



**NOVEMBER 19, 2002**

**CIRCULAR NO. 21/02**

**TO MEMBERS OF THE ASSOCIATION**

**Dear Member:**

**CHANGES TO THE RULES OF THE ASSOCIATION FOR THE 2003 POLICY YEAR**

As Members will be aware, the Club's Rules are kept under constant review to ensure that they incorporate the widest cover available and engender the best of service delivery.

To this end, many changes have taken place over recent years. Some have been driven by the demands of good housekeeping while others have reflected changes in practice within the International Group.

As part of the Club's new strategic initiatives, a review of the underlying structural elements of the Rules was recently undertaken. It was aimed at ensuring that the basic characteristics of Club membership were as comprehensive and as clear as possible.

The results of the review, recently approved by your Board, have just been posted on the Club's website. They do not represent any changes in the substance of Club cover. Instead, they make the general part of the Rules more transparent in meaning and more focused in application.

The main features of the changes are as follows:

- The overall cover has been divided into three classes, as follows:
  - Class I – Protection and Indemnity insurance
  - Class II – Freight, Demurrage and Defense insurance
  - Class III – Insurance for Charterers' Risks.
- At present, Freight, Demurrage and Defense is offered as a simple addendum to the P&I cover. Henceforward, it will be separated as a discrete class of business, conforming Club practice to established patterns of FD&D provision and simplifying the manner in which this insurance is supplied by the Club.
- In addition, the growth in the Club's portfolio of charterers' insurance has been recognized through the addition of an independent Class III dealing specifically with this sector. Naturally, much of Class III incorporates the relevant provisions of Classes I and II, as well as an additional category of damage to hull. Ancillary covers, such as freight insurance and the insurance of bunkers – together with charterers' liability in regard to war risks, where required – will continue to be added as separate addenda to the main cover supplied by the provisions of Class III.

- The classification of this cover to stand alongside mutual P&I and FD&D is driven by a desire to incorporate, in a single set of Rules, a core document embracing virtually every element of the wide range of insurances now offered by the Club. This will also have the effect of reducing the need to produce a multiplicity of endorsements to Certificates of Entry and thus promote documentary efficiencies.
- No amendments have been made to Rule 2 of the P&I Rules (and by extension, those applying to charterers' P&I cover within the scope of Class III) dealing with risks and losses covered. This Rule has undergone the most change in recent years. Moreover, the innovations currently being implemented to the Club's IT systems would make it imprudent, at this stage, to effect amendments to the organization of Rule 2 since this might confuse references to Rules and other terms and conditions of cover in future Certificates of Entry and Endorsements made thereto. Accordingly, save for modifications as might be necessitated by changes in International Group practice, the essential wording and format of Rule 2 will be maintained for the forthcoming policy year.
- The most important textual and structural changes have been made to the terms of Rule 1 – General Insurance Provisions, Rule 3 – Losses and Risks Excluded, and Rule 4 – Funding etc. in the respective new classes of cover. It will also be seen that a more extensive use of headings has been made in regard to the new document so that the manner in which individual sections of the revised language relate to each other can be more easily followed and interpreted.

The Club's new Rules for 2003, along with its List of Correspondents, are intended to be published as a single booklet for the forthcoming year. It is hoped that this approach will make it easier for Members both to better understand the Club's cover and to facilitate their access to its services – the most efficient and effective provision of which remains at the core of the Club's mission.

As mentioned above, the changes will be posted on the Club's website at [www.american-club.com](http://www.american-club.com) and can be viewed there. However, those Members who for any reason do not have access to the website, or who otherwise require a hard copy, are invited to contact the Managers accordingly.

Members can expect to see a copy of the 2003 Rules and Correspondents arriving in the mail over the forthcoming weeks after renewal. If, in the meantime, any Member has any questions in regard to the above, or generally, the Managers will, as always, be pleased to respond.

Yours faithfully,  
Joseph E.M. Hughes, Chairman & CEO  
Shipowners Claims Bureau, Inc., Managers for  
**THE AMERICAN CLUB**

**The American Club**  
**Rules Revision for the 2003/04 Policy Year**  
**November 2002**

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## **REVISED RULES FOR 2003/04**

### **The Rules of**

### **American Steamship Owners Mutual Protection and Indemnity Association, Inc.**

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#### **CLASS I PROTECTION AND INDEMNITY INSURANCE**

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#### **Rule 1 INTRODUCTORY: INTERPRETATION: MEMBERSHIP: GENERAL PROVISIONS**

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##### **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 a Member's interest in the insured vessel; and
  - iii. in connection with the operation of the insured vessel by or on behalf of a 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.
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.

**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.

<b>Convention Limit</b>	Has the meaning ascribed to it in Rule 4.14.
<b>Directors</b>	The Board of Directors of the Association at the relevant times.
<b>Effects</b>	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.
<b>Endorsement</b>	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.
<b>Fines</b>	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.
<b>Fixed Premium</b>	Any premium which is not mutual premium.
<b>Fleet</b>	Any two or more vessels insured hereunder having common nominal, or beneficial, ownership, management or control.
<b>Group Excess Loss Contract</b>	The excess loss reinsurance contract entered into by the parties to the Pooling Agreement.
<b>Group Reinsurance Limit</b>	Has the meaning ascribed to it in Rule 4.14.
<b>Hull Insurance(s) / Hull Policy(ies)</b>	Insurance in respect of the insured vessel's hull and machinery, increased value and excess liability.
<b>Insured Vessel</b>	A vessel which has been insured with the Association.
<b>In Writing / Written</b>	Visibly expressed in any mode of permanently representing or reproducing words including telegram, facsimile transmission and other electronic communication.
<b>Joint Member</b>	Any person who is insured in accordance with the terms of Rule 1.3.5.
<b>Managers</b>	Shipowners Claims Bureau, Inc.
<b>Member</b>	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.

<b>Mutual Premium</b>	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.
<b>Net Premium</b>	Has the meanings ascribed to it in Rule 4.6 or Rule 4.10 as the context requires.
<b>Overspill Call</b>	Has the meaning ascribed to it in Rule 4.14.
<b>Overspill Claim</b>	Has the meaning ascribed to it in Rule 4.14.
<b>Overspill Claim Date</b>	Has the meaning ascribed to it in Rule 4.14.
<b>Passenger</b>	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.
<b>Policy Year</b>	A year from noon GMT on any February 20 to noon GMT on the next following February 20.
<b>Pooling Agreement</b>	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.
<b>Premium to Release</b>	That part of mutual premium capable of being levied and collected under the provisions of Rule 4.7 to 9 inclusive.
<b>Rules</b>	These Rules as originally framed or as may from time to time be altered, abrogated or added to and in force at relevant times.
<b>Seaman</b>	An employee of a Member falling within the categories of person set out in Rule 2.1.B.
<b>Supplementary Premium</b>	That part of mutual premium capable of being levied and collected under the provisions of Rule 4.5 and 6.
<b>Vessel</b>	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-Assureds**

#### **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 of 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.
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;
  - 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:
  - 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 8 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.
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 as the conduct or omission of all Joint Members, Co-assureds and Affiliates.

## **Section 4      General Insurance Provisions**

### **Applications 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.

### **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.
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, 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.

### **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, 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 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, manning and safety management of such vessel and must maintain at all times 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.

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 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. In the event of any happening or occurrence which may result in a claim by a Member upon the Association, prompt notice thereof, on it being known to a Member, shall be given by the Member to the Managers. 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 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. In the event that:

- i. a Member fails to notify the Managers of any happening or occurrence referred to in Rule 1.4.17 above promptly after he has knowledge thereof; or
- ii. a Member fails to submit a claim to the Managers for reimbursement of any liabilities, costs or expenses within one year after discharging or settling the same;

the Member's claim against the Association shall be discharged and the Association shall be under no further liability in respect thereof unless the Directors in their absolute discretion shall otherwise determine.

## **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 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 of 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 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.

Provided further that recovery shall be limited to ONE HUNDRED MILLION DOLLARS (\$100,000,000) any one insured vessel any one accident or occurrence, in respect of claims covered under this Rule, but which are outside the scope of the International Group of P&I Clubs' Pooling Agreement or Excess Reinsurance Policies.

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 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.

### **Surveys of Vessels**

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. 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 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.
41. 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.

### **Disputes**

42. 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 and adjudicated by the Directors. 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 submitted to the Directors and they shall have given their decision thereto, or shall have been in default for three months in so doing. 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.
43. Provided always that, and without prejudice to the foregoing or the terms of Rule 1.4.45 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**

44. 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 1.4.45.

### **Maritime Lien**

45. 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**

46. 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.
47. 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**

48. 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.

## **Rule 2 RISKS AND LOSSES COVERED**

*[All these to remain as currently drafted, save for any minor amendments required by changes in International Group practice prior to the forthcoming policy year, or otherwise.]*

## **Rule 3 RISKS AND LOSSES EXCLUDED**

### **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 of war, 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 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 weapon of war 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 Directors, 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 Association; 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. (Wording as per current Rule 3.1.7)

### **Willful Misconduct**

10. (Wording as per current Rule 3.1.9)

### **Drilling and/or Production Operations**

11. (Wording as per current Rule 3.1.10)

### **Waste Disposal and Sub-Sea Activities**

12. (Wording as per current Rule 3.1.11)

### **Refugees**

13. Loss of profit or depreciation in consequence of the rescue of refugees.

### **Salvage of an Insured Vessel**

14. (Wording as per current Rule 3.1.13)

### **Salvage by an Insured Vessel**

15. (Wording as per current Rule 3.1.14)

### **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.

### **Paperless Trading**

18. 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 3.2.18 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 3.2.18 a "document" shall mean anything in which information of any description is recorded, including, but not limited to, computer or other electronically generated information.

#### **Rule 4 ASSOCIATION FUNDING: PREMIUMS AND CALLS**

##### **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. 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 4.6 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**

7. 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, 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 4.15 and 16 below. The said percentage shall be as from time to time determined by the Directors in their absolute discretion.
8. 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 4.14 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.
9. 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**

10. 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 30 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, 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 4.10;
- 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 4.10 shall not apply to overspill calls.

#### **Member's Obligation to the Association**

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

#### **Set-off**

12. (Wording as per current Rule 4.8)

#### **Contingency Fund**

13. 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**

14. (Wording as per current Rule 4.10)

## **Closing of Policy Years**

15. Subject always to the provisions of Rule 4.14 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.
16. 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.

## **Rule 5 CESSER AND TERMINATION OF COVER**

(Wording as per current Rule 5, save for the addition of the following language to reflect the amended wording to Rule 1.4.14 and Rule 1.4.41:

Add new subsections 1e and 1f as follows:

- “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 41 inclusive and as provided for thereunder.”)

## **CLASS II      FREIGHT, DEMURRAGE AND DEFENSE INSURANCE**

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### **Rule 1            INTRODUCTORY AND GENERAL INSURANCE PROVISIONS**

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#### **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.
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.

## **Section 3 Members, Joint Members, Affiliates and Co-assureds**

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 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 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.

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.

### **Rule 2 COSTS AND EXPENSES COVERED**

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, drydocking 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.

### **Rule 3 COSTS AND EXPENSES EXCLUDED**

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.

### **Rule 4 THE FUNDING OF COVER**

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 4.10 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.

### **Rule 5 CESSER AND TERMINATION OF COVER**

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.

## **CLASS III INSURANCE FOR CHARTERERS' RISKS**

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### **Rule 1 INTRODUCTORY: INTERPRETATION: MEMBERSHIP: GENERAL PROVISIONS**

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#### **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 1.3.9 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 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.

**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-assureds**

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.

#### **Rule 2 RISKS AND LOSSES COVERED**

##### **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**

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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.

**Rule 3 COSTS AND EXPENSES EXCLUDED**

**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**

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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.

#### **Rule 4 THE FUNDING OF COVER**

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 contacting 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 4.14 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 4.10 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.

**Rule 5 CESSER AND TERMINATION OF COVER**

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.