, as such Director or officer or Manager, as the case may be, in carrying out his duties as Director or officer or Manager, respectively.

Section 2 For the purposes of this Article, “the Manager” means the Manager and all officers, servants and agents of the Manager to whom duties of the Manager have been entrusted.

ARTICLE VI**AMENDMENTS TO BY-LAWS**

Section 1 The By-Laws may be amended only by a majority vote of all of the Members who are present in person or by proxy at any annual meeting or other stated meeting or any special meeting duly called for such purpose, except that the Board of Directors may amend the By-Laws as to any provisions which do not impair the Members’ rights or enlarge their obligations under insurance policies. No By-Law or amendment or repeal of any By-Law shall be effective unless and until it shall have been approved in writing by the Superintendent of Insurance of the State of New York.

ARTICLE VII**EFFECTIVE DATE AND TRANSITION**

Section 1 These By-Laws shall become effective and all prior By-Laws of the Association shall become superseded and canceled at Noon, Greenwich Mean Time (GMT), February 20, 2004.

Section 2 The first policy year under these new By-Laws shall comprise the period from Noon, GMT, February 20, 2004, to Noon, GMT, February 20, 2005, and subsequent policy years shall continue in like fashion thereafter.

RULES

American Steamship Owners Mutual Protection and Indemnity Association, Inc.

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CLASS I**PROTECTION AND INDEMNITY INSURANCE****RULE 1****INTRODUCTORY: INTERPRETATION: MEMBERSHIP:
GENERAL PROVISIONS**

Section 1**INTRODUCTORY PROVISIONS**

- 1** Each and every provision of the By-Laws of the Association and these Rules of Class I are applicable to all Protection and Indemnity insurances of the Association. However, without prejudice to the generality of these provisions so far as they apply to this Class I, they shall only apply to Protection and Indemnity insurances contracted under Class III to the extent that they have been expressly incorporated therein.
- 2** The standard Protection and Indemnity cover afforded by the Association to a Member who has insured his vessel with the Association is set out in Rule 2 below.
- 3** The cover set out in these Rules may be excluded, limited, modified or otherwise varied by any special terms expressly agreed in writing between a Member and the Managers.
- 4** The Managers may accept the insurance of vessels on terms which afford cover to a Member against any special or additional risks not set out in Rule 2. The nature and extent of the risks and the terms of such cover shall be as expressly agreed in writing between the Member and the Managers.
- 5** A Member is only insured against loss, damage, liability or expense incurred by him which arises:
 - i** out of events occurring during the period of the policy year when his vessel is insured with the Association; and
 - ii** in respect of the Member's interest in the insured vessel; and
 - iii** in connection with the operation of the insured vessel by or on behalf of the Member.
- 6** Notwithstanding the terms of Rule 1.1.5 above, a Member may be insured otherwise than in respect of the insured vessel, or otherwise than in connection with the operation of the insured vessel, but only where this has been expressly agreed in writing between the Member and the Managers.

CLASS I**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

- 7 Subject to the provisions of Rule 1.1.8 below, a Member who has insured his vessel with the Association for insurance against any or all of the aforesaid risks is obligated to pay premium to the Association in accordance with Rule 4, such insurance being hereinafter referred to as mutual insurance and premium payable by reason thereof mutual premium.
- 8 Notwithstanding the provisions of Rule 1.1.7 above, a Member may be insured on special terms to the effect that he is liable to pay fixed premium to the Association, such insurance being hereinafter referred to as fixed insurance, and premium payable by reason thereof fixed premium, but only where this has been expressly agreed in writing between the Member and the Managers.
- 9 The insurance provided by these Rules is solely for the benefit of a Member, Joint Member, Co-assured, Affiliate or such other parties as set out and defined in Rule 1.3.
- 10 In these Rules, the words set out in Rule 1.2 below shall have the meaning ascribed to them in the said Rule 1.2.

Section 2**INTERPRETATION**

In these Rules the following words and expressions shall have the following meanings, if not inconsistent with the subject or context thereof:

Affiliate	Any person who is insured in accordance with Rule 1.3.12.
Applicant Member	In relation to a vessel which is desired or intended to be insured with the Association means an owner, operator or charterer (including a bareboat or demise charterer) of such vessel and any other person by whom or on whose behalf an application has been, is being or is to be made for the insurance of such vessel with the Association whether or not he is or is to be a Member of the Association.
Association	American Steamship Owners Mutual Protection and Indemnity Association, Inc.
Bill of Lading	A bill of lading or similar document of title.
By-Laws	The By-Laws of the Association at the relevant times.

CLASS I**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

Cargo	Goods, including anything used or intended to be used to secure goods, which are subject to a contract of carriage to which the Member is party, but excluding containers or other equipment owned or leased by the Member.
Certificate of Entry	The document issued by the Managers on behalf of the Association evidencing the contract of insurance between a Member and the Association pursuant to the provisions of Rule 1.4.6 to 9 inclusive.
Co-assured	Any person who is insured in accordance with the terms of Rule 1.3.8 to 1.3.11.
Container	A container or similar receptacle, including trailer, flat, pallet or tank, as may have been expressly agreed to be such in writing by the Managers.
Convention Limit	Has the meaning ascribed to it in Rule 4.15.
Directors	The Board of Directors of the Association at the relevant times.
Effects	Personal property, documents, navigational or other technical instruments and tools brought on board, or being taken to or from an insured vessel by a seaman or supernumerary but excluding cash, valuables, or any other article which, in the opinion of the Directors, is not an essential requirement for a seaman.
Endorsement	A document issued by the Managers on behalf of the Association evidencing any variations or additions to the contract of insurance as contained in a Certificate of Entry of which it forms an integral part.
Fines	Fines, penalties and other impositions similar in nature to fines imposed in respect of any insured vessel by any court, tribunal or authority of competent jurisdiction.
Fixed Premium	Any premium which is not mutual premium.
Fleet	Any two or more vessels insured hereunder having common nominal, or beneficial, ownership, management or control.
Group Excess Loss Contract	The excess loss reinsurance contract entered into by the parties to the Pooling Agreement.

CLASS I	RULE 1 INTRODUCTORY: INTERPRETATION: MEMBERSHIP: GENERAL PROVISIONS
Group Reinsurance Limit	Has the meaning ascribed to it in Rule 4.15.
Hull Insurance(s) / Hull Policy(ies)	Insurance in respect of the insured vessel's hull and machinery, increased value and excess liability.
Insured Vessel	A vessel which has been insured with the Association.
In Writing / Written	Visibly expressed in any mode of permanently representing or reproducing words including telegram, facsimile transmission and other electronic communication.
Joint Member	Any person who is insured in accordance with the terms of Rule 1.3.5.
Managers	Shipowners Claims Bureau, Inc.
Member	An owner, operator or charterer (including a bareboat or demise charterer) of a vessel insured by the Association who according to the By-Laws and these Rules is entitled to membership of the Association, provided that, where the context requires or allows, the term Member shall, in these Rules, include a Joint Member, Co-assured and Affiliate.
Mutual Premium	Premium payable by a Member in consideration of the affording by the Association of mutual insurance and subject to the relevant provisions of Rule 4.
Net Premium	Has the meanings ascribed to it in Rule 4.7 or Rule 4.11 as the context requires.
Overspill Call	Has the meaning ascribed to in it Rule 4.15.
Overspill Claim	Has the meaning ascribed to in it Rule 4.15.
Overspill Claim Date	Has the meaning ascribed to in it Rule 4.15.
Passenger	A person on board an insured vessel by reason of his holding a ticket and making a payment for passage on board the insured vessel.
Policy Year	A year from noon GMT on any February 20 to noon GMT on the next following February 20.

CLASS I	RULE 1 INTRODUCTORY: INTERPRETATION: MEMBERSHIP: GENERAL PROVISIONS
Pooling Agreement	The agreement, to which the Association is a party, between certain protection and indemnity associations dated February 20, 1998 and any addendum to, variation or replacement of, the said agreement, or any other agreement of a similar nature or purpose.
Premium to Release	That part of mutual premium capable of being levied and collected under the provisions of Rule 4.8 to 10 inclusive.
Rules	These Rules as originally framed or as may from time to time be altered, abrogated or added to and in force at relevant times.
Seaman	An employee of a Member falling within the categories of person set out in Rule 2.1.B.
Supplementary Premium	That part of mutual premium capable of being levied and collected under the provisions of Rule 4.5 to 7 inclusive.
Vessel	Any ship, boat, hydrofoil, hovercraft or other description of vessel (including a lighter, barge or similar vessel howsoever propelled but excluding a fixed platform or fixed rig) 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 vessel or any proportion of the tonnage thereof or any share therein.
	Words importing the singular number only shall include the plural number and vice versa.
	Words importing the masculine gender only shall include the feminine and neuter genders.
	Words importing persons shall include individuals, partnerships, corporations, associations, joint ventures and any other business entities.
Section 3	MEMBERS, JOINT MEMBERS, AFFILIATES AND CO-ASSURED
	Membership
	1 Any insurance of a vessel provided to any party falling within the definition of Member in Rule 1.2 above shall give rise to membership in the Association, except where such is expressly excluded by the terms of this Rule 1.3 or where such has been denied through the exercise of a permitted discretion hereunder.

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

- 2 Any reinsurance by the Association of a vessel insured by another insurer may (at the absolute discretion of the Managers) give rise to the membership in the Association of that other insurer and/or of any party falling within the definition of Member in Rule 1.2 above in relation to that vessel.
- 3 Membership may be in respect of one or more of the vessels owned, operated, chartered or insured by the Member and shall continue until all of the Member's insurances shall have ceased or been terminated.
- 4 All insurances shall be governed by the By-Laws and by the Rules of the Association.
- 5 If any application for insurance of interests in the same vessel is made in the names or on behalf of more than one person, whether jointly or separately interested, then such persons may be treated as Joint Members and the insurance of such vessel as joint insurance, the consequences of which, unless otherwise expressly agreed by the Managers in writing, shall be as set out in Rules 1.3.13 to 18 below.

Cover for Co-assureds and Affiliates

- 6 The Managers may agree, subject to the provisions of this Rule 1.3 and to such other terms as they may in their absolute discretion require, to extend the cover afforded by the Association to a Member to:
 - i any person who is affiliated to or associated with that Member (not being a Co-assured or an Affiliate as referred to in Rule 1.3.11), and who shall not be specifically named in the terms of entry; and
 - ii any other named co-assured.
- 7 The cover afforded to a Co-assured in categories (i), (ii) and (iii) below shall extend only to liabilities, losses, costs and expenses arising out of operations and/or activities customarily carried on by, or at the risk and responsibility of, shipowners:
 - i any person interested in the operation, management or manning of the insured vessel;

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

- ii the holding company or the beneficial owner of the Member or of any Co-assured falling within category (i) above;
 - iii any mortgagee of the insured vessel.
- 8 Notwithstanding the provisions of Rule 1.4.30 below, the cover afforded to a Co-assured who is a time or voyage charterer of an insured vessel and who is affiliated to or associated with a Member (other than a Co-assured expressly given cover by the Association in accordance with Rule 1.3.10) shall extend only to the risks, liabilities, losses, costs and expenses in respect of which that Member has cover, and is limited as follows:
- to the lesser of either (a) the sum to which such Member shall be deemed to be entitled to limit his liability under Rule 1.4.30 plus an additional \$50,000,000, or (b) \$300,000,000; but if his liability is in respect of oil pollution, recovery shall be limited to \$100,000,000.

Provided that where a vessel is separately insured for charterers' risks by more than one time charterer with the Association or any other association which participates in the International Group of P&I Clubs' Pooling Agreement and Excess Reinsurance Policies, the aggregate recovery in respect of all claims for oil pollution liability following any one occurrence brought against all time charterers of such insured vessel and/or against the Association and/or against any other association shall be limited to \$300,000,000. The liability of the Association in respect of such claims shall be limited to that proportion of \$300,000,000 that each claim recoverable from the Association bears to the aggregate of the claims recoverable against the Association and such other associations.

- 9 The cover afforded to a Co-assured who has entered into a contract with the Member for the provision of services for or by the insured vessel, and any sub-contractor of the Co-assured, shall extend only to liabilities, losses, costs and expenses which are to be borne by the Member under the terms of the contract and which would, if borne by the Member, be recoverable by the Member from the Association, provided that:

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

- i the contract has been expressly approved by the Managers; and
 - ii the contract provides that each party shall be similarly responsible for any loss or damage to its own (or its sub-contractors') property or loss of life or personal injury to its own (or its sub-contractors') personnel.
- 10** The cover afforded to all other categories of Co-assureds, other than those referred to in Rules 1.3.7 to 9 inclusive, shall only extend insofar as such Co-assured may be found liable to pay in the first instance for loss or damage which is properly the responsibility of the Member, and nothing herein contained shall be construed as extending cover in respect of any amount which would not have been recoverable from the Association by the Member had the claim in respect of such loss or damage been made and enforced against him.
- 11** The cover afforded to an Affiliate shall extend only to claims made and enforced through the Affiliate in respect of any liabilities for which the Member has cover and nothing herein contained shall be construed as entitling an Affiliate to recover any amount which would not have been recoverable from the Association by the Member had the claim been made and enforced against the Member.
- 12** To the extent that the Association has indemnified a Co-assured or an Affiliate in respect of a claim, it shall not be under any further liability and shall not make any further payment to any person whatsoever, including the Member, in respect of that claim or of the loss or damage in respect of which that claim was brought.

Joint Members, Co-assureds and Affiliates

- 13** The Managers shall not be bound to issue any Certificate of Entry or Endorsement to more than one Member, delivery of which to whom shall be sufficient delivery to any and all Joint Members and to any and all Co-assureds and Affiliates.
- 14** Joint Members, Co-assureds and Affiliates insured on any one insurance, or in respect of any fleet as defined in Rule 1.2 above, shall be jointly and severally liable for all sums due to the Association in respect of such insurance or such fleet.

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

- 15** Any payment by the Association to one Joint Member, Co-assured or Affiliate shall fully discharge the obligations of the Association in respect of such payment.
- 16** Any communication by the Association to one Joint Member, Co-assured or Affiliate shall be deemed to be communication to all.
- 17** Any communication from one Joint Member, Co-assured or Affiliate shall be deemed to have been made with the full approval and authority of all.
- 18** The conduct or omission of one Joint Member, Co-assured or Affiliate which under these Rules would constitute a breach of the contract of insurance, shall be deemed to be the conduct or omission of all Joint Members, Co-assureds and Affiliates.

Section 4**GENERAL INSURANCE PROVISIONS****Application for Insurance**

- 1** Any applicant Member who desires to insure a vessel with the Association shall make application for such insurance in such form or manner as may from time to time be required, or which may otherwise satisfy, the Managers.
- 2** The particulars given by an applicant Member in any form of application, together with any other particulars or information given to the Managers in the course of applying for insurance, or negotiating changes in its terms, shall, if the insurance of the vessel be accepted, be deemed fundamental to the contract of insurance between the Member and the Association. It shall be a condition precedent of such insurance that all the said particulars and information were true so far as the applicant Member knew or could with reasonable diligence have ascertained.
- 3** The Managers shall be entitled, as a matter of their absolute discretion and without giving any reason, to refuse any application of a vessel for insurance in the Association whether or not the applicant Member of such vessel is already a Member of the Association.

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**
Premium Rating and Other Variable or Special Terms

- 4 Before an application is accepted for the insurance of a vessel either by way of mutual insurance, or by way of fixed premium insurance, the applicant Member and the Managers shall agree the premium rating of the vessel concerned in addition to any other variable or special terms and conditions of insurance as shall be considered appropriate for acceptance of the vessel to be insured. The said premium rating may be expressed as an estimated total premium in the case of mutual insurance or as a fixed premium in the case of fixed premium insurance. In either case, the provisions of Rule 4 below will apply.
- 5 In deciding upon the premium rating of any vessel, as well as any other variable or special terms and conditions of insurance, the Managers may, in their absolute discretion, take into account all matters which they may regard as relevant including, but not limited to, the level of risk estimated to be involved in the insurance for which application is being made.

Certificates of Entry and Endorsements

- 6 After accepting an application for insurance, the Managers shall issue on behalf of the Association a Certificate of Entry for the vessel concerned, setting out, *inter alia*:
 - the dates of commencement and termination of the period of insurance;
 - such mutual or fixed premium details as may be appropriate and/or necessary;
 - the gross tonnage of the insured vessel;
 - the name of the Member and all other insured persons and their respective interests in the insured vessel; and
 - any special terms of entry, including any special deductibles.
- 7 If at any time it is mutually agreed between the Member and the Managers to vary the terms of any insurance, the Managers may, on behalf of the Association, issue an Endorsement detailing such variation and the date from which it is to be effective.

**RULE 1 INTRODUCTORY: INTERPRETATION:
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- 8 Fresh Certificates of Entry may be issued setting out the terms effective from noon GMT each successive February 20 for all vessels whose insurances are then continuing.
- 9 Every Certificate of Entry and every Endorsement issued as aforesaid, together with any other agreement made in writing between a Member and the Managers, shall be conclusive evidence and binding for all purposes as to the commencement and termination of the period of insurance, as to the terms and conditions on which the vessel has been insured, and as to the terms of any variation and the date from which such variation is to be effective; provided however that, in the event that any Certificate of Entry or any Endorsement shall in the opinion of the Managers contain any error or omission, the Managers may in their absolute discretion issue a new Certificate of Entry or a new Endorsement which shall be conclusive evidence and binding as aforesaid.

Assignment

- 10 No insurance provided by the Association and no interest under these Rules or under any contract between the Association and any Member, Joint Member, Co-assured or Affiliate may be assigned without the written consent of the Managers who shall have the right in their absolute discretion to give or refuse such consent without stating any reason, or to give such consent upon any terms or conditions as they may think fit. Any purported assignment made without such consent or without there being due compliance with any terms and conditions as the Managers may impose shall, unless the Managers in their absolute discretion otherwise decide, be void and of no effect.
- 11 Notwithstanding any written consent of the Managers or specific agreement contained in a Certificate of Entry or Endorsement thereto allowing assignment in accordance with Rule 1.4.10 above, the Association shall be entitled in settling any claim presented by the assignee to deduct or retain such amount as then estimated to be sufficient to discharge any liabilities of the assignor to the Association, whether existing at the time of the assignment or having accrued or being likely to accrue thereafter.

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

Subrogation

- 12** The Association shall be subrogated to all the rights which the Member may have against any other person or entity, in respect of any payment made in accordance with these Rules, to the extent of such payment, and the Member shall, upon the request of the Association, execute all documents necessary to secure to the Association such rights.
- 13** The Association shall have the right to sue in the name of the Member, and the Member shall execute all papers and documents in connection therewith, as requested by the Managers, and shall lend all assistance to the prosecution of any suit. The balance of any amount recovered after full reimbursement of the Association for its loss and all expenses incurred shall be paid to the Member. Compliance with this requirement may, in the Managers' absolute discretion, be made a condition of the payment of a loss.

Classification and Statutory Requirements

- 14** Unless otherwise expressly agreed in writing between a Member and the Managers, the following conditions are fundamental terms of the insurance of every insured vessel:
- i** The vessel must be and remain throughout the period of insurance classed with a Classification Society approved by the Managers.
 - ii** Any incident or condition in respect of which that Classification Society might make recommendations as to repairs or other action to be taken by the Member must be promptly reported to that Classification Society.
 - iii** The Member must comply with all the rules, recommendations and requirements of the Classification Society relating to the insured vessel within the time or times specified by that Society.
 - iv** The Member authorizes the Managers to inspect any documents and obtain any information relating to the maintenance of class of the insured vessel in the possession of any Classification Society or Societies with which the vessel is, or at any time has been, classed and will, where necessary,

**RULE 1 INTRODUCTORY: INTERPRETATION:
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authorize such Classification Society or Societies to disclose and make available such documents and information to the Managers upon their request for whatsoever purposes the Managers may consider necessary.

- v** The Member must comply or procure compliance with all statutory requirements of the State of the insured vessel's flag including without limitation those relating to the construction, adaptation, condition, fitment, equipment and manning of the insured vessel and must at all times maintain the validity of such statutory certificates as are issued by or on behalf of the State of the insured vessel's flag in relation to such requirements and in relation to the International Safety Management (ISM) Code and the International Ship and Port Facility Security (ISPS) Code or any equivalent mandatory flag State regime.
- vi** Notwithstanding anything to the contrary contained in these Rules, it is a condition of this insurance that the Member shall give the Managers prior notice in writing of any proposed change in the Classification Society of the insured vessel(s) and/or of any change of flag of the insured vessel(s) as may be intended during the currency of the cover provided hereunder. In the event that:
 - the Member shall have failed to give the required notice to the Managers of such change as aforesaid; or
 - the Managers shall have notified the Member that they do not approve of the Classification Society and/or flag to which the insured vessel(s) has been changed;
 cover hereunder shall be null, void and of no effect as of the date of such change, save to the extent that the Managers, in their sole discretion, may otherwise determine.

In the event that a Member is, or comes to be, in breach of any of the conditions referred to in this Rule 1.4.14, cover automatically ceases with immediate effect without notice. Unless and to the extent that the Directors in their absolute discretion otherwise decide, a Member shall not be entitled to any recovery from the

**RULE 1 INTRODUCTORY: INTERPRETATION:
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Association for any claim of whatsoever nature and howsoever arising during a period in which the Member is or was in such breach of condition.

General Conditions in Regard to Claims

- 15** 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 and employ on behalf of a Member, upon such terms as the Managers may think fit, lawyers, surveyors or other persons for the purpose of dealing with any matter liable to give rise to a claim by a Member upon the Association, including investigating or advising upon any such matter and taking or defending legal or other proceedings in connection therewith. The Managers may also at any time discontinue such employment if they think fit.
- 16** All lawyers, surveyors and other persons appointed by the Managers on behalf of a Member, or appointed by a Member with the prior consent of the Managers, shall at all times be and be deemed to be appointed and employed on the terms that they have been instructed by the Member at all times (both while so acting and after having retired from the matter) to give advice and to report to the Managers in connection with the matter without prior reference to the Member and to produce to the Managers 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.

Members' Obligations in Regard to Claims

- 17** Any happening, occurrence, event or matter (including, but not limited to, any legal or arbitration proceedings commenced against the Member) which may be liable to cause the Member to incur loss, damage, liabilities, costs or expenses for which he may be insured by the Association shall be notified promptly to the Managers by the Member on it being known by him. In so far as there may be any difference of opinion between the Member and the Managers as to whether any happening, occurrence, event or matter is or was such as might be liable to cause the Member to

**RULE 1 INTRODUCTORY: INTERPRETATION:
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incur loss, damage, liabilities, costs or expenses, or as to whether the Member knew or ought to have known of such happening, occurrence, event, or matter as aforesaid, the determination of the Managers shall be final. A Member shall take and continue to take all such steps as may be reasonable for the purpose of averting or minimizing any expense or liability in respect whereof he may be insured by the Association.

- 18** A Member shall disclose and produce to the Managers all information, documents or reports in or coming into his or his agents' (including lawyers') possession, power or knowledge relevant to any such casualty, event or claim available at the time of notification and at any other time.
- 19** Whenever required by the Managers, a Member shall aid in securing information and evidence and in obtaining witnesses and shall cooperate with the Managers in the defense of any claim or suit or in the appeal from any judgment, in respect of any happening or occurrence as herein provided.
- 20** A Member shall neither settle nor make any admission in respect of liabilities, costs or expenses for which he is insured without the prior written consent of the Managers.
- 21** If a Member commits any breach of any of his obligations under this Rule 1.4.17 to 20 inclusive, the Managers may reject or reduce any recovery to which such breach may appear to the Managers to be relevant.

Powers of the Managers in Regard to Claims

- 22** 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 liability, loss or damage in respect whereof a Member is or may be insured in whole or in part, and to require a Member to settle, compromise or otherwise dispose of such claim or proceedings in such manner and upon such terms as the Managers see fit.
- 23** If a Member does not settle, compromise or dispose of a claim or of proceedings after being required to do so by the Managers in accordance with Rule 1.4.22 above, any eventual recovery by the Member from the Association in respect of such claim or

**RULE 1 INTRODUCTORY: INTERPRETATION:
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proceedings shall be limited to the amount he would have recovered if he had acted as required by the Managers.

Powers of the Directors in Regard to Claims

- 24** The Directors shall meet, or otherwise be consulted by the Managers, as often as may be required for settlement of claims which shall be paid by the Association as the Directors may determine in accordance with these Rules, but the Directors shall have power from time to time to authorize the Managers to effect settlement of claims without prior reference to them. No Director shall act as such in the settlement of any claim in which he is interested.
- 25** Without prejudice to the generality of Rule 1.4.24 above, the Directors shall have power in their absolute discretion to effect a compromise of any claim made against the Association.

Time Bar

- 26 a** In the event that:
- i** a Member fails to fulfill his duty of prompt notification as contained in Rule 1.4.17 above; and/or
 - ii** a Member fails to submit a claim to the Managers for reimbursement of any liabilities, costs or expenses within six months after discharging or settling the same;
- the Member's claim against the Association shall be discharged and the Association shall be under no liability in respect thereof unless the Directors in their absolute discretion shall otherwise determine.
- b** Without prejudice to paragraph (a) of this Rule, in no event shall any claim be recoverable from the Association unless written notice thereof has been given to the Managers within three years after the Member knew or ought to have known of the happening, occurrence, event or matter giving rise to the claim. In so far as there may be any difference of opinion between the Member and the Managers as to whether the Member knew or ought to have known of such happening, occurrence, event or matter giving rise to the claim as aforesaid, the determination of the Managers shall be final.

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS****Other Provisions in Regard to Claims**

- 27** Unless otherwise expressly agreed in writing by the Managers, where the Association has paid a claim to or on behalf of a Member, the whole of any recovery from a third party in respect of that claim shall be credited and paid to the Association up to an amount corresponding with the sum paid by the Association together with any interest element on that sum comprised in the recovery; provided however that where, because of a deductible in his terms of entry, the Member has contributed to settlement of the claim, any such interest element shall be apportioned between the Member and the Association taking into account the payments made by each and the dates on which those payments were made.
- 28** It is a condition precedent of a Member's right to recover from the funds of the Association in respect of any liabilities, costs or expenses that he shall first have discharged and paid the same out of funds belonging to him unconditionally and not by way of loan or otherwise.
- 29** In the event that more than one class of claims as provided for by these Rules shall arise as the result of any one accident or occurrence, only one deductible shall be made, which deductible shall be the highest deductible of those applying to the classes of claims involved.

General Limitations

- 30** If and when a Member has any interest other than as an owner or bareboat charterer of the insured vessel, in no event shall the Association be liable hereunder to any greater extent than if such Member were the owner or bareboat charterer and were entitled to all the rights of limitation of liability to which a shipowner is entitled.
- 31** Subject to these Rules and to any special terms and conditions upon which a vessel may be insured, the Association covers the liability of a Member in respect of an insured vessel as this liability may 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

**RULE 1 INTRODUCTORY: INTERPRETATION:
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liability. If a Member is entitled to limit his liability, the liability of the Association shall not exceed the amount of such limitation.

- 32** Notwithstanding the provisions of Rule 1.4.30 and 1.4.31 above, recovery shall be limited to ONE BILLION DOLLARS (\$1,000,000,000) any one occurrence in respect of any one insured vessel for oil pollution liability including fines, costs and expenses and clean-up, and damages payable to any other person as may arise in respect of such oil pollution liability, whether under Rule 2.3 or Rule 2.5 or Rule 2.13 or any other section or endorsement or combination thereof; and

Provided further that if the aggregate amount of any oil pollution claims against a Member, Co-assured and/or Affiliate exceeds the aforesaid \$1,000,000,000, the Association will not be liable to make any payment in respect of that amount by which any such claim exceeds \$1,000,000,000; and

Provided further that where an insured vessel gives or attempts to give salvage or other assistance to another vessel following a casualty, any oil pollution liability incurred by the insured vessel in consequence thereof shall be aggregated with any oil pollution liability incurred by any other vessels similarly assisting in connection with the same casualty which are insured in respect of oil pollution liability either by the Association or by any other association which participates in the International Group of P&I Clubs' Pooling Agreement or Excess Reinsurance Policies, and recovery in respect of the oil pollution liability of any insured vessel assisting as aforesaid shall not exceed such proportion of the above \$1,000,000,000 limit as that vessel's oil pollution liability bears to the aggregate of the oil pollution liabilities of all the similarly assisting vessels; and

Provided further that where an insured vessel is separately insured on behalf of its owner, demise charterer, manager or operator with the Association or any other association which participates in the International Group of P&I Clubs' Pooling Agreement or Excess Reinsurance Policies, recovery in respect of all claims for oil pollution liability following any one occurrence brought against the owner, demise charterer, manager or operator of an insured vessel or against the Association or any other

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association shall be limited to \$1,000,000,000. The liability of the Association in respect of such claims shall be limited to that proportion of \$1,000,000,000 that each claim recoverable from the Association bears to the aggregate of the claims recoverable against the Association and such other associations, if any.

- 33** In respect of the risks insured hereunder, to the extent a Member, Co-assured or Affiliate is insured for pollution risks under any other insurance, cover hereunder shall be null, void and of no effect, up to the limits of said other insurance. Above the limits of said other insurance, cover under this insurance shall remain in effect, subject always to the limits herein which are applicable to such risks, to any deductible(s), and to the Rules of the Association. In the event the limits available under such other insurance are the same as or greater than the limits available for pollution losses under this insurance, then this insurance shall be null, void and of no effect with regard to such claims. In the event the limits of said other insurance are less than the limits available hereunder, this insurance shall respond up to the limits set forth herein for pollution losses, but only for the amount by which any such losses exceed the stated limits of such other insurance, and then only up to the limits set forth herein for pollution losses. This insurance shall respond only in excess of the stated limits of the other insurance, whether or not the full amount of such policy limits, or any amount at all, is recoverable thereunder.
- 34** The Association shall not be liable for any loss, damage or expense against which, but for the insurance herein provided, the Member, Co-assured or Affiliate would have been insured under any other existing insurance, except as set forth above in Rule 1.4.33; nor shall the Association provide prorated or allocated cover on the basis of double insurance or otherwise, except as set forth above in Rule 1.4.33; nor will this insurance replace any other insurance where (for whatever reason) that other insurance does not or is not able to respond to a claim thereunder.
- 35** No act, omission, course of dealing, forbearance, delay or indulgence by the Association in enforcing any of these Rules or any contractual terms and conditions shall prejudice or affect the rights and remedies of the Association under these Rules or under

**RULE 1 INTRODUCTORY: INTERPRETATION:
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such contracts, and no such matter shall be treated as any evidence of waiver of the Association's rights thereunder, nor shall any waiver of a breach by a Member of such Rules or contracts operate as a waiver of any subsequent breach thereof. The Association shall at all times and without notice be entitled to insist on the strict application of these Rules and on the strict enforcement of its contracts.

Provision of Security

- 36** The Association may, but shall in no case be obliged to, provide on behalf of a Member security to prevent the arrest or obtain the release from arrest or otherwise in respect of an insured vessel. Should it do so, the security will be on such terms as the Managers shall in their absolute discretion deem appropriate, and the Member shall upon first demand made at any time by the Managers in writing arrange such counter-security (which expression may in the Managers' absolute discretion include a deposit of cash with the Association) as the Managers may require and (with or without such counter-security having been required or arranged) shall indemnify the Association in consequence of the security originally provided by the Association.
- 37** In the event that a Member does not arrange such counter-security as may have been required or does not indemnify the Association as aforesaid, the Association, without prejudice to its other rights, shall be entitled to retain any and all amounts which would otherwise be recoverable by such Member, notwithstanding that the same may have no connection with the liability in respect of which the original security was provided and may relate to other periods of cover before or after that liability was incurred by the Member or to another insured vessel. The provision of security by the Association shall be without prejudice to the Association's possible declination of liability to the Member for the claim in question.
- 38** Notwithstanding the foregoing, in no circumstances shall the Association be liable for the detention of an insured vessel or for any other detention or attachment of a Member's funds or assets, or for any damage whatsoever caused to a Member by reason of the provision or non-provision of security of whatever kind.

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS****Surveys and Operational Audits**

- 39** The Managers may at any time in their absolute discretion appoint a surveyor or such other person as they may think fit to inspect an insured vessel on behalf of the Association. The Member shall afford such facilities as may be required for such inspection, and shall comply with such recommendations as the Managers may make following such inspection.
- 40** Notwithstanding anything contained in these Rules to the contrary, and unless and to the extent that the Managers shall otherwise agree, the failure by a Member to present a vessel for survey by such time and date as shall have been stipulated by the Managers shall have the effect of automatically terminating cover as from such time and date without further notice.
- 41** By applying to enter or upon the entry or continuation of the entry of a vessel for insurance in the Association, an Applicant Member or Member as the case may be:
- a** Consents to and authorizes the disclosure by the Managers to any association which is a party to the Pooling Agreement any survey or inspection of such vessel undertaken on behalf of the Association either pursuant to an application for, or after entry in, the Association;
 - b** Waives any rights or claims against the Association of whatsoever nature arising in respect of or relating to the contents of or opinions expressed in any survey or inspection so disclosed.

PROVIDED ALWAYS that

- i** Such survey or inspection may only be disclosed to another association when an application for entry of such vessel is made thereto; and
 - ii** The disclosure of the survey inspection shall be for the limited purpose only of that association considering an application to enter such vessel for insurance.
- 42** Unless and to the extent that the Directors in their absolute discretion otherwise decide, a Member who commits any breach of his obligations referred to in Rule 1.4.39 above shall not be

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entitled, in relation to any casualty, event or matter occurring during the period of the breach, to any recovery from the Association in respect of any claim arising out of such casualty, event or matter.

- 43** Moreover, in the event that a vessel shall, in the opinion of the Managers, have failed to pass survey, cover shall cease automatically with immediate effect without further notice. Cover may be reinstated subject to any special terms and conditions as the Managers may in their absolute discretion wish to impose. In the absence of such reinstatement, unless and to the extent that the Directors may in their absolute discretion otherwise decide, a Member shall not be entitled to any recovery from the Association for any claim of whatsoever nature and howsoever arising during the period in which such automatic cesser shall have taken effect.
- 44** The Managers may at any time in their absolute discretion:
- a.** Appoint representatives to visit the Member's offices or those of any party or parties having operational control of an insured vessel entered on behalf of that Member and/or attend on board such vessel at such time specified by the Managers to audit the Member's management systems, including, but not limited to, interviewing all relevant personnel and reviewing all relevant documentation. The Member shall be under a duty to ensure full cooperation with such representatives, making all requested personnel, information and documentation available, and unless otherwise agreed in writing by the Managers, shall pay for the reasonable costs of such audits; and
 - b.** Make recommendations as to the rectification of any deficiencies as may have been identified during the course of such a review either forthwith or within such time as may be specified by the Managers.

The Member shall inform the Managers immediately on completion of the implementation of any recommendations which the Managers shall have made and provide them with such evidence as the Managers deem fit as to the rectification and any deficiencies they shall have identified, provided always however

**RULE 1 INTRODUCTORY: INTERPRETATION:
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that the Managers shall have the right to carry out re-audits at whatever time and in whatever circumstances they deem appropriate to verify the same.

In the event of any non-compliance with any of the provisions of this Section 4, Sub-Section 42, the Managers shall be empowered in their absolute discretion to:

- terminate the entry of any or all insured vessels entered by the Member from a time and date specified by notice in writing to the Member; or
- determine that there shall be no right to recover from the Association in respect of any liability, cost or expense during a period commencing from the time and date at which the Member ceases to be in compliance, or such other date as is specified in writing, until the Managers are satisfied that compliance has been achieved; or
- exclude cover for claims arising out of or contributed to by such non-compliance; or
- reduce any recovery from the Association to the extent that a claim has been contributed to by such non-compliance; or
- vary the terms and conditions of entry including, but not limited to, the terms of any or all insured vessels' premium rating.

PROVIDED ALWAYS that the Directors shall have power in their absolute discretion to admit in whole or in part any claim which may be excluded by reason of the foregoing. The exercise of their discretion by the Directors shall be final and conclusive for all purposes.

PROVIDED FURTHER that nothing in this Section 4, Sub-Section 42, or any action taken by the Association hereunder shall relieve the Member of his obligations with regard to those requirements in regard to classification and statutory regulation of the insured vessel as set out in Rule 1, Section 4, Sub-Section 14 of these Rules, or in regard to the maintenance and/or condition of the ship generally.

Disputes

45 If any difference or dispute shall arise between a Member and the Association concerning the construction of these Rules, or the insurance afforded by the Association under these Rules, or any amount due from the Association to the Member, such difference or dispute shall in the first instance be referred to the Directors. Such reference shall be on written submissions only. No Member shall be entitled to maintain any action, suit or other legal proceedings against the Association upon any such difference or dispute unless and until the same has been referred to the Directors and they shall have:

- i** given their decision thereto; or
- ii** given notice to the Member that they do not wish to adjudicate upon such difference or dispute; or
- iii** been in default for three months in doing either of the above.

Any such suit against the Association shall be brought in the United States District Court for the Southern District of New York. In no event shall suit on any claim be maintainable against the Association unless commenced within two years after the loss, damage or expense resulting from liabilities, risks, events, occurrences and expenditures specified under this Rule shall have been paid by the Member.

46 Provided always that, and without prejudice to the foregoing or the terms of Rule 1.4.46 below, the Association shall be entitled to commence and maintain in any jurisdiction whatsoever any action to recover any amounts which the Association may consider to be due to it from the Member.

Applicable Law

47 These Rules and any contract of insurance between the Association and a Member shall be governed by and construed in accordance with the law of the State of New York. This provision is not, in any way, to be construed as a waiver of any rights, claims or defenses available to the Association under any other Rule set forth herein, including, but not limited to, Rule 1.4.46.

Maritime Lien

48 The Association shall have a lien on the insured vessel for all premium and all other sums of whatsoever nature due to it under these Rules or any applicable contract of insurance or otherwise. Such lien shall extend to other insured vessels which are part of a fleet as defined in Rule 1.2 and shall be in addition to, and in no way may be construed as a waiver of, or amendment to, any other contractual or maritime lien which the Association may either expressly or impliedly possess in regard to the said insured vessel or vessels. Such lien shall apply notwithstanding that the cover of the Member in respect of any vessel insured by him with the Association may have ceased or been terminated.

The Federal Maritime Lien Act, as codified at Sections 31341, *et seq.* of Title 46 of the United States Code, shall govern this Rule concerning the creation and enforcement of maritime liens.

Nothing herein shall prejudice or otherwise affect the right of the Association to take action and/or commence proceedings in any jurisdiction to enforce its right of lien on vessels or to otherwise obtain security by seizure, attachment or arrest of assets or to otherwise recover any amounts owed to the Association.

Delegation

49 Whenever any power, duty or discretion is conferred or imposed upon the Managers by virtue of these Rules, such power, duty or discretion may, subject to any terms, conditions or restrictions contained in these Rules, be exercised by any one or more of the Managers or by any servant or agent of the Managers to whom the same shall have been delegated or sub-delegated.

50 Whenever any power, duty or discretion is stated in these Rules to be vested in the Directors, such power, duty or discretion shall be exercisable by the Directors unless the same shall have been delegated to any Committee of the Directors or to the Managers in accordance with the provisions as regards delegation contained in the By-Laws, in which event the power, duty or discretion may be exercised by any person to whom the same shall have been so delegated.

Members and Successors Bound by Rules

51 All contracts of insurance effected by the Association shall, save and insofar as they contain any special terms inconsistent herewith, be deemed to incorporate and shall incorporate all the provisions of these Rules. A Member or other person by whom or on whose behalf an application is made for insurance or reinsurance by the Association shall be deemed to have agreed not only on his own behalf but also on behalf of his successors and each of them that both he and they will in every respect be subject to and bound by the provisions of these Rules and by any contract of insurance with the Association.

Each Member of the Association shall be indemnified in connection with each vessel entered in the Association for Protection and Indemnity insurance against any loss, damage or expense which the Member shall become liable to pay and shall pay by reason of the fact that the Member is the owner (or operator, manager, charterer, mortgagee, trustee, receiver or agent, as the case may be) of the insured vessel, subject to the provisions of these Rules and to all the limitations herein stated or agreed to by the acceptance of the application for membership, or by the entry of the vessel, in the Association, and which shall result from the following liabilities, risks, events, occurrences and expenditures; provided that such liabilities, risks, events, occurrences and expenditures arise in respect of the Member's interest in such vessel; and in connection with the operation of such vessel by or on behalf of the Member; and out of events occurring during the period of entry of such vessel.

Section 1**LOSS OF LIFE, INJURY AND ILLNESS**

- A Liability for life salvage in respect of, or loss of life of, or personal injury to, or illness of, any person, (other than the persons specified in paragraphs B, C and D of this Section) and hospital, medical or funeral expenses incurred in relation to such injury, illness or death.**
- B Liability for life salvage in respect of, or loss of life of, or personal injury to, or illness of, any seaman and hospital, medical or funeral expenses incurred in relation to such injury, illness or death.**
- 1 Liability hereunder shall include liability arising ashore or afloat.
 - 2 For the purposes of this Rule 2, Section 1, B a seaman shall be defined as an employee of the Member:
 - a who is the master or a member of the crew of the insured vessel; or
 - b who is on board the insured vessel with the intention of becoming a member of her crew; or

- c who, in the event of the insured vessel being laid up and out of commission, is engaged in the upkeep, maintenance or watching of the insured vessel; or
- d who is engaged by the insured vessel or its master to perform stevedoring work in connection with the insured vessel's cargo at ports where contract stevedores are not readily available.

PROVIDED that:

- i Where the liability arises, or the costs or expenses are incurred, under the terms of crew articles or other contract of service or employment and would not have arisen but for those terms, that liability shall not be covered by the Association unless and to the extent that those terms shall have been previously approved by the Managers in writing.
- ii There shall be no recovery in respect of liabilities, costs and expenses incurred by a Member in respect of the personal injury of a seaman under or pursuant to the terms of a contract of employment between the Member and that seaman, where that seaman has suffered injury while on leave, except where the claim on the Association is made under the entry of the last insured vessel on which the seaman served prior to suffering the injury.

C Liability for life salvage in respect of, or loss of life of, or personal injury to, or illness of, any person engaged to handle the cargo of an insured vessel and hospital, medical or funeral expenses incurred in relation to such injury, illness or death.

- 1 Liability hereunder in connection with the handling of cargo for the insured vessel shall commence from the time of receipt by the Member of the cargo on dock or wharf, or on craft alongside, for loading, and shall continue until due delivery thereof to dock or wharf of discharge or until discharge from the insured vessel onto craft alongside;

- 2 The Association shall not be liable for any loss, damage or expense sustained, directly or indirectly, by reason of any claim for loss of life, personal injury or illness in relation to the handling of cargo where such claim arises under a contract of indemnity between the Member and his subcontractor.

D Liability to pay damages or compensation

- 1 for life salvage in respect of, or loss of life of, or personal injury to, or illness of, any passenger and hospital, medical or funeral expenses incurred in relation to such injury, illness or death;
- 2 to passengers on board an entered ship arising as a consequence of a casualty to that ship, including the cost of forwarding passengers to destination or return to port of embarkation and of maintenance of passengers ashore;
- 3 for loss of, or damage to, the effects of any passenger.

PROVIDED that:

- a For the purposes of Rule 2, Section 1, D, 2 above a casualty shall be defined as an incident involving either:
 - i collision, stranding, explosion, fire or other cause affecting the physical condition of the insured vessel 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.
- b There shall be no recovery in respect of liabilities for personal injury or death, delay or any other consequential loss sustained by any passenger by reason of carriage by air, except where such liability occurs during repatriation by air of injured or sick passengers, or following a casualty to the insured vessel.
- c There shall be no recovery from the Association in respect of the contractual liability of a Member to a passenger while on an excursion from the insured vessel in circumstances where either a separate contract has been entered into by the passenger for the excursion

whether or not with the Member, or the Member has waived any or all of the Member's rights of recourse against any subcontractor or other third party in respect of the excursion.

AND FURTHER PROVIDED that:

In the case of each and every head of cover, A, B, C and D as set out above in this Section 1, unless and to the extent that special cover has been agreed in writing by the Managers, there shall be no recovery from the Association in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.

Section 2

REPATRIATION EXPENSES

Liability for expenses reasonably incurred in necessarily repatriating any member of the crew or any other person employed on board the insured vessel: provided, however, that the Member shall not be entitled to recover any such expenses incurred by reason of the expiration of the shipping agreement, other than by sea perils, or by the voluntary termination of the agreement. Wages shall be recoverable hereunder only when payable under statutory obligation during unemployment due to the wreck or loss of the insured vessel.

Coverage under Section 2 shall include expenses incurred by the Member in discharging his obligations towards or making necessary arrangements for stowaways or refugees, but only if and to the extent that the Member is legally liable for the expenses or if they are incurred with the approval and agreement of the Association.

Coverage under Section 2 shall also include liability for loss of or damage to the effects of any seaman or any other person (other than passengers) provided that:

- a Unless and to the extent that special cover has been agreed in writing by the Managers, there shall be no recovery from the Association in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.

- b Where the liability arises or the costs or expenses are incurred under the terms of a contract and would not have arisen but for those terms, that liability is not covered by the Association unless and to the extent that those terms shall have been previously approved by the Managers in writing.

Section 3

COLLISION

Liability for loss or damage as set out in paragraphs 1, 2, and 3 below which arises from collision of the insured vessel with another ship or vessel, but only if and to the extent that such liability is not covered by the hull insurances of the insured vessel:

- 1 one fourth, or such other proportion as may have been agreed, of the liabilities arising out of the collision other than those set out in paragraph 2 below;
- 2 four-fourths of the liabilities arising out of the collision in consequence of, or in respect to:
 - a removal or disposal of obstructions, wrecks or their cargoes under statutory powers or otherwise pursuant to law;
 - b injury to real or personal property of every description;
 - c the discharge, spillage, emission or leakage of oil, petroleum products, chemicals or other substances of any kind or description whatsoever including, but not limited to, remuneration paid pursuant to the Special Compensation P & I Club (SCOPIC) Clause, or any revision thereof, in respect of the salvage of a ship or vessel with which the insured vessel is in collision;
 - d cargo or other property on the insured vessel;
 - e loss of life, personal injury or illness;
- 3 that part of the Member's liability arising out of the collision which exceeds the sums recoverable under the hull policies of the insured vessel solely by reason of the fact that the liability exceeds the hull insurance value.

PROVIDED always that:

- i For the purpose of determining any sum recoverable under this Section 3, the Managers shall be entitled to determine the proper value at which the insured vessel should have been insured under the hull policies and the Association shall only be liable for the excess (if any) above the amount which would have been recoverable under the hull policies had the insured vessel been insured thereunder at such value. For the purpose of this Section 3 “proper value” is defined as an amount equal to the free, uncommitted market value of the insured vessel at the time of the collision.
- ii Coverage hereunder shall not extend to any liability, whether direct or indirect, in respect of the engagements of, or the detention or loss of time of, the insured vessel.
- iii Claims hereunder shall be settled on the principles of cross-liabilities.
- iv Where both vessels are insured vessels and are the property, in part or in whole, of the same owners or charterers, claims hereunder shall be settled on the basis of the principles set forth in the collision clauses contained in the hull policies of those insured vessels.
- v Claims hereunder shall be separated among and take the identity of the several classes of liability for loss, damage and expense enumerated in this Rule and each class shall be subject to the deductions, inclusions, exclusions and special conditions applicable in respect to such class.
- vi Notwithstanding the foregoing, the Association shall not be liable for any claims hereunder where the various liabilities resulting from such collision, or any of them, have been compromised, settled or adjusted without the written consent of the Managers.
- vii In every case where the insured vessel is a tug, the hull policy thereof shall be deemed to be written on the American Institute Tug Form, August 1, 1976 and this Section 3 shall be deemed to incorporate the collision clause contained in the said policy and the following clause shall be substituted for and supersede Rule 3, Section 6 namely:

Loss of or damage to any vessel or vessels in tow and/or their cargoes, whether such loss or damage occurs before, during or after actual towage; provided, that this exception shall not apply to claims under Section 1 of Rule 2.

Section 4

DAMAGE CAUSED OTHERWISE THAN BY COLLISION

Liability for loss of or damage to any other vessel or craft, or to property on board such other vessel or craft, caused otherwise than by collision of the insured vessel with another vessel or craft.

Where such other vessel or craft or property on board such other vessel or craft belongs to the Member, claims hereunder shall be adjusted as if it belonged to a third person; provided, however, that if such vessel, craft or property be insured, the Association shall be liable hereunder only insofar as the loss or damage, but for the insurance herein provided, is not or would not be recoverable by the Member under such other insurance.

Section 5

DAMAGE TO DOCKS, BUOYS, ETC.

Liability for loss of or damage to any dock, pier, jetty, bridge, harbor, breakwater, structure, beacon, buoy, lighthouse, cable, or to any fixed or movable object or property whatsoever, including infringement of rights, except another vessel or craft or property on another vessel or craft, or to property on the insured vessel unless property on the insured vessel is elsewhere covered herein.

Where any such object or property belongs to the Member, claims hereunder shall be adjusted as if it belonged to a third person; provided, however, that if such object or property be insured, the Association shall be liable hereunder only insofar as the damage, but for the insurance herein provided, is not or would not be recoverable by the Member under such other insurance.

Section 6

LIABILITY IN RESPECT OF WRECKS**Liability for costs or expenses relating to**

- A** the raising, removal, destruction, lighting or marking of the wreck of an insured vessel, when such raising, removal, destruction, lighting or marking is compulsory by law or the costs thereof are legally recoverable from the Member.
- B** the raising, removal, destruction of any property (other than oil or other substance within the scope of Rule 2, Section 13) being carried or having been carried on an insured vessel, when such raising, removal or destruction is compulsory by law or the costs thereof are legally recoverable from the Member but only if and to the extent that such property does not form part of the insured vessel and is not owned or leased by the Member or by any company affiliated with the Member, and the Member is unable to recover such costs and expenses from the owner or insurer of such property, or from any other party.
- C** any such raising, removal or destruction of the wreck of an insured vessel or any property as is referred to in paragraphs A and B of this section, or any attempt thereat.
- D** the presence or involuntary shifting of the wreck of an insured vessel or as a result of the Member's failure to remove, destroy, light or mark such wreck, including liability arising from the discharge or escape from such wreck of oil or any such substance.

PROVIDED that:

- 1** The insured vessel became a wreck as a result of a casualty or event occurring during the period of that vessel's entry 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 5, Section 1(1)(b).

- 2** In respect of a claim under paragraph A of this Section, the value of all stores and materials saved, as well as the wreck itself, shall first be deducted from such costs or expenses and only the balance thereof, if any, shall be recoverable from the Association.
- 3** Nothing shall be recoverable from the Association under this Section if the Member shall, without the consent of the Managers in writing, have transferred his interest in the wreck otherwise than by abandonment, prior to the raising, removal, destruction, lighting or marking of the wreck or prior to the incident giving rise to the liabilities, costs and expenses referred to in this Section.
- 4** Where the liability arises or the costs or expenses are incurred under the terms of a contract and would not have arisen but for those terms, that liability is not covered by the Association unless and to the extent that those terms shall have been previously approved by the Managers in writing.
- 5** The Association shall not be liable for any costs or expenses of a type, character or kind which would be covered by the hull insurance of the insured vessel.
- 6** In the event that the wreck of the insured vessel is upon property owned, leased, rented or otherwise occupied by the Member, the Association shall be liable for any liability or removal of the wreck which would be imposed upon the Member by law in the absence of contract if the wreck had been upon property belonging to another, but only for the excess over any amount recoverable under any other insurance applicable thereto.

Section 7

CARGO**Liabilities and costs set out in subsections 1 to 4 below when and to the extent that they relate to cargo intended to be or being or having been carried in an insured vessel.**

- 1** *Loss, Shortage, Damage or Other Responsibility*
Liability for loss, shortage, damage or other responsibility arising out of any breach by the Member, or by any person for whose acts, neglect or default he may be legally liable, of his obligation properly

to load, handle, stow, carry, keep, care for, discharge or deliver the cargo or out of unseaworthiness or unfitness of the insured vessel.

2 Disposing of Damaged Cargo

The additional costs (over and above those which would have been incurred if the cargo had not been damaged) incurred by the Member in discharging or disposing of damaged cargo, but only if and to the extent that the Member has no recourse to recover those costs from any other party.

Provided always that where the said additional costs claimed represent the daily running costs of the insured vessel, such costs shall not be payable save to the extent that the Directors, in their absolute discretion, shall otherwise determine.

3 Failure of Consignee to Remove Cargo

The liabilities and additional costs (over and above the costs which would have been incurred by him if the cargo had been collected or removed) incurred by a Member solely by reason of the total failure of a consignee to collect or remove cargo at the port of discharge or place of delivery, but only if and to the extent that such liabilities or costs exceed the proceeds of sale of the cargo and the Member has no recourse to recover those liabilities or costs from any other party.

4 Through or Transshipment Bills of Lading

Liability for loss, shortage, damage or other responsibility in respect of cargo carried by a means of transport other than the insured vessel, when the liability arises under a through or transshipment bill of lading, or other form of contract, providing for carriage partly to be performed by the insured vessel.

Provided always that:

a Standard Terms of Carriage

Unless and to the extent that the Directors in their discretion otherwise decide, or special cover has been agreed in writing by the Managers, there shall be no recovery from the Association in respect of liabilities which would not have been incurred or sums which would not have been payable by the Member if the cargo (including cargo on deck) had been carried on terms no less favorable to the Member than

the Hague Visby Rules or the U.S. Carriage of Goods by Sea Act and/or such other rules and/or conventions as the Directors may from time to time determine.

b Deviation

Unless and to the extent that the Directors in their discretion otherwise decide, or cover has been confirmed in writing by the Managers prior to the deviation, there shall be no recovery from the Association in respect of liabilities, costs or expenses which arise out of or which are incurred as a consequence of a deviation, in the sense of a departure from the contractually agreed voyage or adventure which deprives the Member of the right to rely on defenses or rights of limitation of liability which would otherwise have been available to him on the basis of the standard terms of carriage referred to in proviso (a) above to reduce or eliminate his liability.

c Claims Payable Only at the Discretion of the Directors

Unless and to the extent that the Directors in their discretion otherwise decide there shall be no recovery from the Association in respect of liabilities, costs or expenses arising out of:

- i** discharge of cargo at a port or place other than the port or place provided in the contract of carriage;
- ii** delivery of cargo carried under a negotiable bill of lading or similar document of title without production of that bill of lading or document by the person to whom delivery is made, except where cargo has been carried in the insured vessel 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, notwithstanding that the owner of that insured vessel may be liable under the terms of a negotiable bill of lading or other similar document of title issued by or on behalf of a party other than that owner providing for carriage partly by a means of transport other than the insured vessel;

- iii the issue of an antedated or postdated bill of lading, waybill or other document containing or evidencing the contract of carriage, that is to say a bill of lading, waybill or other document recording the loading or shipment or receipt for shipment on a date prior or subsequent to the date on which the cargo was in fact loaded, shipped or received as the case may be;
 - iv a bill of lading, waybill or other document containing or evidencing the contract of carriage, issued with the knowledge of the Member or the master of the insured vessel with an incorrect description of the cargo or its quantity or its condition;
 - v either the failure to arrive or late arrival of an insured vessel at a port of loading, or the failure to load any particular cargo or cargoes in an insured vessel other than liabilities, loss and expenses arising under a bill of lading already issued.
- d** *Ad Valorem Bills of Lading*
Unless and to the extent that special cover has been agreed in writing by the Managers, the Association shall not be liable for payments to cargo claimants of amounts exceeding whichever is the higher of \$2,500 per unit, piece or package or the limitation per unit, piece or package specified in the standard terms of carriage, in respect of shipments of goods carried under an ad valorem bill of lading, waybill or other document containing or evidencing the contract of carriage in which the value of the relevant unit, piece or package has been stated to be in excess of \$2,500.
- e** *Rare or Valuable Cargo*
Unless and to the extent that special cover has been agreed in writing by the Managers, there shall be no recovery from the Association in respect of claims relating to the carriage of specie, bullion, precious or rare metals or stones, plate or other objects of a rare or precious nature, bank notes or other forms or currency, bonds or other negotiable instruments.

- f** *Property of the Member*
In the event that any cargo lost or damaged on board the insured vessel shall be the property of the Member, such Member shall be entitled to recover from the Association the same amount as would have been recoverable from him if the cargo had belonged to a third party and that third party had concluded a contract of carriage of the cargo with the Member on the terms of the Association's recommended standard terms of carriage.

Section 8

FINES AND PENALTIES

Liability for fines and penalties imposed by any court, tribunal or authority for:

- 1 short- or over-delivery of cargo, or failure to comply with regulations concerning the declaration of goods, or documentation of cargo, provided that the Member is insured by the Association for liability in respect of cargo and subject always to the provisions of these Rules generally and/or the Member's terms of entry in respect of such cargo cover;
- 2 breach of any immigration law or regulation, provided that such breach is unknown to the Member;
- 3 the accidental escape or discharge of oil or any other substance from an insured vessel, provided that the Member is insured for pollution liability by the Association, and subject to the applicable limit of liability under the Rules of the Association and/or the terms of entry;
- 4 smuggling by the master or members of the crew, provided that the Member upon becoming aware of such activity immediately notifies the Managers.

All other fines and penalties will be recoverable only under Rule 2, Section 19, provided that:

- a** the Member has satisfied the Directors that it took such steps as appear to them to be reasonable to avoid the event giving rise to the fine or penalty; and

- b** any amount claimed in respect of such fines shall be recoverable to such extent as the Directors in their absolute discretion may determine without having to give any reason for their decision.

Coverage under Section 8 hereunder also extends to confiscation of an insured vessel by a legally empowered court, tribunal or authority for breach of any customs law or regulation, provided that:

- recovery shall be limited to the market value of the insured vessel, free of commitment at the time of confiscation;
- no claim shall be considered in respect of any confiscation which has not remained in effect for a continuous period of 183 days from such time as the Member shall have notified the Managers in writing of the confiscation, and if at any time before or after the expiry of the said period terms become available for the return of the insured vessel on payment of a monetary penalty, the Managers may require the Member to accept such terms and make the necessary payment which alone shall then be the subject of recovery from the Association;
- the Directors in their sole discretion may refuse recovery to any extent whatever in respect of confiscation in circumstances regarded by the Directors as involving any element of fault or privity on the part of the Member.

Section 9

MUTINY, MISCONDUCT

Liability for expenses incurred in resisting any unfounded claim by a seaman or other person employed on board the insured vessel, or in prosecuting such person or persons in case of mutiny or other misconduct; not including, however, costs of successfully defending claims elsewhere protected in this Rule.

Section 10

QUARANTINE EXPENSES

Liability for extraordinary expenses, incurred in consequence of the outbreak of any disease on the insured vessel, for disinfection of the vessel or of persons on board, or for quarantine expenses, not being the ordinary expenses of loading or discharging, nor the ordinary wages or provisions of crew or passengers, provided, however, that no liability shall exist hereunder if the insured vessel be ordered to proceed to a port where it is known that she will be subjected to quarantine.

Section 11

DIVERSION EXPENSES

Liability for expenses incurred solely for the purpose of putting in to land an injured or sick seaman or passenger, and the net loss to the Member in respect of bunkers, insurance, stores and provisions as the result of the diversion.

Section 12

UNRECOVERABLE GENERAL AVERAGE CONTRIBUTIONS

General average (excluding ship's sacrifice items), special charges or salvage chargeable to any other party to the marine adventure for which the Member may become liable or be unable to recover from such party solely by reason of a breach of the contract of carriage, provided that:

- 1** the Member shall have notified the Managers in writing within twelve months both of the casualty out of which a claim under this Section 12 might arise, and of the reference of the matter to adjusters; and
- 2** the provisos in Section 7 above shall apply to recovery under this Section 12; and
- 3** the Member shall have obtained adequate general average security in the absence of which recovery from the Association will be available if, and only to the extent that, the Member can establish that, at the time of delivery of the cargo, he neither knew nor ought to have known that there had been an occurrence of a

general average nature during the voyage, or if, and only to the extent that, the Directors, in their absolute discretion, shall otherwise determine.

Section 13

DISCHARGE OF OIL OR OTHER SUBSTANCE

Liabilities, costs and expenses that are the result of the discharge or escape of oil or any other polluting substance, or the threat of such discharge or escape, from an insured vessel, namely:

- 1 Liability for loss, damage or contamination;
- 2 Liability of the Member as a party to any voluntary agreement previously approved by the Managers in writing, and the costs and expenses incurred by the Member in performing his obligations under such agreement;
- 3 The costs of measures reasonably taken (or taken in compliance with any order or direction given by any government or authority) for the purpose of avoiding the threat of or minimizing pollution, and liability incurred as a result of such measures;
- 4 Liability to pay special compensation to a salvor of an insured vessel in respect of work done or measures taken to prevent or minimize damage to the environment, but only to the extent that such liability is imposed on the Member pursuant to Article 14 of the International Convention on Salvage, 1989, or is assumed by the Member under the terms of a standard form of salvage agreement approved by the Managers, or the Lloyd's Standard Form of Salvage Agreement (LOF 1995) and subsequent amendments thereto.

Provided that any recovery hereunder may be reduced if and to the extent that the Member shall not have taken steps to ensure that costs and expenses recoverable hereunder are included in general average to the extent permitted under the York-Antwerp Rules 1994.

- 5 Liability, costs and expenses of the Member assumed in respect of any insured vessel which is a "Relevant Ship" as defined in the

Small Tanker Owners Pollution Indemnification Agreement 2006 (STOPIA 2006). A Member who has insurance in respect of such vessel shall, by virtue of entry with and through the agency of the Association, and unless the Managers otherwise agree in writing, become a party to STOPIA 2006 for the period of entry of such vessel in the Association. In the event that the Member exercises his rights under STOPIA 2006 to withdraw from that agreement, and unless the Managers have agreed in writing, or unless the Directors otherwise determine, there shall be no cover under this Rule 2, Section 13 in respect of such vessel so long as the Member is not a party to STOPIA 2006.

- 6 Liability, costs and expenses of the Member assumed in respect of an insured vessel which is a "Relevant Ship" as defined in the Tanker Owners Pollution Indemnification Agreement (TOPIA). A Member who has insurance in respect of such vessel shall, by virtue of entry with and through the agency of the Association, and unless the Managers otherwise agree in writing, become a party to TOPIA for the period of entry of such vessel in the Association. In the event that the Member exercises his rights under TOPIA to withdraw from that agreement, and unless the Managers have agreed in writing, or unless the Directors otherwise determine, there shall be no cover under this Rule 2, Section 13 in respect of such vessel so long as the Member is not a party to TOPIA.

Section 14

SHIP'S PROPORTION OF GENERAL AVERAGE

The insured vessel's proportion of general average, special charges or salvage 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 the hull policies.

Provided always that for the purpose of determining any sum recoverable under this Section 14, the Managers shall be entitled to determine the proper value at which the insured vessel should have been insured under the hull policies and the Association shall only be liable for the excess (if any) above the amount which would have

been recoverable under the hull policies had the insured vessel been insured thereunder at such value. For the purpose of this Section 14, “proper value” is defined as an amount equal to the free, uncommitted market value of the insured vessel at the time of the incident giving rise to the general average, special charges or salvage.

Section 15

OFFICIAL INQUIRIES

Costs and expenses incurred by a Member in defending himself or in protecting his interests before an official inquiry into the loss of an insured vessel or into a casualty involving an insured vessel but only to the extent and on such conditions as the Managers in their sole discretion may determine.

Section 16

SUE AND LABOR AND LEGAL COSTS

Extraordinary costs and expenses reasonably incurred after any casualty for the purpose of avoiding or minimizing any liabilities, costs or expenses against which the Member is insured by the Association.

Legal costs and expenses relating to any liabilities, costs or expenses against which the Member is insured by the Association, but only to the extent that such legal costs and expenses have been incurred with the prior approval of the Managers in writing or to the extent and on such conditions as the Directors in their sole discretion may determine.

Section 17

EXPENSES OF INVESTIGATION AND DEFENSE

Liability for costs, charges and expenses reasonably incurred and paid by the Member in connection with any liability insured under this Rule, subject, however, to the same deduction that would be applicable by the terms of entry to the liability defended; provided that if any liability is incurred and paid by the Member as aforesaid, the deduction shall be applied to the aggregate of the claim and expenses; and provided further that the Member shall not be entitled to indemnity for expenses

unless they were incurred with the approval in writing of the Managers, or the Managers shall be satisfied that such approval could not have been obtained under the circumstances without unreasonable delay, or that the expenses were reasonably and properly incurred; and provided further that any suggestion or approval of counsel, or any incurring of expenses in connection with liabilities not insured under this Rule, shall not be deemed an admission of the Association’s liability.

It is understood and agreed that the Managers may undertake the investigation of any occurrence which might develop into a claim against the Member, and may undertake the investigation and defense of any claim made against the Member with respect to which the Member shall be or may claim to be insured by the Association, and that during such investigation and/or defense the Association may incur expenses, which expenses shall be for the account of the Member, and such investigation and/or defense shall not be considered as an admission of the Association’s liability for such claim or expenses, and the liability of the Association to the Member for any loss, damage or expense shall not be affected by any acts of the Association prior to formal presentation to the Association of the Member’s claim for reimbursement or indemnity.

Section 18

EXPENSES INCURRED UNDER AUTHORIZATION OF THE MANAGERS

Expenses which the Member may incur under special written authorization of the Managers of the Association in cases in which the Managers decide that it is in the interests of the Association that the direction be given.

Section 19

‘OMNIBUS’ CLAUSE

Liability for costs and expenses not expressly excluded elsewhere in these Rules, incidental to the business of owning, operating or managing ships which the Directors, in their sole discretion, shall consider to fall within the scope of the insurance protection afforded by the Association under these Rules.

Section 1

RISKS EXCLUDED

Notwithstanding anything to the contrary contained in these Rules of Class I, there shall be no right of recovery from the Association in respect of any liabilities, costs or expenses, whether or not a contributory cause of their being incurred was any neglect on the part of a Member, Co-assured or Affiliate or any of their servants or agents, when the incident giving rise to the liability, cost or expense was caused by the following:

War Risks

- 1 **i** 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;
- ii** Capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;
- iii** Mines, torpedoes, bombs, rockets, shells, explosives or similar weapons or devices, provided that this exclusion shall not apply to any liabilities, costs or expenses which arise solely by reason of
 - a** the transport of any such weapons whether on board the insured vessel or not, or
 - b** the use of any such weapons, either as a result of government order or through compliance with a written direction given by the Association where the reason for such use was the avoidance or mitigation of liabilities, costs or expenses which would otherwise have fallen within the cover given by the Association.

AND PROVIDED ALWAYS that the exclusions in this Section 1, Sub-Section 1 shall not apply to any liabilities, costs or expenses insofar only as they are discharged by the Association on behalf of a Member pursuant to a demand made under:

- a guarantee or other undertaking given by the Association to the Federal Maritime Commission under Section 2 of US Public Law 89-777, or

- a certificate issued by the Association in compliance with Article VII of the International Conventions on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereto, or
- an undertaking given by the Association to the International Oil Pollution Compensation Fund 1992 in connection with the Small Tanker Oil Pollution Indemnification Agreement (STOPIA 2006),

to the extent that such liabilities, costs and expenses are not recovered by the Member under any other policy of insurance or extension to the cover provided by the Association. Where any such guarantee, undertaking or certificate is provided by the Association on behalf of a Member as guarantor or otherwise, the Member agrees that any payment by the Association thereunder in discharge of the said liabilities, costs and expenses shall, to the extent of any amount recovered under any other policy of insurance or extension to the cover provided by the Association, be deemed to be by way of loan and that there shall be assigned to the Association all the rights of the Member under any such other insurance and against any third party.

AND FURTHER PROVIDED ALWAYS THAT:

The Directors may resolve that special cover be provided to Members against any or all of the risks set out in Rule 2 of these Rules of Class I, notwithstanding that the liabilities, costs or expenses arising from such risks would otherwise be excluded by this Rule 3.1.1. Such special cover where provided may be limited to such sum or sums and be subject to such terms and conditions as the Directors may from time to time in their absolute discretion determine.

In the event of any dispute as to whether or not any act constitutes an act of terrorism, the decision of the Directors shall be final.

Nuclear Risks

- 2 Ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; or any weapons or devices employing atomic or nuclear fission and/or fusion or other like reaction of radioactive force or matter.

Provided always that this Rule 3.1.2 shall not apply to liabilities, losses, costs or expenses arising out of or in consequence of the emission of ionizing radiations from, or the toxic, explosive or other hazardous properties of:

- i isotopes prepared for use for industrial, commercial, agricultural, medical or scientific purposes;
- ii natural uranium; or
- iii depleted uranium,

being carried as cargo in an insured vessel, and such further exceptions as the Managers may approve.

Blockade Running, Unlawful Trade etc.

- 3 An insured vessel carrying contraband, blockade running or being employed in an unlawful trade or if the Managers, in their absolute discretion, shall be of the opinion that the carriage, trade or voyage was imprudent, unsafe, unduly hazardous or improper.

Section 2

LOSSES EXCLUDED

Save to the extent as may be expressly agreed in writing between a Member and the Managers, and notwithstanding anything to the contrary contained in these Rules of Class I, there shall be no right of recovery from the Association in respect of any loss, damage or expense a Member may have sustained, directly or indirectly, by reason of:

Hull Damage etc. to the Insured Vessel

- 1 Loss of, or damage to, the insured vessel or any part thereof.
- 2 Loss of, or damage to, any equipment on board the insured vessel or to any containers, lashings, stores or fuel thereon, to the extent that the same are owned or leased by a Member or by any party associated with or under the same management as the Member.
- 3 The cost of repairs to the insured vessel or any charges or expenses in connection therewith.

Cancellation of Contracts, Loss of Hire etc.

- 4 Cancellation or breach of any charter or contract, detention of an insured vessel, bad debts, insolvency, fraud of agents, loss of freight, passage money, hire, demurrage or any other loss of revenue incurred by a Member in respect of any vessel insured by the Member;

Provided always that where any loss of hire or freight forms part of a claim in respect of cargo covered under Rule 2.7 or is, with the consent of the Managers, included in the settlement of such a claim, such loss of hire or freight may be recoverable from the Association notwithstanding the terms of this Rule 3.2.4.

Sums Insurable Under Hull Policies

- 5 Any loss, damage, sacrifice or expense of a type, character or kind which would be fully payable without deductible under the terms of a policy written on the American Institute Hull Clauses (June 2, 1977) Form and a policy written on the American Institute Increased Value and Excess Liabilities Clauses (November 3, 1977) Form, or other equally wide form of insurance, whether or not the insured vessel is fully covered under such policies by insurance and excess insurance sufficient in amount to pay in full and without limit all such loss, damage, sacrifice or expense.

Towage by an Insured Vessel

- 6 Loss of or damage to, or wreck removal of, a vessel or other floating structure towed by an insured vessel or the cargo or other property on such tow (together with costs and expenses associated therewith), save insofar as either:
 - the towage or attempt thereat is made for the purpose of saving or attempting to save life or property at sea; or
 - the insured vessel is towing under a contract, or in other circumstances, approved by the Managers, and provided always that this exclusion shall not apply to claims covered under Rule 2.1.

Towage of an Insured Vessel

- 7 Liabilities, costs and expenses incurred under or pursuant to the terms of a contract for the towage of an insured vessel other than
- i a contract entered into for the purpose of entering or leaving port, or maneuvering within the port, during the ordinary course of trading; or
 - ii a contract entered into in the ordinary course of trading of the insured vessel, being a vessel which is habitually towed from port to port or from place to place provided always that
 - a such liabilities, costs and expenses shall only be recoverable to the extent that a Member is not insured against such liabilities, costs and expenses under the hull policies on the insured vessel; and
 - b the insured vessel has been insured with the Association on such basis; or
 - iii towage under Lloyd's Open Form of Salvage Agreement (1980, 1990 or 1995, whether or not incorporating SCOPIC) or any other form of salvage contract approved by the Managers; or
 - iv a contract incorporating a term to the effect that the Member and the owner of the towing vessel shall each be responsible for any loss or damage to his own vessel, and for loss of life or personal injury on his own vessel, without any recourse whatsoever against the other.

Contracts and Indemnities

- 8 Liabilities, costs and expenses which would not have arisen but for the terms of a contract or indemnity entered into by a Member, unless those terms have been expressly approved in writing by the Managers.

Specialist Operations

- 9 Any liabilities, costs and expenses incurred by the Member during the course of performing specialist operations including but not limited to dredging, blasting, pile-driving, well stimulation, cable or pipelaying, construction, installation or maintenance work,

core sampling, depositing of spoil, professional oil spill response or professional oil spill response training (but excluding fire-fighting), to the extent that such liabilities, costs and expenses arise as a consequence of:

- a 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), in respect of the specialist nature of the operations; or
- b the failure to perform such specialist operations by the Member or the fitness for purpose and quality of the Member's work, products or services, including any defect in the Member's work, products or services; or
- c any loss or damage to the contract work.

Provided that this subsection 7 shall not apply to liabilities, costs and expenses incurred by the Member in respect of:

- loss of life, injury or illness of crew and other personnel on board the insured vessel; or
- the wreck removal of the insured vessel; or
- oil pollution emanating from the insured vessel;

but only to the extent that such liabilities are covered under Sections 1 through 19 of Rule 2 of these Rules.

Willful Misconduct

- 10 Claims arising in circumstances where there has been willful misconduct on the part of the Member, defined as an act intentionally done, or a deliberate omission, by the Member with knowledge that the performance or omission will probably result in injury, or an act done or omitted in such a way as to allow an inference of a reckless disregard of the probable consequences.

Drilling and/or Production Operations

- 11 Liabilities, costs and expenses incurred in respect of a drilling vessel or barge or any other vessel or barge employed to carry out drilling or production operations in connection with oil or gas exploration or production, including any accommodation

unit moored or positioned on site as an integral part of any such operations, to the extent that such liabilities, costs or expenses arise out of or during drilling or production operations.

Waste Disposal and Sub-Sea Activities

- 12 Liabilities, costs and expenses incurred by a Member in connection with any claim brought against such Member arising out of waste incineration or disposal operations carried out by the insured vessel (other than any such operations carried out as an incidental part of other commercial activities) or the operation by the Member of submarines, mini-submarines or diving bells or the activities of professional or commercial divers where the Member is responsible for such activities.

Refugees

- 13 Consequential loss of profit or depreciation arising from the rescue of refugees.

Salvage of an Insured Vessel

- 14 Salvage of an insured vessel or services in the nature of salvage provided to an insured vessel and any costs and expenses in connection therewith other than such liabilities, costs or expenses as may arise by reason of life salvage, or costs and expenses under any of the following:

Article 14 of the International Convention on Salvage 1989; or
Article 14 of the International Convention on Salvage 1989 as incorporated into Lloyd's Open Form of Salvage Agreement (1980, 1990 or 1995) or into any other salvage contract approved by the Managers; or

cargo's contribution to general average payable by the Member solely by reason of a breach of the contract of carriage.

Salvage by an Insured Vessel

- 15 Liabilities, costs and expenses arising out of salvage operations conducted by an insured vessel or provided by the Member, other than

- a liabilities, costs and expenses arising out of salvage operations conducted by an insured vessel for the purpose of saving or attempting to save life at sea; and
- b liabilities, costs and expenses incurred by the Member (being a professional salvor) which are covered by a special agreement between the Member and the Association.

Non-Marine Personnel

- 16 Liabilities, costs and expenses incurred by a Member in respect of any of the following:
- i personnel (other than seamen) on board the insured vessel (being an accommodation vessel) employed otherwise than by the Member where there has not been a contractual allocation of risks as between the Member and the employer of the personnel which has previously been approved by the Managers in writing;
 - ii hotel and restaurant guests and other visitors and catering staff of the insured vessel when the insured vessel is moored (otherwise than on a temporary basis) and is open to the public as a hotel, restaurant, bar or other place of entertainment.

Heavy Lifts

- 17 Loss of or damage to, or wreck removal of, cargo carried on a semi-submersible heavy lift vessel or any other vessel designed exclusively for the carriage of heavy lift cargo, save to the extent that such cargo is being carried under the terms of a contract on Heavycon terms or any other terms previously approved by the Managers in writing.

CERCLA-type Liabilities

- 18 Unless the Directors shall otherwise determine, there is no cover in respect of any liability for loss, damage, costs and expenses arising as a consequence of the discharge or escape, or the threat of discharge or escape, of any hazardous waste (previously carried on an insured vessel) from any land-based dump, storage or disposal facility.

Paperless Trading

- 19** Any liabilities, costs or expenses whatsoever or howsoever arising, whether directly or indirectly, out of or in consequence of:
- i** a Member's participation in or use of any system or contractual arrangement the predominant purpose of which is to replace paper-based documentation in shipping and/or international trade with electronic messages, including, without limitation, the Bolero system (any such system or arrangement being referred to in this Rule 3.2.19 as a "paperless system"), or
 - ii** a document which is created or transmitted under a paperless system which document contains or evidences a contract of carriage, or
 - iii** the carriage of goods pursuant to such a contract of carriage, save to the extent that the Managers in their sole discretion shall determine that such liability, cost or expense would have arisen and would have been covered by the Association if the Member had not participated in or used a paperless system and any contract of carriage had been contained in or evidenced by a paper document.

For the purpose of this Rule 3.2.19 a "document" shall mean anything in which information of any description is recorded, including, but not limited to, computer or other electronically generated information.

Mutual and Fixed Premium Insurance

- 1** Every Certificate of Entry issued to a Member of the Association shall clearly state whether or not the insurance is mutual or fixed premium insurance. Certificates of Entry evidencing mutual insurance shall contain a clear statement of the liability of the Member for the payment of his proportionate share of any deficiency as provided by law within the limit provided by the contract of insurance, and shall further state that any premiums and calls shall be for the exclusive benefit of Members who are subject to such a contingent liability. Members who are insured on mutual premium terms shall not be liable to make contribution in an amount greater in proportion to the total deficiency than the ratio that the deficiency attributable to mutual premium business bears to the total deficiency. All Certificates of Entry evidencing fixed premium insurance shall provide that Members insured on such terms shall not be liable for deficiencies in the funding of the Association, and such Members shall not be liable to make contribution to such deficiencies in the funding of the Association.
- 2** The Managers may on behalf of the Association issue Certificates of Entry evidencing mutual insurance which, save insofar as claims in respect of oil pollution are concerned, do not contain an express monetary limit on the Association's liability for the payment of claims covered by virtue of these Rules. Notwithstanding this, however, the liability of the Association in respect of the insurance of such claims shall be subject always to the provisions of Rule 4.14 herein and the limits on collectability of overspill claims as defined therein.
- 3** Certificates of Entry issued by the Managers on behalf of the Association evidencing fixed premium insurance shall in all cases contain an express monetary limit on the Association's liability for the payment of claims covered by virtue of these Rules.
- 4** For the purposes of adjusting mutual premium in relation to any surpluses or deficiencies to the Association's funding, the business of the Association shall be divided into policy years which shall have the meaning ascribed to them in Rule 1.2 above.

Treatment of Mutual Premium in Relation to Policy Year Results

- 5 From time to time when the Managers shall determine that it is practicable to estimate with a reasonable degree of certainty the minimum, probable or final surplus or deficiency resulting from all of the Association's insurances in effect during any policy year, the Managers shall place before the Directors a statement of such financial results. After receipt of any such statement, the Directors from time to time may:
- i fix and determine an amount to be declared and paid as an interim or final return of mutual premium, after retaining such sums as they may deem necessary to meet outstanding obligations or for the maintenance of reserves and surplus of the Association; or
 - ii order an interim or final levy of supplementary premium to be made against Members insured on mutual premium terms, fix the due date of payment of such a levy, determine the rate of interest that shall be added to and become a part of any delinquent payment and otherwise provide for enforcement or collection thereof.
- 6 If at any time or times after any policy year which commenced on or after February 20, 1989 has been closed, any additional costs or expenses attributable to such policy year(s) are incurred by the Association, the Directors may in their absolute discretion decide to fund such costs or expenses:
- i by transferring funds from the reserves of the Association; and/or
 - ii by levying interim or final supplementary premium in respect to any open policy year(s).
- 7 Any return of mutual premium or any supplementary premium levied shall be based solely on such surplus or such deficiency, respectively, resulting from the mutual premium business for the policy year in question. All returns declared and all supplementary premiums levied shall be distributed or spread in the ratio that the net premium paid by a Member bears to the net premiums paid by all Members insured on mutual premium terms for the

policy year. The term "net premium" as used in this Rule 4.7 shall mean the total premium paid less lay-up, cancellation or other returns of premium. In any case, however, all actions of the Directors in respect of returns of premium or levies of supplementary premium shall conform with the law and with the Charter and By-Laws of the Association.

Premium to Release

- 8 Upon or at any time after the cesser or termination of the insurance of an insured vessel for any reason, or at any other time as may have been expressly agreed between a Member and the Managers, the Managers, on behalf of the Association, may calculate and charge premium to release a Member from liability for further contribution to mutual premium in respect of such vessel at a percentage of the then estimated total premium for any policy year which has not at that time been declared closed for the levy of mutual premium in accordance with Rule 4.16 and 17 below. The said percentage shall be as from time to time determined by the Directors in their absolute discretion.
- 9 The amount of such premium to release shall be payable by a Member on demand without set-off, and payment thereof will not affect a Member's liability for overspill calls as set out in Rule 4.15 herein. Provided always, however, that the Association may accept in lieu of payment of such premium to release a guarantee given or confirmed by a bank acceptable to the Managers for the Member's future liability for mutual premium and overspill calls.
- 10 Once paid, premiums to release shall not in any circumstances be returnable, notwithstanding any subsequent reduction in the amounts chargeable for the policy years concerned; nor shall a Member have any right to share in any returns of mutual premium for any such policy year in respect of a vessel for which premium to release has been paid or is payable, but payment of premium to release shall discharge a Member from any future liability for that mutual premium in lieu of which such premium to release has been charged.

Returns of Premium Consequent Upon Lay-up

11 Subject to any special terms and conditions which may have been expressly agreed between a Member and the Managers, if an insured vessel shall be without cargo on board and so remain in any safe port for a period of 45 or more consecutive days after finally mooring there (such period being computed from the day of arrival to the day of departure, excluding the day of arrival and the day of departure), a Member is to be allowed a return of premium calculated at a rate of eighty per cent (80%) of the total net premium payable for such vessel.

Provided always that:

- i** An insured vessel shall not be treated as laid up if she has either seamen (other than for maintenance or security) or cargo on board or is under repair, except that the Managers in their absolute discretion may agree to a reduced allowance if there are additional seamen on board;
- ii** The Managers shall have absolute discretion in deciding whether the port involved or the place of the vessel's lay-up is a safe port within the meaning of this Rule, and/or to determine how many seamen may be required for such maintenance or security within the meaning of this Rule 4.11;
- iii** No return of premium shall be made under this Rule unless the Member shall submit his notice in writing to and submits his claim for the lay-up return, along with supporting documentation acceptable to the Managers of such lay-up, to the Managers not later than 60 days after the end of the lay-up period. If the lay-up period continues into a new policy year, written notice shall be given to the Association within 30 days of the start of the new policy year;

- iv** The percentage of premium returnable shall be calculated upon the net premium only, i.e. premium payable excluding overspill calls, less such allowance for reinsurance, administrative expenses and other outgoings as the Managers in their absolute discretion may from time to time determine;
- v** This Rule 4.11 shall not apply to overspill calls.

Member's Obligation to the Association

12 The liability of a Member to pay supplementary premium is an obligation to the Association and not to any other Members.

Set-off

13 The Association shall be entitled to set off any amount due from a Member against any amount due to such Member from the Association.

Contingency Fund

14 During any policy year, or thereafter, the Directors may, from time to time, set aside as an expense of the Association for that year such sum or sums as they may consider necessary or proper to be added to a contingency fund of the Association.

Overspill Claims / Calls**15** *Interpretation*

1.1 In this Section 15 the following words and expressions shall have the following meanings:

CONVENTION LIMIT: in respect of a vessel, the limit of liability of the shipowner of that vessel for claims (other than claims for loss of life or personal injury) at the Overspill Claim Date, calculated in accordance with Rule 6 Section 1(b) of the International Convention on Limitation of Liability for Maritime Claims 1976 (the "Convention") and converted from Special Drawing Rights into United States Dollars at the rate of exchange conclusively certified by the Association as being the rate which prevailed on the Overspill Claim Date, provided that:

- a where a vessel is entered for a proportion (the “relevant proportion”) of its tonnage only, the Convention Limit shall be the relevant proportion of the limit calculated and converted as aforesaid; and
- b each vessel shall be deemed to be a seagoing ship to which the Convention applies, notwithstanding any provision in the Convention to the contrary.

GROUP REINSURANCE LIMIT: the amount of the smallest claim (other than any claim arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement which would exhaust the largest limit for any type of claim (other than a claim arising in respect of oil pollution) from time to time imposed in the International Group Excess Loss Contract.

OVERSPILL CALL: a call levied by the Association pursuant to this Section 15 for the purpose of providing funds to pay part of an Overspill Claim.

OVERSPILL CLAIM: that part (if any) of a claim (other than a claim arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement under the terms of entry of a vessel which exceeds or may exceed the Group Reinsurance Limit.

OVERSPILL CLAIM DATE: in relation to any Overspill Call, the time and date on which there occurred the incident or occurrence giving rise to the Overspill Claim in respect of which the Overspill Call is made or, if the Policy Year in which such incident or occurrence has been closed in accordance with the provisions of this Rule, noon GMT on August 20 of the Policy Year in respect of which the Association makes a declaration under this Section 15.

- 1.2 All claims (other than claims arising in respect of oil pollution) incurred by the Association or by any other party to the International Group Pooling Agreement (“the Pooling Agreement”) under the entry of any one vessel 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 this Section 15 as if they were one claim.

- 1.3 Any reference to a claim incurred by the Association or by any other party to the Pooling Agreement shall be deemed to include the costs and expenses associated therewith.

Recoverability of Overspill Claims

- 2.1 Without prejudice to any other applicable limit, any Overspill Claim incurred by the Association shall not be recoverable from the Association in excess of the aggregate of:
 - a 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
 - b 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.
- 2.2 The aggregate amount referred to in 2.1 above shall be reduced to the extent that the Association can evidence:
 - a that costs have been properly incurred by it in collecting or seeking to collect:
 - i Overspill Calls levied to provide funds to pay that part of the Overspill Claim referred to in 2.1 section (a); or
 - ii the amount referred to in 2.1 section (b),
 - b that it is unable to collect an amount equal to that part of the Overspill Claim referred to in 2.1 section (a) which it has 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 2.1 shall be reinstated to that extent.

- 2.3** In evidencing the matters referred to in 2.2 section (b) the Association shall be required to show that:
- a** it has levied Overspill Calls on all Members entered in the Association on the Overspill Claim Date in accordance with and in respect of the Overspill Claim referred to in 2.1 in maximum amounts permitted in accordance with this Rule; and
 - b** 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.

Payment of Overspill Claims

- 3.1** The funds required to pay any Overspill Claim incurred by the Association shall be provided:
- a** 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
 - b** 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
 - c** from such proportion as the Association in its discretion determines of any sums standing to the credit of such Overspill reserves as the Association may in its discretion have established, and
 - d** by levying one or more Overspill Calls in accordance with this Section 15, irrespective of whether the Association has sought to recover or has recovered all or any of the sums referred to in 3.1 section (b) but provided the Association shall first have made a determination in accordance with 3.1 section (c), and
 - e** from any interest accruing to the Association on any funds provided as aforesaid.

- 3.2** The funds required to pay such proportion of any overspill claim incurred by any other party to the Pooling Agreement which the Association is liable to contribute under the terms of the Pooling Agreement shall be provided in the manner specified in 3.1 sections (b)-(e).
- 3.3** To the extent that the Association intends to provide funds required to pay any Overspill Claim incurred by it in the manner specified in 3.1 section (d), 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 funds, it has taken the steps referred to in 2.3 sections (a) and (b).

Overspill Claims – Expert Determinations

- 4.1** Any of the issues referred to in 4.2 on which the Association and the Member cannot agree shall be referred to a panel (the “Panel”) constituted in accordance with arrangements established in the Pooling Agreement which, acting as a body of experts and not as an arbitration tribunal, shall determine the issue.
- 4.2** This Section 14 shall apply to any issue of whether, for the purpose of applying any of 2.2, 2.3 and 3.3 in relation to any Overspill Claim (“the relevant Overspill Claim”):
- a** costs have been properly incurred in collecting or seeking to collect Overspill Calls; or
 - b** any Overspill Call or part thereof is economically recoverable; or
 - c** in seeking to collect the funds referred to in 3.3, the Association has taken the steps referred to in that section.
- 4.3** 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.

- 4.4** 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.
- 4.5** 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 cooperate fully with the Panel.
- 4.6** In determining any issue referred to it under this Rule the Panel shall endeavor 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.
- 4.7** In determining an issue the members of the Panel:
- a** shall rely on their own knowledge and expertise, and
 - b** may rely on any information, documents, evidence or submission provided to it by the Association or the Member as the Panel sees fit.
- 4.8** If the three members of the Panel cannot agree on any matter, the view of the majority shall prevail.
- 4.9** The Panel shall not be required to give reasons for any determination.
- 4.10** The Panel's determination shall be final and binding upon the Association and the Member (subject only to 4.11) and there shall be no right of appeal from such determination.
- 4.11** If the Panel makes a decision on an issue referred to in 4.2 sections (b) or (c) the Association or the Member may refer the issue back to the Panel notwithstanding Clause 4.10, if it considers that the position has materially changed since the Panel made its determination.
- 4.12** The costs of the Panel shall be paid by the Association.

- 4.13** 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 Section 15 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 2.2 section (a).

Levying of Overspill Calls

- 5.1** If :
- a** the Association shall at any time determine that funds are or may in the future be required to pay part of an Overspill Claim (whether incurred by the Association or by any other party to the Pooling Agreement), and
 - b** the Association shall have made a declaration under 6.1 or 6.3 that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls in respect of that Overspill Claim, the Association in its discretion, at any time or times after such declaration has been made, may levy one or more Overspill Calls in respect of that Overspill Claim in accordance with 5.2.
- 5.2** The Association shall levy any such Overspill Call:
- a** on all Members entered in the Association on the Overspill Claim Date in respect of vessels entered by them at the time, notwithstanding the fact that, if the Overspill Claim Date shall be in a Policy Year in respect of which the Association has made a declaration under 6.3, any such vessel may not have been entered in the Association at the time the relevant incident or occurrence occurred, and
 - b** at such percentage of the Convention Limit of each such vessel as the Association in its discretion shall decide.
- 5.3** An Overspill Call shall not be levied in respect of any vessel entered on the Overspill Claim Date with an overall limit of cover equal to or less than the Group Reinsurance Limit.

- 5.4** The Association shall not levy on any Member in respect of the entry of any one vessel 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 vessel.
- 5.5** If at any time after the levying of any Overspill Call upon the Members entered in the Association in any Policy Year, it shall appear to the Association that the whole of such Overspill Call is unlikely to be required to meet the Overspill Claim in respect of which such Overspill Call was levied, the Association may decide to dispose of any excess which in the opinion of the Association is not so required by returning the excess or any part thereof to those Members who have paid that Overspill Call in proportion to the payments made by them.

Closing of Policy Years for Overspill Calls

- 6.1** If at any time prior to the expiry of a period of thirty-six months from the commencement of a Policy Year (the “relevant Policy Year”), any of the parties to the Pooling Agreement sends a notice (an “Overspill Notice”) in accordance with the Pooling Agreement that an incident or occurrence has occurred in the relevant Policy Year which has given or at any time may give rise to an Overspill Claim, the Association shall as soon as practicable declare that the relevant Policy Year shall remain open for the purpose of levying an Overspill Call or Calls in respect of that claim and the relevant Policy Year shall not be closed for the purpose of making an Overspill Call or Calls in respect of that claim until such date as the Association shall determine.
- 6.2** If at the expiry of the period of thirty-six months provided for in 6.1, no Overspill Notice as therein provided for has been sent, the relevant Policy Year shall be closed automatically for the purpose of levying Overspill Calls only, whether or not closed for any other purposes, such closure to have effect from the date falling thirty-six months after the commencement of the relevant Policy Year.

- 6.3** If at any time after the Policy Year has been closed in accordance with the provisions of 6.1 and 6.2, it appears to the Association that an incident or occurrence which occurred during such closed Policy Year may then or any time in the future give rise to an Overspill Claim, the Association shall as soon as practicable declare that the earliest subsequent open Policy Year (not being a Policy Year in respect of which the Association has already made a declaration in accordance with 6.1 and 6.2) shall remain open for the purpose of levying an Overspill Call or Calls in respect of that claim and such open Policy Year shall not be closed for the purpose of making an Overspill Call or Calls in respect of that claim until such date as the Association shall determine.

- 6.4** A Policy Year shall not be closed for the purpose of levying Overspill Calls save in accordance with this Section 15.

Security for Overspill Calls on termination or cesser

- 7.1** If :
- a** the Association makes a declaration in accordance with 6.1 or 6.3 that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls; and
 - b** any Member who is liable to pay such Overspill Call or Calls as may be levied by the Association in accordance with this Section 15 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 the form and amount (the “guarantee amount”) and upon such terms as the Association in its discretion may deem to be appropriate in the circumstances.

- 7.2** Unless and until such guarantee or other security as is required by the Association has been provided by the Member, the Member shall not be entitled to recover from the Association any claims whatsoever and whensoever arising in respect of any and all vessels entered in the Association for any Policy Year by him or on his behalf.
- 7.3** 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.
- 7.4** The provision of a guarantee amount or other security as required by the Association (including a payment in accordance with 7.3) 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 in accordance with this Rule.

Closing of Policy Years

- 16** Subject always to the provisions of Rule 4.15 above, with effect from such date as the Directors in their absolute discretion may determine after the end of each policy year, but no sooner than thirty-six months from its commencement, they may declare that policy year closed for the purpose of levying mutual premium, after which no further mutual premium or premium to release shall be levied in respect thereof.
- 17** The Directors may declare any policy year closed for the purpose of levying mutual premium or premium to release notwithstanding that it is known or anticipated that there are in existence, or may in the future arise, legal costs, charges or disbursements recoverable in respect of such policy year which have not yet accrued or the validity, extent or amount of which have yet to be established.

Section 1

- 1** Unless otherwise agreed by the Managers in writing, any insurance in respect of a Member's interest in an insured vessel shall cease upon the happening of any of the following events:
- a** the Member parting with or assigning his interest in the vessel whether by bill of sale or other formal document or in any other way whatsoever, the Association to allow a pro-rata daily return of premium for the unexpired term of the insurance with respect to said vessel;
 - b** the vessel becoming an actual total loss, except with respect to the liabilities, costs and expenses resulting directly from the casualty which has given rise to such actual total loss;
 - c** in the case of an alleged constructive total loss of the vessel, the acceptance by hull underwriters of notice of abandonment, the tendering of which must be immediately notified to the Managers in writing;
 - d** the vessel being missing for ten days from the date it was last heard from or from its being posted at Lloyd's as missing, whichever shall be the earlier.
 - e** a Member being in breach of any of the conditions set out in Rule 1.4.14 above and as provided for thereunder;
 - f** an insured vessel having failed to pass survey in accordance with the provisions of Rule 1.4.39 to 42 inclusive and as provided for thereunder.
- 2** Should the Member fail to pay, either in whole or in part, any amount due from the Member to the Association (including any amount for which the Member may be jointly and severally liable to the Association) or any amount which the Managers shall have instructed the Member to pay to another party, the Managers may give the Member notice in writing requiring the Member to pay such amount by any date specified in such notice, not being less than five days from the date on which such notice is given. In the event that the Member fails to make payment in full on or before the date so specified, the insurance of the Member (whether or not such insurance may already have ceased for any other reason) in respect of any and all vessels insured for account or on behalf of the Member shall be terminated immediately without further notice or other formality.

In the event that a Member's insurance is terminated by reason of the foregoing, the time of the occurrence of which being hereinafter referred to as "the date of termination", the following consequences shall ensue:

- a** The Association shall in all cases have power in accordance with Rule 4.8 to 10 inclusive to charge premium to release in regard to any and all vessels insured for account or on behalf of the Member, notwithstanding the payment of which (or the establishment of bank guarantees or other security in lieu thereof), the Member shall be and remain liable for Overspill Calls in accordance with Rule 4.15 as well as for all premiums, calls, contributions and any other amount due from the Member to the Association;
- b** The Association shall with effect from the date of termination cease to be liable for any claims of whatsoever nature and howsoever arising under these Rules in respect of any and all vessels in relation to which the insurance of the Member has been terminated, irrespective of whether:
 - i** such claims have arisen by reason of any event which has occurred at any time prior to the date of termination, including during previous years;
 - ii** such claims arise by reason of any event occurring after the date of termination;
 - iii** the Association may have admitted liability for or appointed attorneys, surveyors or any other person to deal with such claims; or
 - iv** the Managers at the date of or prior to the date of termination knew that such claims might or would arise;

and as from the date of termination any liability of the Association for such claims shall cease retroactively and the Association shall be under no liability to the Member for any such claims or on any account whatsoever;

PROVIDED ALWAYS that:

The Managers may in their absolute discretion and upon such terms as it thinks fit, including but not limited to terms as to payment of contributions, premiums or other sums, admit either in whole

or in part any claim in respect of a vessel insured by the Member for which the Association is under no liability by virtue of this Rule, whether such claim has arisen before or arises after the date of termination as the case may be, or forgive wholly or partly any payment of contribution, premiums or other sums due to the Association.

- 3** Should the Member or any affiliated company become insolvent or bankrupt or assign its property for the benefit of creditors or suffer the appointment of a receiver for its property or any part thereof or the institution of dissolution proceedings by or against it, the Association shall not be liable for any claims whatsoever under this insurance unless, within sixty days from the date of the occurrence of such insolvency, bankruptcy, assignment, receivership or dissolution proceedings, there are paid to the Association by or on behalf of the Member all premiums and/or assessments due, and the payment of any premiums to become due and all possible assessments is unconditionally guaranteed by a responsible surety, and unless the Member shall have paid the loss, damage or expense for which it is claiming out of monies belonging to it absolutely and not by way of loan or otherwise.
- 4** In the event that Sections 182 to 189, both inclusive, of U.S. Code, Title 46, or any other existing law or laws determining or limiting liability of shipowners and carriers, or any of them, shall, while this policy is in force, be modified, amended or repealed, or the liabilities of shipowners or carriers be increased in any respect by legislative enactment, the Association shall have the right to cancel said insurance upon giving thirty days written notice of its intention so to do, and in the event of such cancellation, make a return of premium upon a prorata daily basis.
- 5** Any contract of insurance in respect of a Member's interest in an insured vessel may be terminated:
 - by the Member only as of Noon GMT on February 20th of any year with not less than thirty days' prior written notice to the Association; and
 - by the Association at any time with not less than thirty days' prior written notice to the Member.

RULES

American Steamship Owners Mutual Protection and Indemnity Association, Inc.

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CLASS II**FREIGHT, DEMURRAGE AND DEFENSE INSURANCE****RULE 1****INTRODUCTORY: INTERPRETATION: MEMBERSHIP:
GENERAL PROVISIONS**

Section 1**INTRODUCTORY PROVISIONS**

- 1** Each and every provision of the By-Laws of the Association and of these Rules of Class II are applicable to all Freight, Demurrage and Defense insurances of the Association. However, without prejudice to the generality of these provisions so far as they apply to this Class II, they shall only apply to Freight, Demurrage and Defense insurances contracted under Class III to the extent that they have been expressly incorporated therein.
- 2** The standard Freight, Demurrage and Defense cover afforded by the Association to a Member who has insured his vessel with the Association is set out in Rule 2 below.
- 3** The cover set out in Rule 2 may be excluded, limited, modified or otherwise varied by any special terms expressly agreed in writing between a Member and the Managers.
- 4** A Member is only insured against costs and expenses incurred by him which arise:
 - i** out of events occurring during the period of the policy year when his vessel is insured with the Association;
PROVIDED that:
 - a** as to claims and disputes arising under contract (other than those specified in Rule 1.1.4.i.b below), in tort or under statute, such claims and disputes will be deemed to have arisen at the date when the cause of action accrued;
 - b** as to claims and disputes concerning salvage, or in respect of towage services, such claims and disputes will be deemed to have arisen at the date when the relevant services were commenced; and
 - ii** in respect of the Member's interest in the insured vessel ;
and
 - iii** in connection with the building, sale, purchase or operation of the insured vessel by or on behalf of the Member.

CLASS II**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

- 5 Subject to the provisions of Rule 1.1.6 below, a Member who has insured his vessel with the Association for insurance against any or all of the aforesaid risks is obligated to pay premium to the Association in accordance with Rule 4 of the Rules of Class I, such insurance being hereinafter referred to as mutual insurance and premium payable by reason thereof mutual premium.
- 6 Notwithstanding the provisions of Rule 1.1.5 above, a Member may be insured on special terms to the effect that he is liable to pay fixed premium to the Association, such insurance being hereinafter referred to as fixed insurance, and premium payable by reason thereof fixed premium, but only where this has been expressly agreed in writing between the Member and the Managers.
- 7 The insurance provided by these Rules is solely for the benefit of a Member, Joint Member, Co-assured, Affiliate or such other parties as set out and defined in Rule 1.3 of Class I and to the extent incorporated herein.
- 8 A deductible or deductibles may apply to insurances as provided for in this Class II.
- 9 A limit of the Association's liability to pay claims may apply to insurances as provided for in this Class II.

Section 2**INTERPRETATION**

To the extent that their meanings are consistent with the subject and context of these Rules of Class II, the words and expressions set out in Rule 1.2 of Class I shall have the same meanings in these Rules of Class II.

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

Word importing the masculine gender only shall include the feminine and neuter genders.

Words importing persons shall include individuals, partnerships, corporations, associations, joint ventures and any other business entities.

CLASS II**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS****Section 3****MEMBERS, JOINT MEMBERS, AFFILIATES AND CO-ASSURED**

The terms of Rule 1.3 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class II, shall be deemed to be incorporated in and form an integral part of these Rules of Class II except that any reference in the terms of Rule 1.3 of Class I as incorporated hereunder to Protection and Indemnity insurance shall be deemed to be a reference to the Freight, Demurrage and Defense cover afforded under these Rules of Class II.

Section 4**GENERAL INSURANCE PROVISIONS**

- 1 The terms of Rule 1.4 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class II, shall be deemed to be incorporated in and form an integral part of these Rules of Class II except that any reference in the terms of Rule 1.4 of Class I as incorporated hereunder to Protection and Indemnity insurance shall be deemed to be a reference to the Freight, Demurrage and Defense cover afforded under these Rules of Class II.
- 2 Provided further that any vessel insured under the terms of these Rules of Class II shall be deemed to be fully insured under the terms of the Rules of Class I and a Member shall not be entitled to recover any costs and expenses under the terms of these Rules of Class II which would have been recoverable under the terms of the Rules of Class I had the vessel been so insured.

Special Conditions in Regard to Claims Under Class II

- 3 Notwithstanding the generality of the foregoing, the following additional special conditions shall apply to claims arising under this Class II cover.
- 4 Whenever a request has been made or may be made by a Member for the support of the Association in any proceedings or for legal or other advice in connection with matters covered by these Rules, the Managers may at any time appoint and employ on behalf of the Member, upon such terms as the Managers think fit, lawyers or other persons with a view to supplying services to

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

the Member by investigating, advising upon or otherwise dealing with such matters and/or taking, continuing or defending proceedings or acting for or representing the Member therein; furthermore, the Managers may thereafter at any time in their discretion discontinue such employment.

- 5 In the exercise of their discretion whether or not to lend the Association's support as provided for in Rule 1.4.4 above, the Managers may, but shall not be obligated to, take the following matters into account in addressing the appropriateness and/or prospects for success of pursuing or defending any claim and/or proceedings and/or resolving any dispute:
 - i the applicable law and jurisdiction.
 - ii the value of the claim or sum in issue or the significance of the dispute.
 - iii the level of the legal costs and expenses likely to be incurred.
 - iv the legal merit of the Member's position.
 - v any alternative means for pursuing or defending the claim or resolving the dispute.
 - vi the prospect of enforcement of any claim by or against the Member.
 - vii the conduct of the Member.
 - viii the importance of any issues that arise to the shipping community generally.
- 6 All lawyers, surveyors and other persons appointed by the Managers on behalf of the Member or appointed by the Member with the prior consent of the Managers to supply services to the Member shall be and be deemed to be appointed and employed on the terms that they have been instructed by the Member at all times (both while so acting and after they have ceased so to act) to give advice and to report to the Managers in connection with the matter without reference to the Member and to produce to the Managers without prior reference to the Member any documents or information in their possession or power relating

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

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.

PROVIDED THAT:

Where a Member employs, without the prior approval of the Managers, lawyers or other persons for the purposes of giving advice in connection with matters covered by these Rules, then the costs of such person or persons shall not be recoverable from the Association unless the Directors in their absolute discretion otherwise decide.

Power of the Directors in Regard to Supporting Members

- 7 Notwithstanding the discretion vested in the Managers as provided for in Rule 1.4.4 and 5 above, a Member may seek the exercise of an overriding discretion from the Directors whether or not to support any claim and/or proceedings and/or the resolution of any dispute and the determination of the Directors in exercising such discretion shall be final.
- 8 The Directors shall furthermore be entitled at any time in their absolute discretion to decide that the Association shall discontinue its support or decline to provide further support in connection with any claim and/or proceedings and/or the resolution of any dispute and the determination of the Directors in exercising their absolute discretion shall be final.
- 9 Notwithstanding the provisions of Rules 1.4.7 and 8 above, the Directors shall have power to authorize the Managers to act on behalf of the Directors for the purposes of the said Rules 1.4.7 and 8 above.
- 10 Approval by the Managers of any contract referred to in Rule 2 below shall in no circumstances be taken to connote acceptance or approval of the terms of such contract either on behalf of the Managers or of the Directors.

Cover hereunder includes all those costs and expenses necessarily incurred by a Member (including the costs of an opponent party where such costs are ordered to be paid by a court or tribunal of competent authority, or are to be paid pursuant to the terms of any settlement concluded with the express approval in writing of the Managers) in pursuing or defending claims, or in seeking to resolve disputes, on such terms as the Managers shall have approved in writing, arising in respect of the following:

- i** any contract for the building of an insured vessel, which has the prior approval in writing of the Managers.
- ii** any contract for the purchase or sale of an insured vessel which has the prior approval in writing of the Managers.
- iii** any contract for the conversion, alteration, repair, refit, dry-docking or maintenance of an insured vessel.
- iv** any charterparty, contract of carriage, bill of lading or contract of affreightment, to which a Member is party in respect of an insured vessel and disputes as to the rights of the parties under, or legal effect, of any such charterparty, contract of carriage, bill of lading or contract of affreightment.
- v** any contract for operational services provided to or in respect of an insured vessel, including but not limited to agency, stevedoring, towage or salvage, or harbor authority services.
- vi** any contract for administrative services provided to or in respect of an insured vessel for insurance broking or ship broking services, management services or the provision of technical advice.
- vii** any contract in respect of goods or materials, necessaries and stores including bunkers and lubricating oil provided to an insured vessel.
- viii** the employment of seamen.
- ix** any contract of marine insurance in respect of an insured vessel, or which a Member contends covers an insured vessel, other than that evidenced by the cover provided hereunder or otherwise provided by the Association.

- x** any damage to an insured vessel, detention of an insured vessel, or the impairment of any right of a Member in respect of an insured vessel, caused by any third party.
- xi** general average contributions.
- xii** the presence on board an insured vessel of stowaways, refugees or persons rescued at sea.
- xiii** the handling, loading, stowing, lashing and discharge of cargo which is to be carried, which is carried or which has been carried on board an insured vessel.

- 1 The terms of Rule 3 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class II shall be deemed to be incorporated in and form an integral part of these Rules of Class II except that any reference in the terms of Rule 3 of Class I as incorporated hereunder to Protection and Indemnity insurance shall be deemed to be a reference to the Freight, Demurrage and Defense cover afforded under these Rules of Class II.
- 2 Provided further that any vessel insured under these Rules of Class II shall be deemed to be fully insured under the terms of the Rules of Class I and a Member shall not be entitled to recover any costs and expenses under the terms of the these Rules of Class II which would have been recoverable under the Rules of Class I had the vessel been fully insured thereunder.
- 3 Notwithstanding the generality of the foregoing, the following additional exclusions shall apply to this Class II cover.

Nonrecoverability Under Class II of Risks Excluded Under Class I

- 4 Unless and to the extent that the Directors in their absolute discretion otherwise decide, there shall be no right of recovery to any extent whatsoever under these Rules of Class II in respect of any claims, costs, or expenses arising out of risks and losses either expressly or impliedly excluded under the Rules of Class I.

Nonrecoverability Under Class II in Regard to Disputes Between Members, etc.

- 5 There shall be no recovery of costs and expenses incurred in pursuing or defending claims, or in seeking to resolve disputes, between or among any Member and/or his Joint Members, Co-assureds or Affiliates as defined and provided for under the terms of Rule 1.3 of Class I which shall be deemed fully incorporated herein.

- 1 The terms of Rule 4 of Class I to the extent that they are consistent with the subject and context of these Rules of Class II, shall be deemed to be incorporated in and form an integral part of these Rules of Class II except that any reference in the terms of Rule 4 of Class I as incorporated hereunder to Protection and Indemnity insurance shall be deemed to be a reference to the Freight, Demurrage and Defense cover afforded under these Rules of Class II.
- 2 Notwithstanding the generality of the foregoing, the following additional provision shall apply.

No Returns of Premium Consequent Upon Lay-up

- 3 Notwithstanding the terms of Rule 4.11 of Class I, unless the Managers shall in their absolute discretion so agree, there shall be no returns of premium permitted under these Rules of Class II in consequence of an insured vessel being laid-up during her period of insurance with the Association.

The terms of Rule 5 of Class I to the extent that they are consistent with the subject and context of these Rules of Class II, shall be deemed to be incorporated in and form an integral part of these Rules of Class II except that any reference in the terms of Rule 5 of Class I as incorporated hereunder to Protection and Indemnity insurance shall be deemed to be a reference to the Freight, Demurrage and Defense cover afforded under these Rules of Class II.

RULES

American Steamship Owners Mutual Protection and Indemnity Association, Inc.

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CLASS III**INSURANCE FOR CHARTERERS' RISKS****RULE 1****INTRODUCTORY: INTERPRETATION: MEMBERSHIP:
GENERAL PROVISIONS**

Section 1**INTRODUCTORY PROVISIONS**

- 1** Each and every provision of the By-Laws of the Association and of these Rules of Class III are applicable to all insurances for Charterers' Risks provided by the Association. Provided always, however, that the cover provided by these Rules of Class III shall in no circumstances apply to a charterer who has been named as a Co-assured in an insurance of a Member pursuant to the terms of Rule 1.3.8 of Class I, where such a charterer is affiliated to or associated with such a Member.
- 2** The standard cover afforded by the Association to a Member who has insured his vessel with the Association for Charterers' Risks only as defined herein is set out in Rule 2 below.
- 3** The cover set out in these Rules may be excluded, limited, modified or otherwise varied by any special terms expressly agreed in writing between a Member and the Managers.
- 4** The Managers may accept the insurance of vessels on terms which afford cover to a Member against any special or additional risks not set out in Rule 2. The nature and extent of the risks and the terms of such cover shall be as expressly agreed in writing between the Member and the Managers.
- 5** A Member is only insured against loss, damage, liability or expense incurred by him which arises:
 - i** out of events occurring during the period when his vessel is insured with the Association; and
 - ii** solely and exclusively in respect of a Member's interest in the insured vessel as time or voyage charterer thereof; and
 - iii** in connection with the operation of the insured vessel by the Member solely and exclusively as time or voyage charterer thereof.
- 6** A Member who has entered his insured vessel for cover against any or all of the risks and losses set out in Rule 2 is obligated to pay premium to the Association in accordance with Rule 4, that is to say by way of fixed premium and not by way of mutual

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

premium as provided for in Rule 4 of Class I. Such premium may hereinafter be referred to as charterers' fixed premium.

- 7 Notwithstanding the provisions of Rule 1.1.6 above, a Member may be insured on special terms to the effect that he is liable to pay mutual premium to the Association in accordance with Rule 4 of Class I where expressly agreed as between the Member and the Managers. This shall hereinafter be referred to as charterers' mutual insurance and premium payable in respect thereof charterers' mutual premium.
- 8 Provided always, however, that irrespective of whether cover in accordance with these Rules of Class III has been agreed on the basis of the liability of the Member to pay premium as charterers' fixed premium or as charterers' mutual premium, each and every insurance provided under the terms of these Rules of Class III shall be subject to a Member's maximum right of recovery which shall in all cases be set at a prescribed monetary figure for the various interests insured hereunder and as shall have been agreed in individual cases between the Member and the Managers.

Section 2**INTERPRETATION**

Except as expressly provided for hereunder, and to the extent that their meanings are consistent with the subject and context of these Rules of Class III, the words and expressions set out in Rule 1.2 of Class I shall have the same meanings in these Rules of Class III. In these Rules the following words and expressions shall have the following meanings if not inconsistent with the subject or context thereof:

Member A time or voyage charterer (being other than a bareboat or demise charterer) of an insured vessel, or any other party having a similar capacity in respect of an insured vessel which the Managers may in their absolute discretion deem to have an insurable interest under these Rules of Class III.

**RULE 1 INTRODUCTORY: INTERPRETATION:
MEMBERSHIP: GENERAL PROVISIONS**

Charterparty A contract governing the time or voyage charter (being other than a bareboat or demise charter) of an insured vessel, the form of which shall have been approved in writing by the Managers, or any other contract in the nature of a time or voyage charter which the Managers in their absolute discretion may consider sufficient to create an interest capable of insurance under these Rules of Class III.

Insured Vessel A vessel which has been insured with the Association in Class III.

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

Words importing the masculine gender only shall include the feminine and neuter genders.

Words importing persons shall include individuals, partnerships, corporations, associations, joint ventures and any other business entities.

Section 3**MEMBERS, JOINT MEMBERS, AFFILIATES AND CO-ASSURED**

The terms of Rule 1.3 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of these Rules of Class III. Provided always, however, that:

- i references to a Member, Joint Member and membership contained in Rule 1.3 of Class I shall be interpreted in accordance with the definition of a Member contained in Rule 1.2 of these Rules of Class III as shall, *mutatis mutandis*, references to an Affiliate and Co-assured contained in the said Rule 1.3 of Class I; and
- ii the terms of Rule 1.3.9 of Class I shall in no circumstances whatsoever apply to any insurance contracted under the terms of these Rules of Class III.

Section 4

GENERAL INSURANCE PROVISIONS

- 1 The terms of Rule 1.4 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class III shall be deemed to be incorporated in and form an integral part of these Rules of Class III insofar as cover hereunder is provided for Protection and Indemnity risks and losses as set out in Rule 2.A of these Rules of Class III.
- 2 The terms of Rule 1.4 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of these Rules of Class III except that any reference in the terms of Rule 1.4 of Class I as incorporated hereunder to Protection and Indemnity insurance shall be deemed to be a reference to the insurance of risks and losses arising from charterers' liability for loss of or damage to an insured vessel and for financial loss arising therefrom as set out in Rule 2.B of these Rules of Class III.
- 3 The terms of Rule 1.4 of Class II, to the extent that they are consistent with the subject and context of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of these Rules of Class III insofar as cover hereunder is provided for Freight, Demurrage and Defense costs and expenses as set out in Rule 2.C of these Rules of Class III.
- 4 Notwithstanding the provisions of Rule 1.4.1 to 3 above, and only to the extent that cover under this Class III of the Rules has been granted to a Member in respect of those risks and losses covered under Rule 2.A or Rule 2.B or Rule 2.C on a single and exclusive basis (such being available in any event only with the express agreement of the Managers), the cover set out in the said Rules 2.A, 2.B and 2.C shall be mutually exclusive in every respect.
- 5 Provided further, and notwithstanding anything to the contrary contained elsewhere in these Rules of Class III, the terms of Rule 1.4.32 and 33 and Rule 4.14 of Class I shall in no circumstances apply to any insurances contracted under the provisions of these Rules of Class III.

A Protection and Indemnity Insurance

- 1 The terms of Rule 2 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of this Rule 2.A of Class III.
- 2 However, notwithstanding the generality of the foregoing, cover provided by this Rule 2.A of Class III shall apply solely and exclusively to the extent that the relevant risk and/or loss arises out of, or is incurred in relation to, a Member's status as time or voyage charterer of an insured vessel, or in another capacity in relation thereto as shall have been expressly agreed by the Managers as sufficient to create an interest capable of insurance under these Rules of Class III.

B Insurance of Charterers' Liability for Loss of or Damage to an Insured Vessel and for Financial Loss Arising Therefrom

- 1 Subject to any variations or modifications of cover as expressly provided for herein, and in any event to all the other terms of these Rules of Class III, cover hereunder applies to:
 - i all those liabilities, costs and expenses incurred by a Member, as charterer, for loss of or damage to an insured vessel, her equipment, outfit, stores or supplies;
 - ii claims in respect of demurrage, loss of use and/or hire of an insured vessel suffered as a result of an accident to the insured vessel in respect of which a Member, as charterer, has been or may be held legally liable;
 - iii a Member's contribution, as charterer, to general average, salvage, salvage charges and/or sue and labor expenses by reason of a Member's interest in charter hire and/or freight and/or bunkers at risk;
 - iv expenses of investigation and defense in relation to any of the risks and losses set out in i. to iii. above.

C Freight, Demurrage & Defense Insurance

- 1 The terms of Rule 2 of Class II, to the extent that they are consistent with the subject and context of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of this Rule 2.C of Class III.
- 2 However, notwithstanding the generality of the foregoing, cover provided by this Rule 2.C of Class III shall apply solely and exclusively to the extent that the relevant risk and/or loss arises out of, or is incurred in relation to, a Member's status as time or voyage charterer of an insured vessel, or in another capacity in relation thereto as shall have been expressly agreed by the Managers as sufficient to create an interest capable of insurance under these Rules of Class III.

A Protection and Indemnity Insurance

- 1 The terms of Rule 3 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of this Rule 3.A of Class III.
- 2 Provided further that any vessel insured under the terms of Rule 2.A shall be deemed to be fully insured under Rules 2.B and 2.C and a Member shall not be entitled to recover any claims, costs and expenses under Rule 2.A which would have been recoverable under Rules 2.B or 2.C.
- 3 Unless and to the extent that the Directors in their absolute discretion otherwise decide, there shall be no right of recovery under Rule 2.A in respect of any claims, costs or expenses arising out of risks and losses expressly or impliedly excluded under Rules 2.B and 2.C.

B Insurance of Charterers' Liability for Loss of or Damage to an Insured Vessel and for Financial Loss Arising Therefrom

- 1 The terms of Rule 3 of Class I, to the extent that they are consistent with the subject and context of the cover provided under Rule 2.B of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of this Rule 3.B of Class III. Any reference in the terms of Rule 3 of Class I as incorporated hereunder to Protection and Indemnity insurance shall be deemed to be a reference to the insurance provided under Rule 2.B of Class III.
- 2 Provided further that any vessel insured under the terms of Rule 2.B shall be deemed to be fully insured under the terms of Rule 2.A and 2.C and a Member shall not be entitled to recover any claims, costs and expenses under Rule 2.B which would have been recoverable under Rules 2.A or 2.C.
- 3 Unless and to the extent that the Directors in their absolute discretion otherwise decide, there shall be no right of recovery under Rule 2.B in respect of any claims, costs and expenses arising out of risks and losses expressly or impliedly excluded under Rules 2.A and 2.C.

C Freight, Demurrage & Defense Cover

- 1 The terms of Rule 3 of Class I, to the extent that they are consistent with the subject and context of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of this Rule 3.C of Class III.
- 2 Provided further that any vessel insured under the terms of Rule 2.C, shall be deemed to be fully insured under Rules 2.A and 2.B and a Member shall not be entitled to recover any costs and expenses under Rule 2.C which would have been recoverable under Rules 2.A or B.
- 3 Unless and to the extent that the Directors in their absolute discretion otherwise decide, there shall be no right of recovery under Rule 2.C in respect of any claims, costs and expenses arising out of risks and losses expressly or impliedly excluded under Rules 2.A and 2.B.

D War Risks

- 1 Notwithstanding the terms of Rule 3.1 of Class I to the extent that the said terms are incorporated in these Rules of Class III, cover provided by Rule 2A, B and C of these Rules of Class III shall extend to those liabilities, costs and expenses caused by or arising out of war risks as defined in the said terms of Rule 3.1 of Class I, provided always that the Member shall have used his best endeavors to ensure that:
 - i the ship is chartered on terms to the effect that:
 - the owners are entitled to refuse to send the ship to any port or place that is dangerous by reason of war risks (as defined in any current standard war risks insurance policy), and
 - the owners are in any event entitled to insure their interests against such war risks, and
 - the charterers are liable to reimburse the owners in respect of any war risks premium incurred as a result of the ship being ordered to or employed in such port or place; or

- ii the ship is chartered on terms no less favorable to the charterers as regards their liability for loss or damage caused by war risks as set out above; or
- iii the ship is chartered on terms to the effect that:
 - “charterers are under no circumstances whatsoever to be liable for any loss, damage or expense which is or could be covered by war risk insurance available commercially”.

Provided further that the cover for war risks is subject to the Institute Notice of Cancellation, Automatic Termination of Cover, War and Nuclear Exclusion Clause (Hulls etc. 01.01.95) but not subject to the current London Market War Risk Trading Warranties.

- 1 Save to the extent provided for under Rule 1.1.7 of these Rules of Class III where the Managers shall have expressly agreed otherwise, all Members insured by the Association in this Class III shall be liable to pay fixed premium to the Association in a manner as shall have been expressly agreed with the Managers in individual cases.
- 2 By reason of the insurance provided under these Rules of Class III being subject, in the absence of the Managers' agreement otherwise, to the payment of fixed premium, a Member shall not have a right of recovery from the Association beyond a fixed monetary limit which shall have been agreed with the Managers at the time of contracting the insurance.
- 3 In consequence thereof, neither the rights nor the obligations in regard to the funding of the Association as apply to Members insured on mutual premium terms shall apply to Members insured in accordance with the terms of this Class III and, in particular, such Members shall have no right to any returns of premium as provided for in Rule 4.5.i of Class I, nor shall such Members be subject to the terms and conditions of Rule 4.15 of Class I.

No Returns of Premium Consequent Upon Lay-Up

- 4 Without prejudice to the generality of the foregoing, and notwithstanding the terms of Rule 4.11 of the Rules of Class I, there shall be no returns of premium permitted in any circumstances under these Rules of Class III in consequence of an insured vessel being laid-up during her period of insurance with the Association.

The terms of Rule 5 of the Rules of Class I to the extent that they are consistent with the subject and context of these Rules of Class III, shall be deemed to be incorporated in and form an integral part of these Rules of Class III.

ENDORSEMENTS TO WHICH REFERENCE MAY BE MADE IN CERTIFICATES OF ENTRY:

Estimated Total Cost

The premiums and/or rates charged are based on the assumption that the Association will be assessing its Members for their proportionate share of any deficiency or impairment as provided by law and fixed in accordance with the Rules of the Association. The premiums were calculated with respect to an estimated total cost ("ETC") for the policy period which is 125 per cent of the premiums charged herein. The ETC should be understood to be the full premium charged, no part of which is subject to refund except at the sole discretion of the Board of Directors.

Nothing in this endorsement, however, shall be construed to limit the Member's contingent liability hereunder for assessment without limit of amount for their proportionate share of any deficiency or impairment as provided by law and fixed in accordance with the Rules of the Association; provided, however, that any such assessment shall be for the exclusive benefit of holders of Certificates of Entry which provide for such a contingent liability, and the holders of Certificates of Entry subject to assessment shall not be liable to assessment in an amount greater in proportion to the total deficiency than the ratio that the deficiency attributable to the assessable business bears to the total deficiency.

Certificates of Financial Responsibility

This Certificate is evidence only of the contract of indemnity insurance between the above named Member(s) and the Association and shall not be construed as evidence of any undertaking, financial or otherwise, on the part of the Association to any other party.

If a Member tenders this Certificate as evidence of insurance under any applicable law relating to financial responsibility, or otherwise shows or offers it to any other party as evidence of insurance, such use of this Certificate by the Member is not to be taken as any indication that the Association thereby consents to act as guarantor or to be sued directly in any jurisdiction whatsoever. The Association does not so consent.

Extended Cargo Coverage

It is hereby understood and agreed that the following language shall supersede Section 7 of Rule 2 of these Rules and its subsections:

- 7 Liability for loss of or damage to or in connection with cargo or other property, whether or not in containers, vans or trailers, (including goods or merchandise under warehouse receipts, bailees or otherwise; refrigerated cargo, livestock, bullion, specie, gold, precious metals, precious stones, jewelry, silks, furs, currency, bonds or other negotiable documents, goods or valuables shipped under ad valorem bills of lading; United States or foreign government mail or parcel post; passenger's baggage, effects, deposits, whether or not their nature and value are known, and property accepted for safekeeping in the safe aboard the insured vessel; and cargoes of every description), to be carried, or which has been carried on board the insured vessel (including while on all piers or adjacent areas inland or while being transported from location to location, whether or not in the custody of other carriers by land, air or water, and/or under through or combined transport bills of lading or interchange agreements) from any cause whatsoever and wheresoever occurring (including but not limited to liability for fraudulent removal, unexplainable disappearance, deviation or variation from and/or breach of contract of affreightment, or vessel drydocking with cargo on board) from the time the Member's responsibility

commences until it ceases, whether as common carrier, forwarder, freighter, warehouseman, bailee or otherwise; provided, however, that no liability shall exist hereunder for:

- 1 Loss, damage or expense incurred in connection with
 - a the custody, carriage or delivery of property or cargo of any description, unless accepted for transportation under a form of contract approved, in writing, by the Association;
 - b passenger's baggage or personal effects, unless the form of ticket issued to the passenger shall have been approved, in writing, by the Association;
 - c the custody, carriage or delivery of property or cargo of any description carried or to be carried under a through or combined transport bill of lading or inter-change agreement or receipt or other similar agreement, unless the form thereof shall have been approved, in writing, by the Association;
- 2 Freight on cargo short-delivered, whether or not prepaid, or whether or not included in the claim and paid by the Member;
- 3 Cargo containers (including the chassis and other equipment) owned or leased by the Member;
- 4 Loss, damage or expense sustained directly or indirectly by reason of cargo or other property which either was not carried aboard the insured vessel or which was not destined to be carried aboard the insured vessel;
- 5 Loss, damage or expense arising from issuance of clean bills of lading for goods known to be missing, unsound or damaged;
- 6 Loss, damage or expense arising from the intentional issuance of bills of lading prior to receipt of the goods described therein, or covering goods not received at all;
- 7 Loss, damage or expense arising from delivery of cargo without surrender of negotiable bills of lading.

And provided further that:

- 8 It is understood and agreed that cargo may be carried in cargo containers, commonly known as metal cargo containers, cargo vans, collapsible vans or in unit pallet loads or other similar types of unit load, and it is hereby agreed that for the purposes of this insurance each package or shipping unit carried by the insured vessel in such containers rather than the containers, shall be deemed a separate shipment and subject to the per package limitations referred to in any other part of this insurance;
- 9 Cargo or other property belonging to the Member shall be deemed insured hereunder, but only to the extent that this insurance would apply had such cargo been owned by others and transported under a form of contract approved, in writing, by the Association; provided, however, that if such cargo or other property be insured, the Association shall be liable hereunder only insofar as the loss or damage, but for the insurance herein provided, is not or would not be recoverable by the Member under such other insurance.

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American Steamship Owners Mutual Protection and Indemnity Association, Inc.

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INDEX TO RULES

American Steamship Owners Mutual Protection and Indemnity Association, Inc.

INDEX TO RULES

N.B. Except where specifically indicated, the Rules to which reference is made in this index are the Rules of Class I – Protection and Indemnity Insurance. Since most of the general provisions of the Rules of Class II – Freight, Demurrage and Defense, and of Class III – Insurance for Charterers’ Risks, are incorporated in those classes by reference to the relevant parts of the Rules of Class I, it would be superfluous to recite below those sections of Classes II and III which simply repeat those of Class I. However, where there are differences of approach or wording as between the classes, these are expressly dealt with in this index.

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