

# RULES

# 2018



JAPAN P&I CLUB

日本船主責任相互保險組合

*Note:* This is a translation of the Japanese original effective as from 20th February, 2018.  
In case of doubt the Japanese original shall take precedence over the translation.

# Contents

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## RULES OF ASSOCIATION

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82 – 129

<b>CHAPTER I</b>	<b>CONTRACT OF INSURANCE</b>	
Rule 1	Conclusion of Insurance Contract .....	82
Rule 2	Duties of Disclosure and Notification .....	83
Rule 3	Policy Year .....	84
Rule 4	Insurance Period .....	84
Rule 5	Amount Insured .....	84
Rule 6	Calls and Premiums .....	84
Rule 7	Payment of Calls and Premiums .....	86
Rule 8	Default in Payment of Calls and Premiums .....	87
Rule 9	Closing of Policy Year .....	87
Rule 10	Continuation of Insurance Contract .....	88
Rule 11	Cessation of Insurance Contract .....	88
Rule 12	Laid-up Returns .....	89
Rule 13	Set-off .....	90
Rule 14	Fleet Entry .....	90
Rule 15	Joint Entry .....	90
Rule 16	Maintenance of Classification and Compliance with Statutory Requirements .....	91
Rule 17	Warranty of Seaworthiness .....	92
<b>CHAPTER II</b>	<b>RISKS COVERED</b>	
Rule 18	Risks Covered .....	93
Rule 19	Liabilities in respect of Seamen .....	93
Rule 20	Liabilities in respect of Passengers .....	95
Rule 21	Liabilities in respect of Illness, Injury or Death of Third Parties .....	97
Rule 22	Liabilities in respect of Stowaways or Persons saved at Sea .....	97
Rule 23	Liabilities arising out of Collision with Other Ships .....	98
Rule 24	Loss of or Damage to Property .....	99
Rule 25	Liabilities in respect of Pollution .....	100
Rule 26	Towage Liabilities .....	102
Rule 27	Contracts with Third Parties .....	103
Rule 28	Quarantine Expenses .....	103
Rule 29	Cargo Liabilities .....	104
Rule 30	General Average .....	107

Rule 31	Fines .....	107
Rule 32	Defence costs, etc .....	108
Rule 33	Special Coverage approved by the Association .....	109
<b>CHAPTER III</b>	<b>DEDUCTIBLES, RISKS EXCLUDED, LIMITATION OF COVERAGE AND SPECIAL CLAUSES</b>	
Rule 34	Deductibles .....	110
Rule 35	Risks Generally Excluded .....	110
Rule 36	Risks Specifically Excluded .....	115
Rule 37	Limitation of Coverage .....	116
Rule 38	Limitation of the Association's Liability for Valuable Property such as Precious Metals .....	116
Rule 39	Special Clauses .....	117
<b>CHAPTER IV</b>	<b>STEPS TO BE TAKEN UPON OCCURRENCE OF ACCIDENT</b>	
Rule 40	Steps to be taken upon occurrence of accident .....	118
Rule 41	Power of the Association relating to dealing with accident .....	118
<b>CHAPTER V</b>	<b>PROCEDURES REGARDING CLAIM OF INSURANCE MONEY, ETC</b>	
Rule 42	Claim of Insurance Money .....	120
Rule 43	Payment of Insurance Money .....	120
Rule 44	Interest .....	121
Rule 45	Subrogation .....	121
Rule 46	Arbitration .....	121
Rule 47	Matters not stipulated in the Rules .....	121
<b>APPENDIX</b>	<b>OVERSPILL CLAIMS AND CALLS .....</b>	<b>122</b>

---

<b>SPECIAL COVER</b>	<b>130 – 141</b>
----------------------	------------------

---

I	Special Cover for Charterers .....	130
III	Special Cover for Liability of Salvage Ships arising out of Salvage Operation .....	131
IV	Special Cover for Salvor's Liability in respect of Oil Pollution.....	133
V	Special Cover for Freight, Demurrage and Defence (FD&D) .....	135
VI	Special Cover for Carrier's Liability to Cargo .....	140

(Except clauses only for Japanese coastal vessels class)

▪ Oil Pollution Liability Limitation Clause .....	142
▪ Charterers (Joint Members) Limitation Clause .....	143
▪ P&I War Risks Clause .....	144
▪ Special Clause for Payment of Calls or Premiums by a Government-Affiliated Corporation .....	146
▪ Bio-Chem Clause .....	147
▪ Small Tanker Oil Pollution Indemnification Agreement 2006 (as amended 2017) ("STOPIA 2006 (as amended 2017)") Clause .....	148
▪ Tanker Oil Pollution Indemnification Agreement 2006 (as amended 2017) ("TOPIA 2006 (as amended 2017)") Clause .....	149
▪ Capital Investor Clause .....	150
▪ Passengers and Seamen Liability Limitation Clause .....	152
▪ Special Clause for Voyages Affected by Sanctions .....	154
▪ Maritime Labour Convention Extension Clause 2016 ("MLC Extension") .....	156

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# RULES OF ASSOCIATION

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## CHAPTER I CONTRACT OF INSURANCE

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### RULE 1 CONCLUSION OF INSURANCE CONTRACT

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- 1 Any person desiring to insure his ship shall submit to the Association an application form (hereinafter including an "Application for Membership" which is to be submitted to the Association by a person becoming a Member) with his signature or seal affixed stating the ship which is a subject matter of insurance (hereinafter, meaning the ships defined as non-wooden steam or motor ships or other ships in "the Ship Law" or other laws and which are recognised as the ships by the Association, referred to as an "Entered Ship") and other items specified therein. If and when the Association approved the application, the person shall pay a part or whole of calls or premiums.
- 2 The contract of insurance shall be deemed to come into effect when the application provided for in the preceding paragraph has been approved by the Association and a part or whole of calls or premiums have been paid.
- 3 A Member may succeed to the insurance contract of an Entered Ship.
- 4 The Association shall issue a certificate of entry (including a certificate of membership to be issued by the Association at the time of entry), at Member's option, as a paper document or in electronic format as evidence of the contract of insurance.
- 5 The Association shall issue an endorsement to a Member's certificate of entry whenever a change is made in the terms of the Member's contract of insurance.
- 6 At a Member's option, the Association may issue to him a Statement of Call/Premium as a paper document or in an electronic format as a substitute for a Certificate of Entry or a Certificate of Membership, indicating the rate of Call/Premium, the Call/Premium, the method of payment, due date and place of payment in cases where such items are omitted from a Certificate of Entry.
- 7 Any person desiring to insure his ship shall warrant that the ship is fully insured under Hull Policies on terms not less wide than those of the Lloyd's Marine Policy MAR form 1/1/82 with the Institute Time Clauses-Hulls 1/10/83 (with RDC Clauses), unless otherwise approved in advance by the Association.

- 8 An Entered Ship shall maintain a Class or qualification as stipulated in Rule 16.1(1) and secure the seaworthiness as stipulated in Rule 17.1 and 17.2.
- 9 Any person desiring to insure his ship shall permit the Association to make public any information pertaining to such ship when entered with the Association to the extent that the Association deems the provision of such information beneficial for the smooth international operations of the Entered Ship.

## **RULE 2      DUTIES OF DISCLOSURE AND NOTIFICATION**

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- 1 A Member shall disclose any facts in respect of any essential particulars and/or information concerning the contract of insurance at the time of completion of an application form for entry or a similar document. The Association may refuse any application for entry of a ship for insurance or may cancel an existing insurance contract whenever the Association determines that a person desiring to insure his ship or a Member failed to disclose or falsely disclosed the material items in respect of the contract of insurance to the Association.  
Such cancellation by the Association shall become effective retroactively to the date when the contract of insurance was made.
- 2 A Member shall, without delay, notify the Association in writing of any alteration to the particulars and information requested on the application forms for the entry of ship for insurance, whenever such an alteration occurs.  
Whenever the Member fails to give written notice to the Association of any alteration in respect of the material items on his application form, the Association is entitled to reject the payment of claims or reduce the amount thereof under the contract of insurance in respect of the Entered Ship.  
If a Member failed to give such notice without delay either by his willful misconduct or gross negligence, then in the event that there arises an increase of risk due to any alteration to the items on his application form, then the Association shall be entitled to cancel the contract of insurance. Such cancellation by the Association shall become effective retroactively to the date when such an alteration was made. In this paragraph, "increase of risk" means a situation that the risk in respect of the material items on his application form, such as gross ton or type of ship become greater due to any alteration and that the calls or premiums stipulated in the contract of insurance become less than those calculated on the basis of such risk after any such alteration. In this paragraph, "risk" means the potentiality of damage to be covered by the contract of insurance.
- 3 A Member shall give written notice without delay to the Association when some other insurance is effected with other insurers covering the same kind of risks insured by the Association in respect of his Entered Ship.

**RULE 3      POLICY YEAR**

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The Policy Year of the Association shall be one (1) year from 2100 J.S.T. on any 20th February (hereinafter, equivalent to noon G.M.T. on any 20th February) to 2100 J.S.T. on the next following 20th February.

**RULE 4      INSURANCE PERIOD**

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Unless otherwise agreed at the time of entry, the insurance period shall be one (1) year from 2100 J.S.T. on any 20th February to 2100 J.S.T. on the next following 20th February, and, in respect of an insurance contract concluded at any time during the Policy Year, from the immediate time and date when the insurance contract becomes effective to 2100 J.S.T. on the 20th February next ensuing.

**RULE 5      AMOUNT INSURED**

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- 1 There shall not be established any fixed sum insured in the contract of insurance.
  
- 2 Notwithstanding the provision of the preceding paragraph, subject to the specific agreement having been entered into with the Association, a Member may conclude an insurance contract with a fixed sum insured as being the maximum limit of insurance money payable by the Association for each accident and such amount shall be specified in the relevant certificate of entry.

**RULE 6      CALLS AND PREMIUMS**

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- 1 In respect of an insurance contract with no fixed sum insured, the Members shall pay advance, supplementary, overspill and release calls, as defined below, when required by the Association in accordance with Rule 7.
  - (1) Advance Call
 

At the time of entry of a ship, the Association shall decide the rate of call to be applied to the ships for any Policy Year based on the standard specially stipulated by the Association and produce an "Advance Call" multiplied by the ship's entered tonnage. The Advance Call payable for individual ships for the following Policy Years shall be decided in accordance with loss records of an individual Entered Ship and the ratio by which the rates of call of the previous Policy Year applicable to all Entered Ships is to be increased or decreased.
  - (2) Supplementary Calls
    - (a) As the Association may think fit upon due consideration of the loss record of each Policy Year or otherwise, the Association may, at any time or times during or after the end of such Policy Year (but not after such Policy Year has been closed as set out in Rule 9.1), decide to levy "Supplementary Calls" on the Members. Such Supplementary Calls shall be levied upon all ships



- entered in the Association during that Policy Year for which the Supplementary Calls are judged necessary (save for the case as set out in Rule 6.1(4)).
- (b) Supplementary Calls shall be calculated pro rata to the Advance Call in the relevant Policy Year.
- (3) **Overspill Calls**
- (a) If the Association considers that the Association is to pay a contribution to any Overspill Claim (defined as a claim which exceeds or may exceed the maximum sum recoverable in respect of that claim under the General Excess Loss Reinsurance Contract effected by parties to the Pooling Agreement as stipulated in Articles 43 of the Articles of the Association), including the costs and expenses associated with the Overspill Claim, the Association may decide at any time or times during or after the end of a Policy Year (but not after such Policy Year has been closed as set out in Rule 9.2) that Overspill Calls shall be levied by the Association for the purpose of providing funds to pay an Overspill Claim in respect of ships entered for the Policy Year in which the Overspill Claim arises.
- (b) The Association shall not levy on any Member in respect of the entry of any one ship Overspill Calls in respect of any one Overspill Claim exceeding in the aggregate two and a half per cent (2.5%) of the limit of liability of the shipowner of that ship for claims other than claims for loss of life or personal injury of the International Convention on Limitation of Liability for Maritime Claims 1976.
- (c) Overspill Calls shall be based on the entered tonnage of each ship entered in the Association, and calculated pro rata daily to the period of entry of each ship during the Policy Year in which the Overspill Calls are levied. If the Association becomes aware that an Overspill Claim may arise in a Policy Year which is already closed in accordance with Rule 9.2, then any Overspill Calls that the Association decides to be paid in respect of that Overspill Claim shall be levied on and paid by the Members in respect of ships entered for the oldest Policy Year remaining open.
- (d) The matters in respect of Overspill Calls which are not provided for in this Rule shall be subject to the provisions set out in Appendix.
- (4) **Release Calls**
- (a) If a Member ceases to be insured in respect of an Entered Ship for any reason whatsoever, the Association may release the Member/former Member from Supplementary Calls due on and after the date of cesser of the insurance contract upon such terms, including the payment of such amount (hereinafter, referred to as "Release Calls") as the Association may deem to be appropriate in the circumstances.
- (b) The amount of Release Calls shall be determined by the Association on the basis of Supplementary Calls which the Association anticipates to levy at the date of cesser.

(c) The Association may give the Member concerned a period of grace for the payment of Release Calls if the Association secures guarantee of payment thereof by the Member in such a manner as the Association may deem to be appropriate in the circumstances.

2 In respect of an insurance contract with no fixed sum insured, the Association may decide, after the end of a Policy Year upon due consideration of the loss record relating to the Policy Year, etc., to return part of the Advance Call levied and paid by the Members in respect of that Policy Year.

3 In respect of an insurance contract with fixed sum insured, the Members shall pay fixed premiums in accordance with Rule 7.

Fixed premiums to be applied to individual ships shall be decided based on, among others, the standard specially stipulated by the Association and the ratio by which fixed premiums for the previous Policy Year are to be increased or decreased.

## **RULE 7      PAYMENT OF CALLS AND PREMIUMS**

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1 A Member shall pay Advance Calls or fixed premiums for the Entered Ship for the whole period not later than the day on which the insurance period commences. Subject to the Association's approval, a Member may pay the calls/premiums in instalments on the dates decided by the Association.

2 Whenever the Association decides to levy, a Member/former Member must pay all Supplementary Calls, Overspill Calls or Release Calls on or before the dates specified by the Association.

3 Where a ship is entered in the course of an insurance period as stipulated in Rule 4, a Member shall pay the calls/premiums in proportion to the days between the commencement of the insurance contract and the ending of the Policy Year.

4 Where an entry shall cease to be insured or shall be cancelled either by a Member or by the Association in the course of an insurance period, the Member shall pay the calls/premiums as reduced in proportion of the period between the subsequent day of the cesser or the cancellation and ending of the insurance period.

5 No Member shall be entitled to exercise any set-off against calls/premiums that the Member must pay.

**RULE 8      DEFAULT IN PAYMENT OF CALLS AND PREMIUMS**

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- 1 A Member shall not be indemnified by the Association against any liabilities, losses, damages and expenses incurred by the Member in consequence of events which occur during the insurance period but prior to calls or premiums (including instalments subject to the Association's approval) being received by the Association.
- 2 If any Member fails to pay any calls or premiums or part thereof on or before the due date specified therefore, the Association may:
- (1) Order the Member to pay interest from and including the due date to the date the actual payment is made at such rate as the Association may from time to time determine on the unpaid amount within the legal interest rate,
  - (2) Suspend the Member's voting rights and/or suspend cover of the Member's claim. Notwithstanding the measures so taken by the Association, the Member shall remain liable to pay the sum due from him to the Association, and
  - (3) Cancel or cease all the contracts of insurance made between the Member and the Association on the due date.
  - (4) In respect of unpaid calls or premiums, the Association shall have a lien over or other right of action against any ship owned or bareboat-chartered by the Member or, in the case of a Fleet Entry as stipulated in Rule 14, any other ship in the Fleet (including any ship which had belonged to the same Fleet in the past). Notwithstanding the provisions of Rule 46, the Association shall be entitled to enforce its contractual lien in any jurisdiction in accordance with the local law of such jurisdiction.
- 3 Without prejudice to applying the provision of the preceding paragraph, the Association shall:
- (1) Serve a notice requiring a Member to pay calls or premiums within a reasonable grace period in case the calls or premiums are to be paid in advance and if all of them are not paid on or before the due date, and the provision of paragraph 1 shall not be applicable to any liabilities, losses, damages and expenses incurred by the Member in consequence of events which occur during the period between the due date and a date the calls or premiums are actually paid if the calls or premiums are paid by the last day of such grace period, and
  - (2) Apply the provision of the preceding sub-paragraph *mutatis mutandis* in case where each instalment is not paid on or before the due date.

**RULE 9      CLOSING OF POLICY YEAR**

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- 1 In respect of an insurance contract with no fixed sum insured, if the Association decides after the end of a Policy Year that it is necessary neither to collect any more Supplementary Calls or Overspill Calls nor to return any part of the Advance Call for the Policy Year, the Association may declare that the Policy Year shall be closed in respect of Calls.

2 In respect of an insurance contract with no fixed sum insured, if the Association decides that it is unnecessary to collect any more Overspill Calls for the Policy Year in which Members have been notified that Overspill Claims had occurred, the Association may declare that the Policy Year shall be closed in respect of Overspill Calls, provided always that if at the expiry of the period of thirty-six (36) months from the commencement of a Policy Year no declaration of an Overspill Claim has been made by the Association, then the Policy Year will be closed automatically for the purpose of levying Overspill Calls.

## **RULE 10 CONTINUATION OF INSURANCE CONTRACT**

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The insurance contract shall continue to run from Policy Year to Policy Year except for the case that the insurance contract terminates for one of the following reasons:

- (1) When a Member withdraws from the Association in accordance with the provision of Article 13 of the Articles of the Association.
- (2) When the contract of insurance is cancelled in accordance with the provisions of Rules 2.1, 8.2(3), 16.2(1) and 17.2.
- (3) When a Member ceases to be insured by the Association in accordance with the provision of Rule 11.
- (4) In addition to the preceding items, when the Association deems it justifiable to discontinue a Member's contract for the next Policy Year and notifies him to that effect not later than one (1) month prior to the end of the insurance period.
- (5) When a Member notifies the Association in writing that he does not desire to continue the insurance contract not later than one (1) month prior to the end of the insurance period.

## **RULE 11 CESSATION OF INSURANCE CONTRACT**

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

- (1) When entire control and possession is transferred.
- (2) When the managers or operators are changed.
- (3) When the Member ceases to have a legal, beneficial or other interest as a consequence of the reason other than Rule 11.1(1) and (2).

2 A Member shall give written notice immediately to the Association of cessation of the insurance contract for any reason specified in Rule 11.1(1), (2) or (3).

3 The Association may cancel the contract of insurance in any events mentioned in any item set out in subparagraphs (1) to (3) below in addition to other provisions set out in the rules. In the event that having cancelled the contract of insurance pursuant to the provisions of this paragraph, the Association shall not be liable to

cover any damage or expenses incurred after the events mentioned in each item set out in subparagraphs (1) to (3) below has occurred.

- (1) If a Member has caused or has intended to cause damage in an attempt to make the Association pay insurance money under the contract of insurance;
- (2) If a Member has committed or has intended to commit a fraud in connection with the claim for insurance money under the contract of insurance; or
- (3) If a Member has exposed or will expose the Association to a material risk of being or becoming subject to a sanction, prohibition, restriction or other adverse action by a competent authority or government, which may materially affect the association.
- (4) If any material events occur other than those mentioned in the preceding items in which the Association's trust in the Member is undermined, thus making the continuance of the contract of insurance difficult.

## **RULE 12 LAID-UP RETURNS**

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1 A Member is entitled to a return of calls or premiums for his Entered Ship if the ship, completely free from cargo, shall be laid-up in any safe port/place for a period of thirty (30) or more consecutive days after finally mooring there (the period shall be computed from the day of arrival to the day of departure, one day only being excluded). Upon receipt of the claim for returns the Association shall return not more than 75% of that part of the calls or premiums paid attributable to the period of lay-up after deduction of an allowance for reinsurance and administrative expenses as the Association may from time to time determine, save that there shall be no laid-up returns in respect of Overspill Calls.

2 If, during a period of lay-up as described in paragraph 1 above, the vessel has no crew on board other than for her maintenance or security, then the return may be not more than 95%.

3 A Member, claiming a return of calls or premiums as provided for in the preceding paragraphs, shall give a written notice of lay-up without delay to the Association after the lay-up has started and shall further submit, within three (3) months of the end of the lay-up period, documents certifying the cause, place and period of the lay-up to the Association.

If a lay-up period runs over into the following Policy Year, within three (3) months of the end of the Policy Year in which the lay-up started, the Member shall submit the documents required by the above sub-paragraph.

When a Member fails to comply with the submission of the required documents or giving a written notice as set forth above, the Association may be absolved from returning calls or premiums.

**RULE 13 SET-OFF**

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The Association is entitled to set off all or a portion of the amount of calls or premiums payable by the Member that remains unpaid against the insurance money that the Association owes to the Member.

**RULE 14 FLEET ENTRY**

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- 1 For underwriting purposes, the Association is entitled to treat the entry of two or more ships entered by one or more Members as an entry conducted with one Member. (hereinafter referred to as "Fleet Entry")
  
- 2 If a debt to the Association remains outstanding in respect of any Member who forms part of a Fleet Entry, all the Members of the Fleet Entry shall be jointly and severally liable to pay the debt.

**RULE 15 JOINT ENTRY**

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- 1 The Association may conclude a contract with more than one person in respect of one ship (those persons are hereinafter referred to as "Joint Members").
  
- 2 The Joint Members shall be jointly and severally liable to pay all debts due to the Association.
  
- 3 Any failure of disclosure or of any false disclosure in respect of any essential particulars and/or information concerning the contract of insurance, or a failure to provide notification of any alteration to the material items on an application form by any one of Joint Members shall be deemed to be conduct by all the Joint Members.
  
- 4 Conduct of any one of Joint Members which would have entitled the Association to decline to indemnify or reduce the amount of indemnity shall be deemed the conduct of all the Joint Members.
  
- 5 The cover afforded to Joint Members shall extend only to risks, liabilities, costs and expenses arising out of operations and/or activities customarily carried on by or at the risk and responsibility of shipowners and which are within the scope of the cover afforded by these Rules and the Certificate of Entry.
  
- 6 Where any ship is entered in the names of or on behalf of Joint Members, the aggregate sum of the cover provided by the Association according to these Rules and the Certificate of Entry shall not exceed the sum to be paid if the ship had been entered by only one Member.

7 All communication from or on behalf of the Association to any one of Joint Members shall be deemed to be sent to all the Joint Members and any communication from any one of Joint Members to the Association shall be deemed to have been made with the full approval and authority of all the Joint Members.

## **RULE 16 MAINTENANCE OF CLASSIFICATION AND COMPLIANCE WITH STATUTORY REQUIREMENTS**

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1 Unless otherwise agreed between the Member and the Association, the Member shall warrant the following conditions in respect of maintenance of classification and compliance with statutory requirements of an Entered Ship:

- (1) The ship must be, and be throughout the period of entry, classed or qualified with a Classification Society or other equivalent and competent organization (hereinafter called "Classification Societies") approved by the Association.
- (2) The Member must promptly report to the Classification Societies any incident or condition in respect of which the Classification Societies may make recommendations as to repairs or other action to be taken by the Member.
- (3) The Member must comply with all the rules, recommendations and requirements of the Classification Societies relating to the Entered Ship within the time(s) specified by the Societies.
- (4) The Member shall give its cooperation to the Association in directly referring to Classification Societies concerning the maintenance of the class of the Entered Ship if the Association may consider it necessary to do so.
- (5) The Member shall immediately inform in writing the Association if, at any time during the period of entry, the Classification Societies with which the Ship is classed is changed.
- (6) The Member must comply with all statutory requirements of the state of the Entered Ship's flag relating to the construction, adaptation, condition, fitment, equipment, manning, operation and management of the Entered Ship, and must at all times maintain the validity of such statutory certificates as are issued by or on behalf of the state of the Entered Ship's flag in relation to such requirements and in relation to the International Safety Management (ISM) Code and the International Ship and Port Facility Security (ISPS) Code.

2 In the case of the Member failing to comply with the requirements referred to in the preceding paragraph, the Association may:

- (1) cancel the contract of insurance
- (2) reject the payment of claims or reduce the amount thereof under the contract of insurance in respect of the Entered Ship.

3 The cancellation of the contract of insurance by the Association referred to in the preceding paragraph shall become effective on the day of the occurrence of the conduct by the Member which would entitle the Association to cancel the entry of the Entered Ship.

## **RULE 17      WARRANTY OF SEAWORTHINESS**

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1 For the purpose of preventing the damage and expenses to be covered by the Association, the Association may require a Member to submit an Entered Ship for survey in respect of the conditions of the Entered Ship by a surveyor nominated by the Association, within such period as may be specified by the Association.

The Association is entitled to reduce the amount or reject the payment of claims as a result of an incident arising after the expiry of such period if the Entered Ship has not been made available for survey within the period specified.

2 A Member must carry out forthwith or within such time as may be specified by the Association any repair recommended by a surveyor appointed under the preceding paragraph. If the Member has failed to comply with any recommendations as to repair made by the surveyor, the Association is entitled to cancel the insurance contract in respect of the Entered Ship.

Alternately, the Association is entitled to reduce the amount payable or reject the payment of claims which arose as result of the Member not complying with surveyor's recommendation for repair.

3 The cancellation of the contract of insurance by the Association referred to in the preceding paragraph shall become effective on the day of happening of the conduct by the Member which would entitle the Association to cancel the entry of the Entered Ship.

4 If a ship is intended to be insured by the Association but if any requirements referred to in Rule 17.1 and 2 are not satisfied, the Association may reject the entry of such ship.

5 In the event the Association cancels an insurance contract in respect of an Entered Ship pursuant to Rule 17.2 and/or rejects an application for insurance of a ship pursuant to Rule 17.4, the Association shall be entitled to report such cancellation or rejection and any other related information, including the results of any survey of such a ship, to the International Group of P&I Clubs and/or to other related parties, in accordance with Appendix VI of the Pooling Agreement. The Member and/or the person applying to insure their ship with the Association shall consent to, and authorise, the disclosure of such information by the Association.



## CHAPTER II RISKS COVERED

### RULE 18 RISKS COVERED

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Unless otherwise agreed between a Member and the Association, the Association shall indemnify a Member according to the stipulations under this Chapter against damages and loss (hereinafter called "damages") as well as costs and expenses, which arise in respect of his interest in an Entered Ship, out of events occurring during the period of entry of the ship in the Association and in connection with the operation of the ship by or on behalf of the Member, as set out in Rules 19 to 33 below and for which the Member has become liable to pay and has paid (except for the case where the Board of Directors otherwise decides).

### RULE 19 LIABILITIES IN RESPECT OF SEAMEN

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1 The Association shall indemnify a Member for the following liabilities, costs and expenses which the Member may incur in respect of seamen who are employed on board an Entered Ship under working regulations or a contract of employment (hereinafter referred to as "Seamen", or "Seaman", as the case may be) or any others who have been approved as Seamen by the Association.

(1) LIABILITIES, COSTS AND EXPENSES IN RESPECT OF DEATH, INJURY, ETC.

The following liabilities which a Member may incur, together with costs and expenses incidental thereto, in respect of a Seaman's death, being missing, injury or illness (hereinafter collectively called "Death or Injury").

(a) Costs and expenses for rescuing the life of and/or searching the body of a Seaman, provided always that there shall be no recovery from the Association if such costs and expenses are recoverable from hull underwriters, cargo owners or any other parties.

(b) Liability to pay damages and/or compensation under legal requirements or under the terms of any collective labour agreement, ship regulations or contract of employment previously approved by the Association (hereinafter called "Contracts") in respect of the Seamen of the Entered Ship.

(c) Costs and expenses for delivery of the corpse, remains and personal effects of a deceased Seaman to his bereaved family.

(d) Liability to pay costs and expenses for funeral services performed by the Member in case of Seaman's death having connection with his work.

(e) Costs and expenses for which the Member is socially responsible, subject to prior approval by the Association.

(2) UNEMPLOYMENT INDEMNITY

Wages or compensation payable by a Member to a Seaman under a statutory obligation, crew agreement or other contract of service, for unemployment

which arises in consequence of the actual or constructive total loss of an Entered Ship, or a marine casualty which renders the vessel unseaworthy.

- (3) **LOSS OF/OR DAMAGE TO SEAMEN'S PERSONAL EFFECTS**  
Payments made by a Member based on law or contract as allowance or compensation in respect of the loss of or damage to a Seaman's personal effects caused by a marine casualty, provided always that the amount shall be approved by the Association.
- (4) **EXPENSES FOR SUBSTITUTE SEAMEN**  
Expenses necessarily incurred in providing a substitute for a Seaman who died or is unfit for duty by reason of injury or other causes approved by the Association at its discretion.
- (5) **DEVIATION EXPENSES**  
Extra costs of fuel, insurance, Seamen's wages, stores, provisions and port charges incurred by a Member by the deviation of the Entered Ship solely for the purpose of disembarkation of Seamen and/or embarkation of substitute in case of a Seaman's death or injury or strike or other causes approved by the Association at its discretion.
- (6) **REPATRIATION**  
Expenses necessarily incurred
  - (a) in repatriating a Seaman who is unfit for duty because of his injury or illness and/or the ship being involved in a marine casualty or other causes approved by the Association at its discretion; or
  - (b) in respect of a repatriation under the Maritime Labour Convention, 2006 (MLC, 2006) or domestic legislation by a State Party implementing MLC, 2006.
- (7) **EXPENSES INCURRED RELATING TO THE SEAMEN LEFT ASHORE**  
Expenses incurred by or chargeable to a Member under statutory obligation in respect of a Seaman who have not returned to an Entered Ship and have been left ashore due to desertion, strike or other reasons approved by the Association at its discretion, where such expenses cannot be recovered from the Seaman himself.
- (8) **OUTSTANDING WAGES AND OTHER ENTITLEMENTS**  
Seaman's outstanding wages and other entitlements due from a Member to a Seaman under the Maritime Labour Convention, 2006 (MLC, 2006) or domestic legislation by a State Party implementing MLC, 2006.

2 Notwithstanding the provisions of the preceding paragraph, there shall be no recovery from the Association in respect of the following liabilities, costs and expenses:

- (1) In case of Seamen being required by law or ordinance to be insured against their risks of death, injury or illness, the portion covered by such insurance irrespective of whether or not he is actually so insured.
- (2) Additional liabilities, costs and expenses arising under the terms of a contract or indemnification which has not been approved in advance by the Association.

- (3) Liabilities, costs and expenses which arise out of or in the consequence of:
- (a) the termination of a Seaman's period of service on an Entered Ship either in accordance with the terms of a crew agreement or other contract of service or employment or by mutual consent of the parties to it; or
  - (b) breach by a Member of any agreement or other contract of service or employment; or
  - (c) sale or any other voluntary disposition by a Member of the Entered Ship.

3 The maximum amount of cover for liability to passengers and Seamen is the amount specified in the Certificate of Entry, or the limited amount stipulated in the Pooling Agreement, if applicable, whichever is the lesser.

4 Where a Member has failed to discharge a legal liability to pay damages, compensation or expenses specified in Rule 19.1(1), the Association shall discharge or pay such claim on the Member's behalf directly to such Seaman or dependent thereof.

PROVIDED ALWAYS that

- (i) the Seaman or dependent has no enforceable right of recovery against any other party and would otherwise be uncompensated,
- (ii) subject to (iii) below, the amount payable by the Association shall under no circumstances exceed the amount which the Member would have been able to recover from the Association under the Rules and the Member's terms of entry,
- (iii) where the Association is under no liability to the Member in respect of such claim in accordance with Rule 8.2(3) by reason of cancellation for non-payment of amounts due to the Association, the Association shall nevertheless discharge or pay that claim to the extent only that it arises from an event occurring prior to the effective date of cancellation, but as agent only of the Member, and the Member shall be liable to reimburse the Association for the full amount of such claim.
- (iv) notwithstanding the provisions of Rule 18, even if the Member has not paid that claim, the Association shall pay such claim directly to the Seaman or dependent thereof.

## **RULE 20 LIABILITIES IN RESPECT OF PASSENGERS**

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1 The Association shall indemnify a Member for liabilities which a Member may incur, together with costs and expenses incidental thereto, in respect of passengers who bear passenger tickets and are carried by an Entered Ship.

- (1) Liabilities, costs and expenses arising out of death or injury of any passenger, including medical and hospital expenses, funeral expenses, deviation expenses and repatriation expenses.
- (2) Liabilities, costs and expenses to passengers on board the Entered Ship

including the costs of forwarding such passengers to their destination or returning them to their port of embarkation, and of their maintenance ashore arising as a consequence of an incident involving either:

- (a) collision, stranding, explosion, fire or any other cause affecting the physical condition of the Entered Ship so as to render it incapable of safe navigation to its intended destination; or
  - (b) a threat to the life, health or safety of passengers.
- (3) Liabilities, costs and expenses arising out of loss of or damage to a passenger's baggage or effects.
- (4) Costs and expenses for saving any passenger's life.

2 Notwithstanding the provisions of the preceding paragraph, there shall be no recovery from the Association in respect of the following liabilities, costs and expenses.

- (1) Aggravated liabilities, costs and expenses incurred due to the terms of the passage contract which waived to enjoy fully the defences permitted under the applicable laws or convention.
- (2) Liability, costs and expenses for death or injury or damage to property, delay or any consequential loss sustained by any passenger by reason of carriage by air, except where such liability occurs:
  - (a) during the repatriation by air of passenger who sustained death or injury or of passenger aboard the Entered Ship which encountered an incident specified in Rule 20.1(2) above; or
  - (b) during shore excursions outside the Entered Ship but always subject to the provision of (3) below.
- (3) Contractual liability of a Member for death or injury of passenger whilst on an excursion outside the Entered Ship in circumstances where either:
  - (a) a separate contract has been entered into by the passenger for the excursion; or
  - (b) the Member has waived any rights of recourse against any sub-contractor or other third party in respect of the excursion.

3 The maximum amount of cover for liability to passengers is the amount specified in the Certificate of Entry or the limited amount stipulated in the Pooling Agreement, if applicable, whichever is the lesser.

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

in Rule 20.3:

- (i) the Association may in their absolute discretion, until the Certified Liabilities, or such part of the Certified Liabilities as the Association may decide, have been discharged, defer payment of a claim in respect of other liabilities to passengers or any part thereof; and
- (ii) if and to the extent any Certified Liabilities discharged by the Association exceed the said limit any payment by the Association in respect thereof shall be by way of loan and the Member shall indemnify the Association in respect of such payment.

## **RULE 21      LIABILITIES IN RESPECT OF ILLNESS, INJURY OR DEATH OF THIRD PARTIES**

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- 1 The Association shall indemnify a Member for the following liabilities, costs and expenses for which the Member is liable in respect of any person other than a Seaman or passenger of the Entered Ship.
  - (1) Liability for death or injury of any person other than a Seaman or passenger
  - (2) Extra costs and expenses due to a deviation of the Entered Ship for the purpose of landing in order to secure necessary treatment of a sick or injured marine engineer of the dockyard or other person who were approved by a Member to get on board the Entered Ship, provided always that the extra expenses incurred due to deviation which are to be borne by the employer of such engineer or person under the law or ordinances shall be excluded.
  - (3) Such extra costs and expenses as may be incurred as a result of a deviation in respect of saving the life of any person other than a Seaman or passenger of the Entered Ship.
- 2 The Member shall try by every possible and proper means to recover from other parties such costs and expenses incurred by the Member as set out in Rule 21.1 (3) above.

## **RULE 22      LIABILITIES IN RESPECT OF STOWAWAYS OR PERSONS SAVED AT SEA**

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- 1 The Association shall indemnify a Member for extra costs and expenses to a Member necessarily incurred in maintaining, landing, deporting or repatriating stowaways or persons saved at sea.
- 2 The Member shall try by every possible and proper means to recover from other parties such costs and expenses incurred by the Member as set out in Rule 22.1 above.

## **RULE 23      LIABILITIES ARISING OUT OF COLLISION WITH OTHER SHIPS**

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1 The Association shall indemnify a Member for the following liabilities for damages, costs and expenses arising from a collision between the Member's ship and another ship which results in damage to the other ship.

**(1) LIABILITIES ARISING FROM COLLISIONS**

One-fourth (or such other proportion as agreed upon by the Association) of the liabilities, costs and expenses borne by the Member in respect of the damage to the other ship, its cargo or property on board, which are to be the subject of cover under the collision liability clause of the Entered Ship's Hull Policies.

**(2) EXCESS COLLISION LIABILITIES**

That portion of the Member's liabilities, costs and expenses arising out of the collision listed in Rule 23.1(1) which exceeds the sum recoverable under the Hull Policies (including any special insurance of excess loss nature (hereinafter called "Excess Loss Special Insurance") of the Entered Ship) solely by reason of the fact that the sum of liabilities arising out of the collision exceeds the valuation of the ship in those Hull Policies.

If the Association determines the insured value (or the amount insured if the Excess Loss Special Insurance is attached) to be unreasonably low, the Member shall be entitled to recover only the excess of such proper value which shall be determined by the Association based on the market value of the Entered Ship at the time of the collision.

**(3) COLLISION LIABILITY TO CARGO CARRIED IN AN ENTERED SHIP**

Liabilities for loss of or damage to cargo carried in an Entered Ship arising out of the collision with another ship caused by the fault both of the Entered Ship and of the other ship for which the Member is held responsible jointly and severally, where the "Both to Blame Collision Clause" is held invalid by the final decision of the competent court, subject always to the Entered Ship being insured by the Association for cover for the Member's responsibilities in respect of cargo under Rule 29.

**(4) OTHER COLLISION LIABILITIES**

Liabilities, costs and expenses which a Member may incur to indemnify the other ship in respect of the following losses or damages:

- (a) liabilities, costs and expenses in respect of personal loss or injury as set out in Rules 19, 20 and 21
- (b) liabilities, costs and expenses in respect of property as set out in Rules 24(1) and (2), always excepting the other ship or property on board the other ship
- (c) costs and expenses of raising, moving, removing, destroying, disposing lighting or marking the other ship, its fuel, cargo or other property therein as set out in Rule 24(3)
- (d) liabilities, costs and expenses in respect of pollution as set out in Rules 25.1(1), (2), (3), (4), and (5)

- (e) special compensation payable to salvors as set out in Rule 25.1(6)
- (f) liabilities, costs and expenses in respect of cargo as set out in Rule 29.1(2)

- 2 In respect of the foregoing paragraphs, the following (1), (2) and (3) shall apply:-
- (1) If a collision occurs among two or more ships belonging to the same Member, these ships shall be deemed to belong to different owners.
  - (2) If the Entered Ship and the other ship are both to blame, the collision compensation shall be the amount paid by the Member in respect of damage to the other ship and/or property therein, in proportion to the degree of fault and on the basis of each party severally paying in full the amount due to the other, without effecting a set-off against each other, except in the case where the liability of one or both of the parties is limited by law.
  - (3) The Member shall not be entitled to recover any amounts which would be recoverable under the Hull Policies on the Entered Ship or which would have been recoverable had there been no franchise or deductible applicable to those policies.

## **RULE 24      LOSS OF OR DAMAGE TO PROPERTY**

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The Association shall indemnify a Member for following liabilities, together with costs and expenses incidental thereto, to pay damages or compensation for any loss of or damage to any property including infringement of rights (hereinafter called "property") arising from contact or non-contact with the Entered Ship.

If loss, damage, costs or expenses, set out in subparagraphs (1) to (3) below, relates to any property belonging to the Member, such Member shall be entitled to recover from the Association to the extent that such loss, damage, costs or expenses are not recoverable under any other insurance upon the said property.

- (1) **DAMAGE TO PORT FACILITIES, ETC**  
 Liabilities for loss of or damage to port facilities such as quay, jetty, pier, buoy, beacon, cable, break water, etc. or to other structures, fixed or movable things, sea products, or other property etc. arising from contact with the Entered Ship.  
 However there shall be no recovery from the Association in respect of liabilities for loss of or damage to the Entered Ship or property therein, or loss of or damage to other ships or property therein.
- (2) **DAMAGE TO SHIP, CARGO AND PROPERTY OF A THIRD PARTY WITHOUT CONTACT OR COLLISION**  
 Liabilities for loss of or damage to any ship, cargo or property of a third party occasioned otherwise than by contact or collision with the Entered Ship.  
 However there shall be no recovery from the Association in respect of liabilities for loss of or damage to cargo or property on the Entered Ships.
- (3) **COSTS AND EXPENSES FOR REMOVAL OF WRECK, ETC**  
 Liabilities, costs and expenses which laws or ordinances require a Member to

pay in raising, moving, removing or destructing the Entered Ship, its fuel, cargo, or property therein, or installing lighting or marking on the ship.

The foregoing provision shall be applied likewise to the abovementioned liabilities, costs and expenses which were incurred by a Member in respect of a ship other than the Entered Ship, provided always that:

- (a) the Member shall obtain the Association's prior approval for those liabilities, costs and expenses; and
  - (b) the value of all cargo and property saved as well as the value of the wreck itself shall be deducted from insurance money.
- (4) LOSS OF OR DAMAGE TO PROPERTY ON BOARD THE ENTERED SHIP  
Liability for loss of or damage to bunkers and other properties on board the Entered Ship, provided, however, the recovery thereof shall always be subject to the Association's approval.

In any circumstance, there shall be no recovery from the Association in respect of loss of or damage to the property set out under the following (a) to (d):

- (a) Seamen's personal effects under Rule 19.1(3).
- (b) Passenger's baggage or effects under Rule 20.1(3).
- (c) Cargo intended to be or being or having been carried by the Entered Ship under Rule 29.
- (d) Properties owned or leased by the Member or by a company or corporation which the Association recognises as having a special relationship with the Member.

## **RULE 25      LIABILITIES IN RESPECT OF POLLUTION**

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1 The Association shall indemnify a Member for the liabilities, costs and expenses set out in subparagraphs (1) to (5) below (unless covered under Rule 23.1(4)(d) and (e)) when and to the extent that they are caused by or incurred in consequence of the escape or discharge of oil carried as cargo, fuel oil or other pollutants from an Entered Ship or other property, or the threat of the escape or discharge thereof.

Provided always that:

- (a) unless otherwise approved in advance by the Association there shall be no recovery from the Association in respect of such liabilities, costs and expenses which would have been allowable in general average under the York Antwerp Rules;
- (b) unless otherwise determined by the Association in its discretion, there shall be no recovery in respect of any liability for loss, damage, cost and expenses arising as a consequence of the discharge or escape, or the threat of discharge or escape, or the presence of any substance, material, product, or waste determined or deemed to be hazardous, in any dump, site, storage or disposal facility, whether or not such substance, material, product or waste was previously carried on an Entered Ship as cargo, fuel or stores.



- (1) **DAMAGE TO A THIRD PARTY**  
Liability for compensation payable to a third party arising out of damages caused by an escape or discharge of oil or other pollutants.
  - (2) **CLEAN-UP COSTS**  
The costs of any measures reasonably taken for the purpose of avoiding, minimizing or cleaning up any pollution and/or any losses or damages, including those losses arising out of the measures so taken.
  - (3) **PREVENTION COSTS**  
The costs of any measures reasonably taken to prevent an imminent danger of escape or discharge of oil or other pollutants.
  - (4) **AGREEMENT**  
Liability for loss, damage or expenses for which the Member is liable as a party to any agreement relating to oil pollution approved in advance by the Association.
  - (5) **GOVERNMENT ORDER**  
The liabilities or costs incurred as a result of compliance with any order or direction given by any government or government authority for the purpose of preventing or reducing an escape or discharge of oil or any other pollutants. Provided always that there shall be no recovery from the Association in respect of the following liabilities or costs:
    - (a) The liabilities or costs incurred as a result of compliance with any order or direction for the normal operation or salvage or repair of the Entered Ship.
    - (b) The liabilities or costs recoverable under the Hull Policies of the Entered Ship.
  - (6) **SPECIAL COMPENSATION TO SALVORS**  
Liability of the Member to pay special compensation to a salvor of the Entered Ship under the terms of the Special Compensation P & I Clubs (SCOPIC) Clause or similar compensation clause approved by the Association, or in respect of work done or measures taken to prevent or minimize damage to the environment, but only to the extent that such liability is imposed on the Member pursuant to Article 14 of the International Convention on Salvage, 1989, or the terms of a standard form of Salvage Agreement approved by the Association.
- 2 The maximum amount of cover for oil pollution is the amount specified in the Certificate of Entry, or the limited amount stipulated in the Pooling Agreement, if applicable, whichever is the lesser.

## **RULE 26 TOWAGE LIABILITIES**

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1 The Association shall indemnify a Member for liability which the Member may incur arising out of a towage of an Entered Ship or of a towage of another ship or object (hereinafter called "towed ship") by an Entered Ship for damages, costs and expenses in accordance with subparagraphs (1) and (2) below, provided however that liabilities arising from a towage between ports or within a lake, river or port in Japan of an Entered Ship or by an Entered Ship with the insurance contract with a fixed sum insured may be indemnified by the Association on such conditions as the Association otherwise provides.

Any recovery from the Association in respect of liability arising from towage shall be limited to those damages, costs and expenses set out in Rules 19 to 31 and admitted by the Association to satisfy requirements set out under the following (1) and (2):

### **(1) TOWAGE OF AN ENTERED SHIP**

Liability which the Member may incur arising out of the towage of the Entered Ship unless recoverable from any other insurance:

- (a) under the terms of a contract entered into for the purpose of entering or leaving port, or manoeuvring within the port, during the ordinary course of trading;
- (b) under the terms of any contract, except for the contract as above, for the towage of the Entered Ship set out either of (i) to (iii) below, provided however that the area of the services, contents of the contract in respect of jurisdiction, arbitration, governing law together with such other matters which the Association may require have been notified to the Association and the Association has approved the contract before commencement of the towage;
  - (i) a contract entered into in the ordinary course of trading of an Entered Ship, which is habitually towed from port to port or from place to place;
  - (ii) a contract in which it is agreed between a Member of an Entered Ship and the owner of the towing vessel that each shall 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;
  - (iii) the Lloyd's Open Form of Salvage Agreement (no cure, no pay) or similar salvage contract.

### **(2) TOWAGE BY AN ENTERED SHIP**

Liability which a Member may incur under any of the following contracts or terms arising out of the towage by the Entered Ship of a towed ship provided however that the area of services, contents of the contract in respect of jurisdiction, arbitration, governing law together with such other matters which the Association may require have been notified to the Association and the Association has approved the contract before commencement of the towage. Provided always that there shall be no recovery from the Association in respect of liabilities for loss of, damage to or wreck removal of, the towed ship or of any cargo or other property carried thereon, whether such liabilities arise under the terms of

the contract or otherwise, unless the Association has agreed in advance to cover such liabilities.

- (a) United Kingdom, Netherlands and Scandinavian standard towage conditions;
- (b) Towcon and Towhire;
- (c) The Lloyd's Open Form of Salvage Agreement (no cure, no pay) or similar salvage contract;
- (d) A term as between the Member on the one part, and the owner of the towed ship and the owners of any cargo or other property on board the towed ship on the other part, that each shall be responsible for any loss or damage to his own ship, cargo or property and for loss of life or personal injury on his own ship, without any recourse whatsoever against the other (i.e. a knock-for-knock clause).
- (e) If the Entered Ship is working under a time charter and there is no contract between a Member and an owner of towed ship, then liability for loss of or damage to the towed ship and cargo and property on board the towed ship shall only be covered provided the Association has approved in advance that the charter contains a knock-for-knock clause covering the property of sub-contractors of the charterers as well as the property of the charterers themselves, or a separate clause requiring that all towage be carried out on terms no worse than knock-for-knock.

2 The Association may offer an insurance cover to a Member, subject to additional calls or premiums and/or risks limited, in respect of liability which a Member may incur arising out of towage of an Entered Ship or of towage by an Entered Ship of a towed ship under the contract which is not approved by the Association in accordance with the preceding paragraph or a towage without a towage contract.

## **RULE 27      CONTRACTS WITH THIRD PARTIES**

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The Association shall indemnify a Member for liability which the Member may incur for death of or injury to any person other than seamen or passengers or for loss of or damage to cargo or other property, arising under the terms of a contract made between the Member and third parties, provided always that the contract has been approved in advance by the Association.

## **RULE 28      QUARANTINE EXPENSES**

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The Association shall indemnify a Member for extraordinary expenses incurred by the Member for disinfection or quarantine of the Entered Ship or the cargo or persons on board such ship, as a direct consequence of an outbreak of infectious disease. However if the Entered Ship calls a port or place not specified in the sailing instruction as a port of call where it is known or should be reasonable anticipated that such ship will be subjected to quarantine there, there shall be no recovery.

## **RULE 29 CARGO LIABILITIES**

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1 The Association shall indemnify a Member for the following liabilities which a Member may incur together with costs and expenses incidental thereto, in respect of cargo intended to be or being or having been carried by the Entered Ship, which arises out of a breach by the Member or by persons for whose acts, neglect or default the Member is legally liable, of the Member's obligations or duties as a carrier to properly load, handle, stow, carry, keep, care for, discharge or deliver the cargo or out of any other similar causes approved by the Association.

Loss of or damage to the Member-owned cargo which he may be unable to recover from any other insurance shall be indemnified, being deemed as cargo belonging to a third party.

- (1) Liability for loss or shortage of or damage to cargo, provided always that the liabilities in respect of the cargo carried under a contract of through carriage shall be covered under (4) of this paragraph.
- (2) The extraordinary additional costs of discharging and disposing of or restowing damaged cargo insofar as these costs cannot be recovered from cargo owners or any other party.
- (3) The additional costs of discharging and disposing of or of restowing cargo which are necessarily incurred in order to continue the safe prosecution of the voyage following a casualty, insofar as these costs cannot be recovered from cargo owners or any other party, provided always that the costs which form part of general average expenditures shall be excluded.
- (4) Liability for loss or shortage of or damage to or other responsibility for cargo carried under a contract of through carriage, including transit by land, water or air to or from the Entered Ship, provided always that such contract shall be approved by the Association in advance.
- (5) The additional costs of discharging, storing and disposing of cargo rejected or not collected by receivers, insofar as these costs cannot be recovered from cargo owners or any other party, provided always that the costs which form part of general average expenditures shall be excluded.

2 Notwithstanding the provisions of the preceding paragraph, there shall be no recovery from the Association in respect of the following liabilities, costs and expenses:

- (1) Unless and to the extent that Association otherwise decides, liabilities, costs and expenses which would not have been incurred or sums which would not have been payable by the Member if the cargo (including cargo on deck) had been carried on terms no less favourable to the Member than the terms of the International Convention for the Unification of certain Rules relating to Bills of Lading signed at Brussels on the 25th August, 1924 (the Hague Rules), the International Convention for the Unification of certain Rules relating to Bills of Lading signed at Brussels on the 25th August, 1924 as amended by the Protocol signed at Brussels on 23rd February, 1968 (the Hague Visby Rules), and/or such other rules and/or conventions as the Association may from time to time admit.

However, if the Entered Ship is engaged exclusively in the Japanese domestic trade, extraordinary additional liabilities, costs and expenses incurred due to the contract of carriage which are unfavourable more than the ordinary standard terms stipulated in the Japanese law.

- (2) Liability, costs and expenses incurred in consequence of a deviation (including deviation from contract) of the Entered Ship, unless and to the extent that the Association in its discretion otherwise decides, or the Member notifies the Association of the deviation immediately upon receiving of information that it has occurred and the deviation is approved by the Association.
- (3) Unless and to the extent that special cover has been agreed by the Association in advance, there shall be no recovery in respect of liability for payments to cargo claimants of amounts exceeding US\$2,500 (or the equivalent in any other currency) per unit, piece or package in respect of shipments of goods arising from carriage under an Ad Valorem Bill of Lading or other document of title, waybill or other contract of carriage in which a value of more than the above amount is declared and/or inserted by reference to a unit, piece, package or otherwise, where the effect of such a declaration/insertion is to deprive the carrier of any right or rights of limitation to which he would otherwise have been entitled and cause him to incur a greater liability than he would have done but for such declaration/insertion, to the extent that such liability thereby exceeds the above amount in respect of any such unit, piece or package.
- (4) Unless and to the extent that the Association in its discretion otherwise decides, the following liabilities, costs and expenses:
  - (a) incurred as a result of the Entered Ship's either failure to arrive or arriving late at a port of loading or the failure to load any particular cargo, in whole or in part, in the Entered Ship; or
  - (b) arising out of the discharge of cargo at a port or place other than the port or place provided in the contract of carriage; or
  - (c) arising out of:
    - (i) delivery of cargo carried under a negotiable bill of lading or similar document of title (including an electronic bill of lading) without production (or the equivalent thereof in the case of an electronic bill of lading) of that bill of lading or document by the person to whom delivery is made except where cargo has been carried on the Entered Ship under the terms of a non-negotiable bill of lading, waybill or other non-negotiable document, and has been properly delivered as required by that document, notwithstanding that that Member may be liable under the terms of a negotiable bill of lading or other similar document of title issued by or on behalf of a party other than that Member providing for carriage in part upon that Entered Ship and in part by another mode of transport, or under the terms of an electronic trading system approved by the Association and has been properly

- delivered to the person so entitled in accordance therewith, or
- (ii) delivery of cargo carried under a non-negotiable bill of lading, waybill or similar document either
  - (A) without production of such document by the person to whom delivery is made, or
  - (B) to a person other than the person named in such document as the person to whom delivery is to be made, where such production, or delivery to the person named in such document, is required by the express terms of that document or the law to which that document, or the contract of carriage contained in or evidenced by it, is subject,
    - except, in either case, where the carrier is required by any other law to which the carrier is subject to deliver, or relinquish custody or control of, the cargo without production of such document, or, to a person other than the person named in such document as the person to whom delivery is to be made; or
- (d) arising out of the issuance of an antedated or postdated bill of lading, waybill or other document containing or evidencing the contract of carriage; or
- (e) in respect of a bill of lading, waybill or other document containing or evidencing the contract of carriage issued with the knowledge of the Member or his master of an incorrect description of the cargo, its quantity or condition or of its port of loading or discharge.
- (5) Unless there is a special agreement between the Member and the Association, there shall be no recovery from the Association in respect of any liabilities, losses, costs and expenses arising from the use of any electronic trading system, other than an electronic trading system, approved by the Association at its discretion, to the extent that such liabilities, losses, costs and expenses would not have arisen under a paper trading system.

For the purposes of this paragraph,

- (a) an electronic trading system is any system which replaces or is intended to replace paper documents used for the sale of goods and/or their carriage by sea or partly by sea and other means of transport and which:
  - (i) are documents of title, or
  - (ii) entitle the holder to delivery or possession of the goods referred to in such documents, or
  - (iii) evidence a contract of carriage under which the rights and obligations of either of the contracting parties may be transferred to a third party.
- (b) a "document" shall mean anything in which information of any description is recorded including, but not limited to, computer or other electronically generated information.

## **RULE 30 GENERAL AVERAGE**

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The Association shall indemnify a Member for its expenses concerning the contribution of general average, as set out in the following subparagraphs:

- (1) **UNRECOVERABLE CARGO'S PROPORTION OF GENERAL AVERAGE**  
Cargo's or some other party's proportion of general average, special charge or salvage which are not legally recoverable solely by reason of a breach by the Member of the contract of carriage, subject always to the Entered Ship being insured by the Association for cover for the Member's responsibilities in respect of cargo under Rule 29 and Rule 29.2 shall be applicable.
- (2) **SHIP'S PROPORTION OF GENERAL AVERAGE**  
Ship's proportion of general average, special charge or salvage which are not recoverable under the Hull Policies by reason of the value at the sound condition of the Entered Ship being assessed for contribution to general average or salvage in excess of the insured value (or the amount insured under the Excess Loss Special Insurance) under such policies.  
However if the Association considers the insured value under such policies to be unreasonable low, the Association may determine the sums to be paid on the basis of its proper value, which shall be assessed by the Association in reference to the market value of the Entered Ship at the time of the incident.

## **RULE 31 FINES**

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- 1 The Association shall indemnify a Member for fines imposed by any court, tribunal, government, or public authorities such as immigration bureau, quarantine office or customs upon the Member as set out in subparagraph (1) to (4) and, subject to the Association's discretion, fines as set out in subparagraph (5). The Association may also indemnify a Member for such fines imposed upon the master or crew members of the Entered Ship or upon any other servant or agent of the Member to whom the Member is liable to reimburse legally or otherwise reasonably in the judgment of the Association.
  - (1) For short-delivery or over-delivery of the cargo or failure to comply with any law or regulations relating to declaration or documentation of the cargo, subject always to the Entered Ship being insured by the Association for cover for the Member's responsibilities in respect of cargo under Rule 29 and Rule 29.2 shall be applicable;
  - (2) For contravention by the master or crew members, etc. of any law or regulation relating to smuggling;
  - (3) For contravention of any law or regulation relating to immigration;
  - (4) For contravention of any law or regulation relating to the escape or discharge of oil or any other pollutants caused by accidental escape or discharge; provided always that the Association's limit of liability under Rule 25.2 shall be applied for these fines in addition to liabilities, costs and expenses under Rule 25;
  - (5) For any other contravention of any law or regulation always subject to the

Member having satisfied the Association that the Member took all such steps as appear to the Association to be reasonable to avoid the event giving rise to the fine or penalty and that any amount claimed in respect of such fines shall be recoverable to such extent only as the Association may determine.

- 2 Notwithstanding the provisions of the preceding paragraph, there shall be no recovery from the Association of a fine or other penalty:
- (1) imposed for the overloading of the Entered Ship; or
  - (2) imposed for illegal fishing; or
  - (3) imposed for an infringement of regulation which the Member (including the agent) should have known or failed reasonably to know about or the Member failed to take appropriate measures for preventing fines; or
  - (4) imposed for an infringement of regulations relating to safe navigation (including the maintenance of proper charts), unless the Association is satisfied that the Member had taken all reasonable steps to prevent the infringement which gave rise to the fine or other penalty; or
  - (5) imposed for an infringement of the International Convention for the Prevention of Pollution from Ships, 1973, as modified or amended by the Protocol of 1978 (MARPOL) where the ship's oily water separator or other pollution prevention device has not been used or used incorrectly; or
  - (6) involving the confiscation of the Entered Ship. However, the Association may determine, taking into account all the surrounding circumstance to afford cover to a Member for his claim for the loss of the Entered Ship following confiscation of the ship by reason of the infringement of any customs law or regulation, but limited to the extent of the assessed value of the Entered Ship at the date of the confiscation.

## **RULE 32 DEFENCE COSTS, ETC**

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The Association shall indemnify a Member for following extraordinary costs and expenses reasonably incurred on or after the occurrence of any casualty, incident or matter which is liable to give rise to a claim against the Association, and incurred for the purpose of avoiding or minimising any liability or expenditure:

- (1) Costs and expenses for lawyers and surveyors as well as for lawsuits;
- (2) Costs and expenses necessarily incurred by the Member in consequence of occurrence of any casualty, incident or matter; and
- (3) Additional costs, expenses and losses which the Member may be required to incur by reason of the Association giving to the Member special directions which the Association decides to be for the Association's favour.

However recovery from the Association shall be limited to those costs and expenses admitted by the Association or those which the Association in its discretion deems to be necessary or useful.



**RULE 33      SPECIAL COVERAGE APPROVED BY THE ASSOCIATION**

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The Association may indemnify in full or in part as a special case any liabilities and costs incurred by a Member incidental to the operation of the Entered Ship, when the Association considers it appropriate in its sole discretion so to do on a case by case basis.

## CHAPTER III DEDUCTIBLES, RISKS EXCLUDED, LIMITATION OF COVERAGE AND SPECIAL CLAUSES

### **RULE 34 DEDUCTIBLES**

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- 1 In respect of an insurance contract with no fixed sum insured, the Association shall deduct in payment of insurance money any amounts as agreed between the Member and the Association from the sum of liabilities, costs and expenses.
  
- 2 In respect of an insurance contract with fixed sum insured, the Association shall deduct the following amounts in payment of insurance money.
  - (1) In case of liabilities, costs and expenses referred to in Rule 19:  

Yen 50,000.
  - (2) In case of liabilities, costs and expenses referred to in all other Rules:  

Yen100,000.
  - (3) Notwithstanding the above deductibles, such amount as otherwise agreed, if any.
  
- 3 The provisions of the preceding paragraphs shall not apply to the claims payable by the Association in accordance with Rules 32(1) and 37 (in case that the liability of the Member is limited by any laws concerning limitation of owner's liability for the damage).

### **RULE 35 RISKS GENERALLY EXCLUDED**

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- 1 The Association shall not indemnify liabilities, costs and expenses arising out of the following events or circumstances:
  - (1) Liabilities, costs and expenses caused by wilful misconduct of the Member himself or his agent.
  - (2) Liabilities, costs or expenses irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member (or his servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was caused by:
    - (a) 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;
    - (b) capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;
    - (c) mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war, provided that this exclusion shall not apply to liabilities, costs and expenses which arise solely by reason of
      - (i) the use of any such weapons, either as a result of government order or with the agreement in writing of the Association where the reason for

such use was the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the cover given by the Association, or

(ii) the transport of any such weapons whether on board or not.

However a Member may recover from the Association the liabilities, costs and expenses which arise or are incurred as a result of (a) to (c) above if there is a special agreement between the Member and the Association. In the event of any dispute as to whether or not any act constitutes an act of terrorism, the decision of the board of directors shall be final.

Provided always that the exclusion set out in this Rule 35.1(2) shall not apply to the event that liabilities, costs and expenses of a Member are directly or indirectly caused by or contributed to by or arising from

- (i) any chemical, biological, biochemical or electromagnetic weapon, or
- (ii) the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

Provided however that any recovery from the Association in respect of such liabilities, costs and expenses of a Member in this paragraph which are not excluded by Rule 35.1(2), shall be subject to such terms and conditions as the Association separately provides. At any time or times before, or at the commencement of, or during the Policy Year, this cover may be changed, cancelled or reinstated by the Association in its discretion, giving 24 hours prior notice to the Member.

Provided always that liabilities, costs, losses and expenses arising from the following shall not be covered:

- (i) explosives or the methods of the detonation or attachment thereof,
  - (ii) the use of the entered ship or its cargo as a means for inflicting harm, unless such cargo is a chemical or bio-chemical weapon, or
  - (iii) the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.
- (3) Liabilities, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member or his servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was directly or indirectly caused by or arises from:
- (a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
  - (b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
  - (c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter

(d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter

other than liabilities, costs and expenses arising out of carriage of "excepted matter" (as defined in the Nuclear Installations Act 1965 of the United Kingdom or any regulations made thereunder) as cargo in an Entered Ship.

- (4) Liabilities, costs and expenses arising out of or consequent upon an Entered Ship's carrying contraband, blockade running and being employed in an unlawful trade.
- (5) Liabilities, costs and expenses arising out of any voyage of an Entered Ship which the Association in its opinion having regards to all the circumstances, shall deem as imprudent, unduly hazardous and indiscreet.
- (6) Liabilities, losses, costs and expenses arising out of salvage operations (including for the purpose of this paragraph, wreck removal) conducted by an Entered Ship except for the case of saving or attempting to save life at sea, or the case of salvage operations conducted by a Ship constructed for the purpose of salvage provided a special agreement shall be made between the Member and the Association concerning liabilities during salvage or salvor's liabilities for oil pollution.
- (7) Liabilities, costs and expenses arising out of the following vessel or operations;
  - (a) Liabilities, costs and expenses incurred in respect of an Entered Ship constructed or adopted for the purpose of carrying out drilling operations in connection with oil or gas exploration or production, or
  - (b) Liabilities, costs and expenses incurred in respect of an Entered Ship carrying out drilling or production operations in connection with oil or gas exploration or production, including any accommodation unit moored or positioned on site as an integral part of any such operations, to the extent that such liabilities, costs or expenses arise out of or during those operations.

For the purpose of paragraph (7)(b) above, the Entered Ship shall be deemed to be carrying out production operations if (inter alia) it is a storage tanker or other vessel engaged in the storage of oil (hereinafter in this paragraph referred to as "storage vessel"), and either:

- (i) the oil is transferred directly from a producing well to the storage vessel; or
- (ii) the storage vessel has oil and gas separation equipment on board and gas is being separated from oil whilst on board the storage vessel other than by natural venting.

In respect of any Entered Ship employed to carry out production operations in connection with oil or gas production, the exclusion shall apply from the time that a connection, whether directly or indirectly, has been established between the Entered Ship and the well pursuant to a contract under which the Entered Ship is employed, until such time that the Entered Ship is finally disconnected from the well in accordance with that contract.

Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred in respect of the Entered Ship if there is a special agreement for coverage therefor between the Member and the Association.

- (8) Liabilities, costs and expenses arising out of specialist operations (but excluding fire-fighting) including but not limited to dredging, blasting, pile-driving, well-stimulation, cable or pipe laying, construction, installation or maintenance work, core sampling, depositing of spoil, professional oil spill response or professional oil response training and tank cleaning (otherwise than on the Entered Ship).

Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred by a Member if there is a special agreement for coverage therefor between the Member and the Association, or in respect of following incidents:

- (a) loss of life, injury or illness of crew and other personnel on board the Entered Ship
  - (b) the wreck removal of the Entered Ship
  - (c) oil pollution emanating from the Entered Ship or the threat thereof
- (9) Liabilities, costs and expenses arising out of burning or disposal of waste or other special operations.
- (10) Liabilities, costs and expenses arising out of the operation of submarines including mini-submarines, diving bells or other similar equipment or craft unless otherwise agreed between a Member and the Association in advance.
- (11) Liabilities, costs and expenses arising out of the activities of professional or commercial divers. Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred by a Member if there is a special agreement for coverage therefor between the Member and the Association, or in respect of any of the following:
- (i) activities arising out of salvage operations being conducted by the Entered Ship where the divers form part of the crew of that Entered Ship (or of diving bells or other similar equipment or craft operating from the Entered Ship) and where the Member is responsible for the activities of such divers, on the condition that a special agreement has been made in advance between the Member and the Association concerning liabilities during salvage or salvor's liabilities for oil pollution; and
  - (ii) incidental diving operations carried out in relation to the inspection, repair or maintenance of the Entered Ship or in relation to damage caused by the Entered Ship; and
  - (iii) recreational diving activities
- (12) 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 approved by the Association.

- 2 Notwithstanding the exclusions in Rules 35.1(2) and (3) above, the Association will discharge on behalf of the Member liabilities, costs, expenses arising under a demand made pursuant to the issue by the Association on behalf of the Member of
- (1) a guarantee or other undertaking given by the Association to the Federal Maritime Commission under Section 2 of US Public Law 89-777, or
  - (2) a certificate issued by the Association in compliance with Article VII of the International Conventions on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof, or
  - (3) an undertaking given by the Association to the International Oil Compensation Fund 1992 in connection with the Small Tanker Oil Pollution Indemnification Agreement (STOPIA), or
  - (4) a certificate issued by an Association in compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
  - (5) a non-war certificate issued by the Association in compliance with either Article 4 bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol thereto of 2002 or Regulation (EC) No.392/2009 of the European Parliament and of the Council of 23rd April 2009 on the liability of carriers of passengers by sea in the event of accidents
  - (6) a certificate issued by the Association in compliance with Article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007
  - (7) a certificate issued by the Association in compliance with Regulation 2.5, Standard A2.5 and Regulation 4.2, Standard A4.2.1 of the Maritime Labour Convention, 2006 (MLC, 2006).

PROVIDED ALWAYS THAT:

- (i) The Member shall indemnify the Association to the extent that any payment under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses is or would have been recoverable in whole or in part under a standard P&I war risk policy had the Member complied with the terms and conditions thereof, and
- (ii) The Member agrees that:
  - (a) any payment by the Association under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses shall, to the extent of any amount recovered under any other policy of insurance or extension to the cover provided by the Association, be by way of loan; and
  - (b) there shall be assigned to the Association to the extent and on the terms that it determines in its discretion to be practicable all the rights of the Insured Member under any other insurance and against any third party.

3 The Association shall not indemnify the followings:

- (1) Liabilities recoverable from any other insurance contract which is recognised by the Association as double insurance covering a part or whole of the risks

undertaken by the Association.

- (2) Liabilities, costs and expenses which a Member could have recovered if at the time of the incident giving rise to those liabilities, costs and expenses the ship had been insured under Hull Policies on terms not less wide than those of the Lloyd's Marine Policy MAR form 1/1/82 with the Institute Time Clauses-Hulls 1/10/83 (with RDC Clauses), or liabilities, costs and expenses which a Member could not recover by reason that the above insurance was not effected at the proper insured value.

## **RULE 36 RISKS SPECIFICALLY EXCLUDED**

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The Association shall not indemnify whatsoever such liabilities, costs and expenses which arise out of the following events or circumstances (save for the additional costs, expenses and losses set out in Rule 32(3)):

- (1) Loss of or damage to the Entered Ship (save for the confiscation of an Entered Ship set out in Rule 31.2(6)), and loss of or damage to any equipment, apparel, fitting, furnishings, stores, bunkers or containers on board the Entered Ship, if the same are owned or leased by the Member or by any company which, in the Association's opinion, is associated with or under the same management as the Member.
- (2) Cost of repairs to the Entered Ship or any charges or expenses in connection therewith (except the portion which forms part of the cargo's or ship's proportion of general average expenditure).
- (3) Loss of freight or hire relating to the Entered Ship except in a case when the abovementioned loss attributes to a part of liability to the cargo.
- (4) Salvage of an Entered Ship (other than expenses for life saving, special compensation in salvage award referred to in Article 14 of Salvage Convention 1989 or similar compensation in salvage contract admitted by the Association and general average contribution).
- (5) Claims relating to demurrage on or detention of the Entered Ship except in a case when those claims attribute to a part of liability to cargo.
- (6) Losses arising out of irrecoverable debts, the insolvency or the fraud of agents.
- (7) Losses arising out of cancellation of a charter or other engagement of the Entered Ship.
- (8) Losses arising out of towage other than in accordance with Rule 26.
- (9) Liabilities, costs and expenses to the extent that such liabilities, costs and expenses are not recovered by the Association from reinsurers to any reinsurance contracts (including but not limited to the Pooling Agreement, the Group Excess Loss Reinsurance Contract and other reinsurance contracts specially arranged by the Association) because the provision of cover, the payment of any claim or the provision of any benefit in respect of those liabilities, costs and expenses would expose the reinsurers thereunder to any

sanction, prohibition, restriction or other adverse action against them by a competent authority or government.

## **RULE 37      LIMITATION OF COVERAGE**

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- 1 The Association shall indemnify Member's liability if and only to the extent that it is to be legally incurred by him under the laws and regulations. Whenever the liability of the Member may be limited by any laws concerning limitation of owner's liability for damages, the Association shall in no circumstances be liable for any sum in excess of such legal limitation.
  
- 2 Even if a Member shall fail to take the appropriate action to limit his liabilities in the circumstances where he would be entitled to do so under the relevant laws, the liability of the Association shall be restricted to the amount to which the Member's liability could have limited under such relevant laws.
  
- 3 An Overspill Claim incurred by a Member shall not be recoverable from the Association in excess of the aggregate of that part of the Overspill Claim which is eligible for pooling under the Pooling Agreement to be borne by the Association and the maximum amount that the Association is able to recover from the other parties to the Pooling Agreement as their contributions to the Overspill Claim.  
The matters in respect of Overspill Claim which are not provided for in this Rule shall be subject to the provisions set out in Appendix.
  
- 4 In respect of a ship entered by or on behalf of a time charterer, the cover to be provided by the Association in respect of any claim by such charterer shall be restricted to the amount which has specifically been determined by the Association prior to the Association's acceptance of such an entry.
  
- 5 In respect of an insurance contract for a fixed sum insured, unless otherwise agreed between a Member and the Association, the cover to be provided by the Association is limited to the amount for which the Member is liable under the preceding paragraphs or the insured amount, whichever is the lesser.

## **RULE 38      LIMITATION OF THE ASSOCIATION'S LIABILITY FOR VALUABLE PROPERTY SUCH AS PRECIOUS METALS**

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Unless otherwise agreed between a Member and the Association, there shall be no indemnity from the Association for liability for loss of or damage to (including general average contribution and expenses of salvage) specie, bullion, precious or rare metals or stone, jewellery, bank notes or other forms of currency, bonds or other negotiable instruments or other similar property on board the Entered Ship.



## **RULE 39      SPECIAL CLAUSES**

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The Association may establish special clauses in respect of the operation of the Rules of the Association by a resolution passed by the board of directors.

## **CHAPTER IV STEPS TO BE TAKEN UPON OCCURRENCE OF ACCIDENT**

### **RULE 40 STEPS TO BE TAKEN UPON OCCURRENCE OF ACCIDENT**

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- 1 A Member must take the following steps on learning of the occurrence of any accident that may result in liabilities, costs and expenses which may fall within the scope of the Association's cover:
- (1) Give prompt notice of the accident to the Association.
  - (2) Take appropriate steps, such as arrangement for surveyor, appointment of lawyer, institution of lawsuit and other matters, in order to defend and minimize liability of the Member.
  - (3) Furnish the Association with all documents, information and reports relevant to the accident which the Member/Member's agent possesses.
  - (4) Cooperate with the Association to interview in respect of the accident the Member's employees or agents, if the Association considers it necessary so to do.
- 2 The Association may reject the claim or reduce the sum payable by the Association to the extent that those arose as a direct result of the Member failing to take steps stipulated in the preceding paragraph.

### **RULE 41 POWER OF THE ASSOCIATION RELATING TO DEALING WITH ACCIDENT**

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- 1 The Association shall have the right to take the following steps in respect of the matters prescribed in the preceding Rule, if there is due reason for doing so. However any step which the Association takes shall not constitute abandonment or renunciation of the Association's right stipulated in the Articles of the Association.
- (1) Require the Member to settle the claims according to the method and condition which the Association considers appropriate.
  - (2) Require the Member to take steps to bring a case before a court, appeal to a higher court, respond to an opponent's suits, and other steps the Association considers necessary; furthermore, to appoint on behalf of the Member lawyers, surveyors and others required to take these steps, provided that the appointment of lawyers and others shall be deemed as appointment by the Member.
  - (3) Should the Association deem it necessary, provide security for the benefit of the Member. However, the conditions for providing security are within the Association's sole discretion. In any event, the Association shall not be bound to provide security and shall not be deemed as admitting liability for the indemnification of the claim by providing security for the Member to a third party. The Member shall upon demand reimburse to the Association such

sum or sums as the Association has paid on behalf of the Member under any bail, guarantee, certificate or security whatsoever provided by the Association to the extent that such payment either is, or, in the opinion of the Association is, in respect of liabilities, costs and expenses not recoverable from the Association.

- 2 In case of the Member failing to take the steps set out in subparagraphs (1) and (2) of the preceding paragraph, the Association may reject the payment of claims or reduce the amount thereof.

## CHAPTER V PROCEDURES REGARDING CLAIM OF INSURANCE MONEY, ETC

### **RULE 42 CLAIM OF INSURANCE MONEY**

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- 1 When a Member presents claim for insurance money against the Association, he must produce documents properly proving the fact that an accident occurred resulting in liabilities, costs and expenses for which he became liable, together with a voucher as a proof showing completion of payment.
- 2 In case any untrue statement, wilful concealment or omission of fact is made in the documents stipulated in the preceding paragraph, the Association shall not be liable to indemnify.
- 3 Claims referred to in the paragraph 1 above must be presented within three (3) years following the Member's payments thereof together with the documents prescribed in the same paragraph.  
However, the foregoing shall not apply to cases where the Member has a justifiable reason and has given to the Association a prior written notice.
- 4 Members shall not assign or pledge a right to claim insurance money against the Association which was obtained under the Rules where liability incurred by the Members is based on damages, save as provided in the following instances:
  - (1) Where the right is assigned to the person who is entitled to be compensated for damages by a Member; or
  - (2) Where a Member is entitled to exercise the right to present a claim for insurance money against the Association in compliance with the Rule 18.

### **RULE 43 PAYMENT OF INSURANCE MONEY**

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- 1 Unless otherwise provided in the Rules, payment of insurance money by the Association shall be effected toward the Member. However, if the Association determines that a person who is associated with or under the same management as the Member has incurred liability or expenses which are properly under the Member's responsibility, the Association is entitled to indemnify that person in place of indemnifying the Member.
- 2 In case a claim is presented to the Association with a voucher in compliance with the Rules 42.1 and 42.3, the Association shall pay such claim within 30 days from the day the Association received the claim documents.  
However, if the Association could not complete the necessary assessment for the claim within the above period, the payment shall be made immediately after completion of the assessment.

**RULE 44 INTEREST**

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The Association shall in no event pay interest in respect of the insurance money to be paid by the Association.

**RULE 45 SUBROGATION**

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1 When the Association has indemnified a Member for any liabilities, costs and expenses, the Association shall have full subrogation rights of the Member to the extent of Association's indemnification to the Member.

2 In case the liabilities, costs and expenses in the preceding paragraph were caused by the act of a third party and the Association intends to exercise its right of recourse or indemnity against the third party, the Member in compliance with the request of the Association must deliver all subrogation documents to the Association and cooperate with the Association in recourse action.

**RULE 46 ARBITRATION**

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Should any dispute arise between the Association and a Member in respect of the insurance contract between the Association and the Member, the dispute shall be referred to the arbitration by the Japan Shipping Exchange, Inc. (Ippan Shadan Hojin Nihon Kaiun Shukaijo), and any award of the arbitration shall be final and binding on the parties involved, provided, however, that, subject to agreement between all the parties involved, the dispute may be referred to the arbitration by an arbitrator registered with the London Maritime Arbitrators' Association.

**RULE 47 MATTERS NOT STIPULATED IN THE RULES**

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Any matters which are not stipulated for in the Rules of the Association shall be governed and construed in accordance with Japanese Law.

## APPENDIX - OVERSPILL CLAIMS AND CALLS

### Rule 1 Interpretation

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1.1 In these Rules the following words and expressions shall have the following meanings:

"Convention Limit"	in respect of a ship, the limit of liability of the shipowner of that ship for claims (other than claims for loss of life or personal injury) at the Overspill Claim Date, calculated in accordance with Article 6 paragraph 1(b) of the International Convention on Limitation of Liability for Maritime Claims 1976 (the "Convention") and converted from Special Drawing Rights into United States Dollars at the rate of exchange conclusively certified by the Association as being the rate prevailing on the Overspill Claim Date, provided that, (a) where a ship is entered for a proportion (the "relevant proportion") of its tonnage only, the Convention Limit shall be the relevant proportion of the limit of liability calculated and converted as aforesaid, and (b) each ship shall be deemed to be a seagoing ship to which the Convention applies, notwithstanding any provision in the Convention to the contrary.
"Group Reinsurance"	the amount of the smallest claim (other than any claim arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement which would exhaust the largest limit for any type of claim (other than a claim arising in respect of oil pollution) from time to time imposed in the Group General Excess Loss Contract.
"Overspill Call"	a call levied by the Association pursuant to Rule 5 for the purpose of providing funds to pay part of an Overspill Claim.
"Overspill Claim"	that part (if any) of a claim (other than a claim arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement under the terms of entry of ship which exceeds or may exceed the Group Reinsurance Limit.
"Overspill Claim Date"	in relation to any Overspill Call, the time and date on which there occurred the incident or occurrence giving rise to the Overspill Claim in respect of which the Overspill Call is made or, if the Policy Year in which

such incident or occurrence occurred has been closed in accordance with the provisions of Rules 6.1 and 6.2, 2100 JST on 20th August (noon GMT on 20th August) of the Policy Year in respect of which the Association makes a declaration under Rule 6.3.

"Overspill Reserve" a reserve established by the Association pursuant to Rule 8.1.

- 1.2 All claims (other than claims arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement under the entry of any one ship arising directly from any one incident or occurrence including any claim in respect of liability for the removal or non-removal of any wreck shall be treated for the purposes of these Rules 1 through 8 as if they were one claim.
- 1.3 Any reference to a claim incurred by the Association or by any other party to the Pooling Agreement shall be deemed to include the costs and expenses associated therewith.

**Rule 2 Recoverability of Overspill Claims**

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- 2.1 Without prejudice to any other applicable limit, any Overspill Claim incurred by the Association shall not be recoverable from the Association in excess of the aggregate of
  - (a) that part of the Overspill Claim which is eligible for pooling under the Pooling Agreement but which, under the terms of the Pooling Agreement, is to be borne by the Association: and
  - (b) the maximum amount that the Association is able to recover from the other parties to the Pooling Agreement as their contributions to the Overspill Claim.
- 2.2 The aggregate amount referred to in Rule 2.1 shall be reduced to the extent that the Association can evidence
  - (a) that costs have been properly incurred by it in collecting or seeking to collect
    - (i) Overspill Calls levied to provide funds to pay that part of the Overspill Claim referred to in Rule 2.1 paragraph (a), or
    - (ii) the amount referred to in Rule 2.1 paragraph (b); or
  - (b) that it is unable to collect an amount equal to that part of the Overspill Claim referred to in Rule 2.1 paragraph (a) which it had intended to pay out of the levy of Overspill Calls because any Overspill Calls so levied, or parts thereof, are not economically recoverable, provided that if, due to a change in circumstances, such amounts subsequently become economically recoverable, the aggregate amount referred to in Rule 2.1 shall be reinstated to that extent.
- 2.3 In evidencing the matters referred to in Rule 2.2 paragraph (b) the Association

shall be required to show that

- (a) it has levied Overspill Calls in respect of the Overspill Claim referred to in Rule 2.1 on all Members entered in the Association on the Overspill Claim Date in accordance with and in the maximum amounts permitted under Rule 5; and
- (b) it has levied those Overspill Calls in a timely manner, has not released or otherwise waived a Member's obligation to pay those calls and has taken all reasonable steps to recover those calls.

### **Rule 3      Payment of Overspill Claims**

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- 3.1      The funds required to pay any Overspill Claim incurred by the Association shall be provided
  - (a) from such sums as the Association is able to recover from the other parties to the Pooling Agreement as their contributions to the Overspill Claim, and
  - (b) from such sums as the Association is able to recover from any special insurance which may, in the discretion of the Association, have been effected to protect the Association against the risk of payments of Overspill Claims, and
  - (c) from such proportion as the Association in its discretion determines of any sums standing to the credit of such Overspill Reserves as the Association may in its discretion have established, and
  - (d) by levying one or more Overspill Calls in accordance with Rule 5, irrespective of whether the Association has sought to recover or has recovered all or any of the sums referred to in Rule 3.1 paragraph (b) but provided the Association shall first have made a determination in accordance with Rule 3.1 paragraph (c), and
  - (e) from any interest accruing to the Association on any funds provided as aforesaid.
  
- 3.2      The funds required to pay such proportion of any Overspill Claim incurred by any other party to the Pooling Agreement which the Association is liable to contribute under the terms of the Pooling Agreement shall be provided in the manner specified in Rule 3.1 paragraphs (b) - (e).
  
- 3.3      To the extent that the Association intends to provide funds required to pay any Overspill Claim incurred by it in the manner specified in Rule 3.1 paragraph (d), the Association shall only be required to pay such Overspill Claim as and when such funds are received by it, provided that it can show from time to time that, in seeking to collect such funds, it has taken the steps referred to in Rule 2.3 paragraphs (a) and (b).

### **Rule 4      Overspill Claims - expert determinations**

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- 4.1      Any of the issues referred to in Rule 4.2 on which the Association and a Member cannot agree shall be referred to a panel (the "Panel") constituted in accordance with arrangements established in the Pooling Agreement which, acting as a body



of experts and not as an arbitration tribunal, shall determine the issue.

- 4.2 This Rule 4 shall apply to any issue of whether, for the purpose of applying any of Rules 2.2, 2.3 and 3.3 in relation to any Overspill Claim (the "relevant Overspill Claim")
- (a) costs have been properly incurred in collecting or seeking to collect Overspill Calls, or
  - (b) any Overspill Call or part thereof is economically recoverable, or
  - (c) in seeking to collect the funds referred to in Rule 3.3, the Association has taken the steps referred to in that Rule.
- 4.3 If the Panel has not been constituted at a time when a Member wishes to refer an issue to it, the Association shall, on request by the Member, give a direction for the constitution of the Panel as required under the Pooling Agreement.
- 4.4 The Association may (and, on the direction of the Member, shall) give such direction as is required under the Pooling Agreement for the formal instruction of the Panel to investigate any issue and to give its determination as soon as reasonably practicable.
- 4.5 The Panel shall in its discretion decide what information, documents, evidence and submissions it requires in order to determine an issue and how to obtain these, and the Association and the Member shall co-operate fully with the Panel.
- 4.6 In determining any issue referred to it under this Rule 4 the Panel shall endeavour to follow the same procedures as it follows in determining issues arising in respect of the relevant Overspill Claim which are referred to it under the Pooling Agreement.
- 4.7 In determining an issue the members of the Panel
- (a) shall rely on their own knowledge and expertise, and
  - (b) may rely on any information, documents, evidence or submission provided to it by the Association or the Member as the Panel sees fit.
- 4.8 If the three members of the Panel cannot agree on any matter, the view of the majority shall prevail.
- 4.9 The Panel shall not be required to give reasons for any determination.
- 4.10 The Panel's determination shall be final and binding upon the Association and the Member (subject only to Rule 4.11) and there shall be no right of appeal from such determination.

- 4.11 If the Panel makes a determination on an issue referred to in Rule 4.2 paragraphs (b) or (c) the Association or the Member may refer the issue back to the Panel, notwithstanding Rule 4.10, if it considers that the position has materially changed since the Panel made its determination.
- 4.12 The costs of the Panel shall be paid by the Association.
- 4.13 Costs, indemnities and other sums payable to the Panel by the Association in relation to any Overspill Claim, whether the reference to the Panel has been made under this Rule 4 or under the Pooling Agreement, shall be deemed to be costs properly incurred by the Association in respect of that Overspill Claim for the purposes specified in Rule 2.2 paragraph (a).

## **Rule 5      Levying of Overspill Calls**

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- 5.1 If
- (a) the Association shall at any time determine that funds are or may in future be required to pay part of an Overspill Claim (whether incurred by the Association or by any other party to the Pooling Agreement), and
  - (b) the Association shall have made a declaration under Rule 6.1 or 6.3 that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls in respect of that Overspill Claim,
- the Association in its discretion, at any time or times after such declaration has been made, may levy one or more Overspill Calls in respect of that Overspill Claim in accordance with Rule 5.2.
- 5.2 The Association shall levy any such Overspill Call
- (a) on all Members entered in the Association on the Overspill Claim Date in respect of ships entered by them at that time, notwithstanding the fact that, if the Overspill Claim Date shall be in a Policy Year in respect of which the Association has made a declaration under Rule 6.3, any such ship may not have been entered in the Association at the time the relevant incident or occurrence occurred, and
  - (b) at such percentage of the Convention Limit of each such ship as the Association in its discretion shall decide.
- 5.3 An Overspill Call shall not be levied in respect of any ship entered on the Overspill Claim Date with an overall limit of cover equal to or less than the Group Reinsurance Limit.
- 5.4 The Association shall not levy on any Member in respect of the entry of any one ship an Overspill Call or Calls in respect of any one Overspill Claim exceeding in the aggregate two and a half per cent (2.5%) of the Convention Limit of that ship.

- 5.5 If at any time after the levying of an Overspill Call upon the Members entered in the Association in any Policy Year, it shall appear to the Association that the whole of such Overspill Call is unlikely to be required to meet the Overspill Claim in respect of which such Overspill Call was levied, the Association may decide to dispose of any excess which in the opinion of the Association is not so required in one or both of the following ways:
- (a) by transferring the excess or any part thereof to the Overspill Reserve in accordance with Rule 8, or
  - (b) by returning the excess or any part thereof to those Members who have paid that Overspill Call in proportion to the payments made by them.

## **Rule 6 Closing of Policy Years for Overspill Calls**

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- 6.1 If at any time prior to the expiry of a period of thirty-six months from the commencement of a Policy Year (the "relevant Policy Year"), any of the parties to the Pooling Agreement sends a notice (an "Overspill Notice") in accordance with the Pooling Agreement that an incident or occurrence has occurred in the relevant Policy Year which has given or at any time may give rise to an Overspill Claim, the Association shall as soon as practicable declare that the relevant Policy Year shall remain open for the purpose of levying an Overspill Call or Calls in respect of that claim and the relevant Policy Year shall not be closed for the purpose of making an Overspill Call or Calls in respect of that claim until such date as the Association shall determine.
- 6.2 If at the expiry of the period of thirty-six months provided for in Rule 6.1, no Overspill Notice as therein provided for has been sent, the relevant Policy Year shall be closed automatically for the purpose of levying Overspill Calls only, whether or not closed for any other purposes, such closure to have effect from the date falling thirty-six months after the commencement of the relevant Policy Year.
- 6.3 If at any time after a Policy Year has been closed in accordance with the provisions of Rules 6.1 and 6.2, it appears to the Association that an incident or occurrence which occurred during such closed Policy Year may then or at any time in the future give rise to an Overspill Claim, the Association shall as soon as practicable declare that the earliest subsequent open Policy Year (not being a Policy Year in respect of which the Association has already made a declaration in accordance with Rule 6.1 or 6.3) shall remain open for the purpose of levying an Overspill Call or Calls in respect of that claim and such open Policy year shall not be closed for the purpose of making an Overspill Call or Calls in respect of that claim until such date as the Association shall determine.
- 6.4 A Policy Year shall not be closed for the purpose of levying Overspill Calls save in accordance with this Rule 6.

**Rule 7 Security for Overspill Calls on termination or cessor**

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- 7.1 If
- (a) the Association makes a declaration in accordance with Rule 6.1 or 6.3 that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls, and
  - (b) a Member who is liable to pay any such Overspill Call or Calls as may be levied by the Association in accordance with Rule 5 ceases or has ceased to be insured by the Association for any reason, or the Association determines that the insurance of any such Member may cease
- the Association may require such Member to provide to the Association by such date as the Association may determine (the "due date") a guarantee or other security in respect of the Member's estimated future liability for such Overspill Call or Calls, such guarantee or other security to be in such form and amount (the "guarantee amount") and upon such terms as the Association in its discretion may deem to be appropriate in the circumstances.
- 7.2 Unless and until such guarantee or other security as is required by the Association has been provided by the Member, the Member shall not be entitled to recovery from the Association of any claims whatsoever and whensoever arising in respect of any and all ships entered in the Association for any Policy Year by him or on his behalf.
- 7.3 If such guarantee or other security is not provided by the Member to the Association by the due date, a sum equal to the guarantee amount shall be due and payable by the Member to the Association on the due date, and shall be retained by the Association as a security deposit on such terms as the Association in its discretion may deem to be appropriate in the circumstances.
- 7.4 The provision of a guarantee or other security as required by the Association (including a payment in accordance with Rule 7.3) shall in no way restrict or limit the Member's liability to pay such Overspill Call or Calls as may be levied by the Association in accordance with Rule 5.

**Rule 8 Overspill Reserve**

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- 8.1 The Association may, in its discretion, establish and maintain a reserve (an "Overspill Reserve") to provide a source of funds which may be applied towards meeting any Overspill Claim or Claims.
- 8.2 Funds to be applied to the Overspill Reserve may be raised in any of the following ways:
- (a) the Association, when deciding on the rate of any Advance Call or Supplementary Call for any Policy Year, may resolve that any specified amount or proportion of such call shall be transferred to and applied for the

- purposes of the Overspill Reserve;
- (b) the Association may on the closing of any Policy Year or at any time or times thereafter resolve that any specified amount or proportion of the funds standing to the credit of that Policy Year shall be transferred to and applied for the purposes of the Overspill Reserve;
  - (c) the Association may transfer to the Overspill Reserve any balance of an Overspill Call not required to satisfy the Overspill Claim in respect of which it was levied, as contemplated in Rule 5.5 paragraph (a).

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# SPECIAL COVER

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## I SPECIAL COVER FOR CHARTERERS

### **Rule 1 Application for Special Cover**

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Any person wishing to insure a ship for this Special Cover shall submit to the Association a completed application form for that ship. When the Association has approved the application, the person shall pay such part of or the whole of the calls or premiums as may be determined by the Association.

### **Rule 2 Risks Covered**

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- 1 The Association shall indemnify a Member for his liabilities, costs and expenses arising under statutes or the charter party which may be incurred by reason of his interest as charterer of the Entered Ship in accordance with the terms of Chapter 2 of the Rules of the Association.
  
- 2 The Association shall indemnify a Member for the following on special terms as may be agreed in writing by the Association:
  - (a) The Member's liabilities, costs and expenses incidental thereto, for loss of or damage to the Entered Ship.
  - (b) Loss incurred by the Member as a result of the loss of or damage to bunkers, fuel or other property of the Member on board the Entered Ship.
  - (c) Loss of freight or hire payable under a charter party.

### **Rule 3 Amount Insured**

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The amount payable by the Association under this Special Cover in respect of any one accident or occurrence shall be limited to the amount insured as stated in the relevant Certificate of Entry.

### **Rule 4 Others**

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Any matters which are not stipulated for in this Special Cover shall be subject to the Rules of the Association.

### III SPECIAL COVER FOR LIABILITY OF SALVAGE SHIPS ARISING OUT OF SALVAGE OPERATION

#### **Rule 1 Application for Special Cover**

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Any person wishing to insure his ship for this Special Cover (referred to in Rule 35.1(6)) shall submit to the Association a completed application form for that ship. When the Association has approved the application, the person shall pay such part of or the whole of calls or premiums as determined by the Association.

#### **Rule 2 Risks Covered**

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The Association shall indemnify a Member for the following liabilities, costs and expenses incurred and payable by the Member arising out of salvage operations by the Entered Ship or by the employees on board the Entered Ship.

However the Association may reject or reduce the recovery payable under this Special Cover if the Association considers that the salvage contract was inappropriate.

- (1) Liabilities, costs, and expenses incurred in respect of a person as stipulated in Rules 19 through 22.
- (2) Liability to a third party as stipulated in Rules 23 through 25 and liabilities arising from a salvaged ship.
- (3) Fines as stipulated in Rule 31.
- (4) Expenses for defending claims, etc. as stipulated in Rule 32.

#### **Rule 3 Amount Insured in respect of Damage by Oil Pollution**

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For the purpose of the preceding paragraph, the Association's liability in respect of damage by oil pollution shall be limited to the amount as specified in the certificate of entry for each Entered Ship or the limitation amount as specified in the Pooling Agreement in respect of damage by oil pollution, if any, whichever is the less.

#### **Rule 4 Definitions**

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In this Rule for Special Cover

- (1) "Entered Ship" means a ship which a Member has notified to the Association as a ship to be used in salvage operations and on which the said Member has effected insurance at the insured amount approved by the Association.
- (2) "Salvage operation" means the operation of salvaging a ship, its apparel and cargo or removal of wreck and similar operations.
- (3) "Damage by oil pollution" means loss, damage, cost and expenses caused by contamination resulting from the escape or discharge of oil (including any mixture containing oil) from any ship or other property.

## **Rule 5      Others**

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Any matters which are not stipulated for in this Special Cover shall be subject to the Rules of the Association.



## IV SPECIAL COVER FOR SALVOR'S LIABILITY IN RESPECT OF OIL POLLUTION

### **Rule 1 Application for Special Cover**

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Any person wishing to insure for this Special Cover (referred to in Rule 35.1(6)) shall submit to the Association a completed application form. When the Association has approved the application, the person shall pay such part of or the whole of the calls or premiums as determined by the Association.

### **Rule 2 Risks Covered**

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The Association shall indemnify a Member for the following liabilities, costs and expenses arising out of the oil pollution caused by the salvage operation of the Member.

However the Association may reject or reduce the recovery payable under this Special Cover if the Association considers that the salvage contract was inappropriate.

- (1) Liability of a Member for damage incurred to a third party as stipulated in Rule 25.1(1).
- (2) Costs and expenses in respect of clean-up as stipulated in Rule 25.1(2) and (3).
- (3) Liability of a Member in respect of fines as stipulated in Rule 31.1(5).
- (4) Liability of a Member to indemnify a sub-contractor, servant or agent of the Member against any liability on them in respect of foregoing sub-paragraphs (1), (2) and (3) during a salvage operation of ship by them.
- (5) Costs or expenses incurred by a Member of any measures taken for the purpose of preventing or reducing such damage or fine as are mentioned in sub-paragraphs (1), (2), (3) and (4) of this paragraph, provided always that such costs or expenses shall be approved by the Association.

### **Rule 3 Risks Excluded**

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The Association shall not indemnify a Member for the following liabilities for which the Member shall become liable.

- (1) Additional liability specially borne by a Member under a contract of indemnity, excluding the liabilities costs and expenses stipulated in sub-paragraphs (4) and (5) of paragraph 2 hereof.
- (2) Liability to indemnify a sub-contractor, servant or agent against any additional liability which is borne by them under a special contract.

### **Rule 4 Amount Insured**

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The claim payable by the Association under this Special Cover in respect of each salvage of a ship shall be the amount exceeding such deductible amount as may be agreed between the Member and the Association at the time when the

insurance contract under this Special Cover is concluded or renewed, and shall be limited to the specially specified maximum sum.

## **Rule 5      Definitions**

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In this provision:

- (1) "Damage by oil pollution" means loss, damage, cost and expenses caused by contamination resulting from the escape or discharge of oil (including any mixture containing oil) from any ship or other property.
- (2) "Salvage of a ship" means the salvage of a ship used in navigation, its apparel and cargo thereon, or the removal of wreck.

## **Rule 6      Others**

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Any matters which are not stipulated for in this Special Cover shall subject to the Rules of the Association.

## V SPECIAL COVER FOR FREIGHT, DEMURRAGE AND DEFENCE (FD&D)

### Rule 1 Application for Special Cover

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Any person wishing to insure his ship for this Special Cover shall submit to the Association a completed application form for that ship. When the Association has approved the application, the person shall pay such part of or the whole of the calls or premiums as determined by the Association.

### Rule 2 Risks Covered

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- 1 The Association shall indemnify a Member for the costs and incidental expenses incurred for the purpose of asserting or defending any claim, dispute or litigation arising under Rule 3 below in respect of the Entered Ship as follows.
  - (1) The costs of, or incidental to, any legal or other proceedings which a Member may take or defend with the support of the Association for the purpose of asserting or defending any of the claims specified in Rule 3, including any such costs which the Member may become liable to pay to any other party to those proceedings;
  - (2) The costs incurred by a Member, with the approval of the Association, for the purpose of obtaining legal or other advice in connection with any of the claims, disputes or matters specified in Rule 3;
  - (3) The liabilities and losses incurred as a result of compliance with orders of the Association as specified in Rule 3(3)(b), subject always to any limit on such cover as the Association may in its discretion decide.
  
- 2 Unless the Association shall determine otherwise in respect of any claim specified in Rule 3(2), the Member shall be insured for such liabilities or incidental costs as stated above, only if the dispute, matter or event giving rise to the claim, occurred during a period when the ship was insured by the Association.  
 The date of the event shall be taken to be:-
  - (1) for claims and disputes relating to salvage or towage contract - the date when the relevant services began.
  - (2) for claims and disputes arising either out of a contract other than for salvage or towage or in tort or under statute - the date when the cause of action occurred.

### Rule 3 Extent of Cover

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- 1 The Cover provided under Rule 2 applies to the following claims, disputes or proceedings:
  - (1) In respect of freight, dead freight, hire, demurrage, despatch money and passage money arising under any charter party, bill of lading, contract of affreightment or other contract of carriage;

- (2) In respect of the breach of any charter party, bill of lading, contract of affreightment or other contract of carriage or for the breach of any legal duty arising in connection with the carriage of goods;
- (3) In respect of:-
  - (a) loss of, damage to or detention of an Entered Ship;
  - (b) detention of an Entered Ship when the Association for the purpose of testing the legality of such detention requests a Member to cause the Entered Ship to remain under detention. In such a case, and if the Member complies with any such request, the Member shall be indemnified by the Association against any liability incurred to third parties consequent on such compliance and against any actual loss sustained by a Member during a period of such compliance to the extent that such loss is not otherwise recoverable;
- (4) In respect of general and/or particular average contribution or charges;
- (5) In respect of the supply of inferior, unsatisfactory or unsuitable fuel, outfit or equipment, or other necessities to an Entered Ship;
- (6) In respect of the building, purchase, sale, mortgage of an Entered Ship, or negligent or improper repair of or alteration to an Entered Ship. Provided always that claims arising in connection with the building, purchase, sale, mortgage of a ship, or repair of or alteration to a ship shall only fall within the cover provided by the Association if an entry has been made from the date the relevant contract is signed;
- (7) In respect of salvage or towage services rendered by or to an Entered Ship. Provided however that there shall be no recovery from the Association in respect of claims arising out of salvage/towage operations by an Entered Ship which was built to engage in such operations;
- (8) In respect of charges, disbursements, accounts received from ship's agents, brokers, stevedores, chandlers, or others connected with running, managing and operation of an Entered Ship;
- (9) In respect of improper loading, lightering, stowage, trimming or discharge of cargo;
- (10) Brought by or against masters, officers, crews, stowaways and other persons on or about an Entered Ship;
- (11) Brought by or against passengers intended to be or being or having been carried on an Entered Ship or by their personal representatives or dependants;
- (12) Brought in respect of amounts due on ship, cargo or freight from or to underwriters and any other persons and companies conducting the business of insurance in any of its branches;
- (13) Brought by or against Revenue, Customs Authorities, harbour or other authorities in connection with an Entered Ship;
- (14) Requiring the representation of a Member at official investigations, Coroners' Inquests, or other enquiries whatsoever in relation to an Entered Ship;

- (15) All such claims, disputes and matters and all such legal or other proceedings other than those specified in the preceding paragraphs of this Rule which as the Association in its absolute discretion may decide fall within the scope of the cover provided by the Association.
- 2 Notwithstanding the provisions of Rule 3.1, there shall be no recovery from the Association in respect of costs which arise in relation to:
- (1) Any dispute or proceedings against the Association itself, its representatives or servants.
  - (2) Any dispute or proceedings between joint Members and/or Co-assureds or any one of them against the other.
  - (3) Any damages, costs and expenses which are covered by any Hull Policy or would have been covered by a Hull Policy had the ship been fully insured on standard terms, save to the extent that such damages, costs and expenses are not recoverable under the Hull Policy by reason only of a deductible. For the purpose of this proviso the insured value of the Hull Policy is not less than the market value and the deductible shall be deemed not to exceed one percent of an Entered Ship's insured value.
  - (4) Any damages, costs and expenses stipulated in Chapter 2, Risks Covered, in the Rules of the Association.
  - (5) Any damages, costs and expenses which is recoverable under any other insurance.

#### **Rule 4 Consent & Discretion**

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- 1 A Member must obtain prior consent of the Association in order to commence or defend any legal or other proceedings and to abandon, settle, compromise, pay or admit liability for any claim, dispute or matter specified in Rule 3.
- 2 The Association shall have an absolute discretion as to what cases may be supported, as to the conduct thereof and as to the discontinuance or settlement of the cases which have already been taken up with the Association's support.
- 3 The Association may refuse to support a claim or dispute which, in the view of the Association:-
  - (1) does not enjoy a reasonable prospect of success
  - (2) does not enjoy a reasonable prospect of recovery from the other party
  - (3) may result in a disproportionate level of costs having regard to the amount in dispute

#### **Rule 5 Notices**

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A Member must at all times promptly notify the Association of any information, documents or reports in his possession or knowledge relevant to any claim, dispute or matter specified in Rule 3. A Member shall further, whenever so

requested by the Association, at all times give the Association free access to such information, documents or reports, including the right to conduct a survey, or to interview any officer, servant or agent of the Member.

## **Rule 6            Reduction of Claims**

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The Association shall have power in its discretion to reject or revoke the support of the Association or insurance payment, if:

- (1) the Member shall fail to comply with any of his obligation under Rule 4.1 and Rule 5;
- (2) the Member shall willfully withhold or shall knowingly conceal any relevant information, document or evidence or shall make any false statement;
- (3) the Member shall fail to comply with a recommendation or directive made at any time by the Association to the Member, in connection with the handling or settlement of the claims or potential claims;

A member contravening this rule shall be liable to repay to the Association any costs or expenses which the Association may have incurred in connection therewith. Provided always that the Association shall have power in its absolute discretion to determine that the Association should pay or reimburse a Member in whole or in part in respect of any costs for which the Association would not be liable under this Rule.

## **Rule 7            Appointment of Expert**

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Whenever a claim has been or may be made by a Member for the support of the Association in any matter, the Association may at any time (whether before or after the Association may have decided to support the Member therein) appoint and employ on behalf of a Member, upon such terms as the Association may think fit, lawyers, surveyors or other persons with a view to investigating, advising upon or otherwise dealing with such matter and may also at any time discontinue such employment.

## **Rule 8            Deductibles**

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Notwithstanding the provision of the Rule 34 of the Rules of the Association, the amount to be paid by the Association under this Special Cover shall be subject to the deductibles as stated in the relevant certificate of entry.

## **Rule 9            Covered Amount**

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The Association may in its absolute discretion determine the amount of costs to be indemnified to the members under this Special Cover.

## **Rule 10          Amount Insured**

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The amount payable by the Association under this Special Cover in respect of any one claim, dispute or proceedings shall be limited to Yen 1.5 billion. The

Association shall determine in its absolute discretion whether or not a series of claims, disputes or proceedings shall be considered to be a single claim, dispute or proceeding.

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**Rule 11      Calls and Premiums**

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Notwithstanding the provision of the Rule 6.3 of the Rules of the Association, the Member shall pay calls for this Special Cover in accordance with Rule 6.1(1), (2) and (4) of the Rules of the Association.

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**Rule 12      Others**

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Any matters which are not provided for within this Special Cover shall be subject to the Rules of the Association with the exclusion of Rule 12.

## VI SPECIAL COVER FOR CARRIER'S LIABILITY TO CARGO

### Rule 1 Application for Special Cover

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- 1 Any person wishing to insure a ship for this Special Cover shall notify the Association of his intention so to do:-
  - (a) before he takes an action which may give rise to liabilities as set out in Rule 2 of this Special Cover; or
  - (b) immediately upon learning of any deviation (including deviation from the contract of carriage) of the ship which is a subject matter of insurance (hereinafter referred to as an "Entered Ship").

When the Association has indicated that it may approve such an application for this Special Cover, the person shall submit to the Association a completed application form for the Entered Ship and shall pay the whole of the calls or premiums as determined by the Association. The contract of this Special Cover shall be deemed to come into effect when the completed application form has been approved by the Association and the whole of calls or premiums have been paid.
  
- 2 Any person wishing to insure his ship under this Special Cover shall warrant that the ship is entered, and for duration of this Special Cover, will remain entered, with the Association, including cover for risks provided for in Rule 29 of the Rules of the Association.

### Rule 2 Risks Covered

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The Association shall indemnify a Member for the liabilities set out hereunder which the Member may incur under a bill, or bills, of lading together with costs and expenses incidental thereto, in respect of the cargo intended to be, or being, or having been, carried by the Entered Ship, provided always that the liabilities normally covered under CHAPTER II "RISKS COVERED" of the Rules of the Association shall be excluded and that liabilities to cargoes of unprotected steelwork shall exclude rust, oxidation and discoloration.

- (1) Liability to cargo by reason of the carriage of cargo on deck with an underdeck bill of lading, providing always that, unless otherwise agreed, cover in respect of timber, including logs, is restricted to jettison and loss overboard and cover in respect of motor vehicles excludes rust, oxidation and discoloration, scratching, denting and repainting.
- (2) Liability to cargo by reason of goods being trans-shipped at any port or ports, place or places (including under carriage, over carriage or storage of cargo for a period not exceeding 30 days or as otherwise covered on the terms determined by the Association) instead of being carried on board the original vessel to the destination stated on the bill of lading.
- (3) Liability to cargo by reason of goods being discharged from and reloaded back on to the same vessel.



- (4) Liability to cargo by reason of goods being carried on vessels other than as stated in the bill of lading.
- (5) Liability to cargo by reason of vessel or vessels deviating from the contract voyage.
- (6) Liability to cargo by reason of dry-docking or repairing of a ship with cargo on board, provided always that no hot work carried out in the vicinity of the cargo.
- (7) Liability to cargo by reason of issuing a shipped and/or antedated and/or post-dated bills of lading.
- (8) Liability to cargo by reason of goods being loaded and/or discharged in a port different from that stated in the bill of lading.
- (9) Liability to cargo by reason of goods being discharged onto lighters at any port or place prior to surrender of bills of lading by the consignees or their representatives.
- (10) Liability to cargo by reason of goods being shipped aboard vessels other than those of the member prior to the delivery of such cargo to the member's vessels for the carriage thereof.
- (11) Liability to cargo by reason of goods having to undergo overland carriage/through transit per recognized/proven mode of transport/on carriage by trucks.
- (12) Liability to cargo by reason of issuance of bills of lading against shipping line bills of lading, where the member is not the operator or charterer of the vessel, provided there has been no waiver of subrogation rights against the shipping line (or issuer of the original bills of lading).
- (13) Liability to cargo by reason of ad valorem bill or bills of lading or by issuance of bill or bills of lading in which a sum representing the value of the relevant unit, piece or package of cargo is stated.
- (14) Liability to cargo by reason of delivery of goods without production of bill of lading.
- (15) Liability to cargo by reason of a cause or causes other than those specified in the foregoing paragraphs of this Rule, in respect of which the Member notified the Association before the act or event which gave rise to such liability under this Rule, and the Association in its absolute discretion determined that such event fell within the scope of this Special Cover.

### **Rule 3            Amount Insured**

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The amount payable by the Association under this Special Cover in respect of any one accident or occurrence shall be limited to the amount insured as stated in the relevant Certificate of Entry.

### **Rule 4            Others**

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Any matters which are not stipulated for either in this Special Cover or the relevant Certificate of Entry shall be subject to the Rules of the Association.

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# SPECIAL CLAUSES

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## OIL POLLUTION LIABILITY LIMITATION CLAUSE

- 1 Unless otherwise limited to a lesser sum or the sums as set out in paragraphs 2 and 3 below, the Association's aggregate liability in respect of Oil Pollution Claims shall be limited to US\$1 billion each ship any one occurrence in accordance with the Pooling Agreement.
  
- 2 When an entered ship provides salvage or other assistance to another ship following a casualty, any liabilities of the entered ship in respect of Oil Pollution Claims shall be aggregated with any liabilities of any other ships in respect of Oil Pollution Claims while such ships are engaged in providing salvage or assistance in connection with the same casualty when and to the extent that those other ships either (i) are entered in the Association and covered for oil pollution risks or (ii) are covered for those risks with any other Association which participates in the Pooling Agreement and reinsurance arrangements of the International Group of P&I Clubs. In these circumstances the limit of liability of the Association in respect of the entered ship will be such proportion of US\$1 billion as the said liabilities of the entered ship bear to the aggregate of the said liabilities of all such assisting ships in connection with the said casualty in accordance with the Pooling Agreement.
  
- 3 Where an owner, demise charterer, manager and operator are separately insured with the Association or any other P&I Association(s) which participate(s) in the Pooling Agreement and reinsurance arrangements of the International Group of P&I Clubs, the aggregate of all claims for oil pollution following an accident or occurrence brought against the Association and/or such other Association shall be limited to US\$1 billion per ship with respect to any single occurrence in accordance with the Pooling Agreement. The liability of the Association in respect of such claims shall be limited to that proportion of US\$1 billion that each claim recoverable from the Association bears to the aggregate of the claims recoverable against the Association and such other Association if any.
  
- 4 For the purposes of this Clause "Oil Pollution Claims" shall mean any liabilities, costs and expenses in respect of an escape or discharge or threatened escape or discharge of oil, whether or not arising from legal liabilities, including fines, defence costs and the liabilities, costs and expenses incurred for the purpose of avoiding or minimising such claims.

## **CHARTERERS (JOINT MEMBERS) LIMITATION CLAUSE**

The cover in terms of Rule 37.4 afforded to charterers who jointly enter with the Association under the shipowner's and/or the bareboat charterer's insurance contract in the terms of Rule 15 shall be limited to US\$350 million each ship any one occurrence.

## P&I WAR RISKS CLAUSE

- 1 In respect of an insurance contract with no fixed sum insured or the Special Cover for Charterers the Association shall indemnify a Member for such liabilities, costs or expenses, excluding any liabilities which the Member may incur under Tanker Oil Pollution Indemnification Agreement 2006 (as amended 2017), as would be covered under the Rules of the Association and the terms and conditions as set out in the relevant Certificate of Entry for the Entered Ship but for exclusion of war risks set out in Rule 35.1(2) for which the Member has become liable to pay and has paid, subject to the following terms and conditions.
- 2 This cover shall respond to claims in excess of the US dollar equivalent of the proper value of the Entered Ship as referred to in Rule 35.3(2) or the amount recoverable from the Entered Ship's war risks underwriters, whichever shall be the greater, save that such excess shall not apply where the ship is entered with the Association for the Special Cover for Charterers. For the purpose of this cover, where the proper value exceeds US\$100 million, the proper value will be deemed to be US\$100 million. The Association may authorise the payment, in whole or in part, of any claim or part of a claim which falls within such excess, if in its discretion and without having to give any reasons for its decision it decides that the Member should recover from the Association.
- 3 (1) The limit applying to this cover shall be US\$500 million each ship, any one accident or occurrence or the amount insured as specified in the relevant Certificate of Entry for the Entered Ship, whichever shall be the lesser.
- (2) Where a ship entered in the Association by any person is also separately insured in the name of the same or any other person by the Association or by any other Association which participates in the Pooling Agreement and/or the General Excess Loss Reinsurance Contract for losses, liabilities, or the costs and expenses incidental thereto covered under this cover of the Association and/or the equivalent cover of such other Association, the aggregate of claims in respect of such losses, liabilities, or the costs and expenses incidental thereto, shall be limited to US\$500 million each ship, any one accident or occurrence. If such claims exceed this limit, the liability of the Association to each such person shall be limited to such proportion of that limit as maximum claim otherwise recoverable by such person from the Association bear to the aggregate of all such claims otherwise recoverable from the Association and from all such Associations, or the amount insured as specified in the relevant Certificate of Entry for the Entered Ship if less.
- 4 At any time or times before, or at the commencement of, or during the currency of any Policy Year of the Association, the Association may in its discretion determine that any ports, places, countries, zones or areas (whether of land or sea) be excluded from this cover, and also may cancel this cover, giving 7 days'

notice to the Members (such determination/cancellation becoming effective on the expiry of 7 days from midnight GMT of the day on which notice of determination/cancellation is issued by the Association). The Association may at any time after the issue of notice of such cancellation resolve to reinstate this cover on such terms and conditions and subject to such limit as the Association in its discretion may determine.

5 Whether or not notice has been given under clause 4 above, this cover shall terminate automatically:

- (1) upon the outbreak of war (whether there be a declaration of war or not) between any of the following countries:  
United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China and this insurance excludes loss, damage, liability or expense arising from such outbreak of war;
- (2) in the event of the Entered Ship being requisitioned either for title or use and this insurance excludes loss, damage, liability or expense arising from such requisition.

6 This cover shall exclude loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from:

- (1) any chemical, biological, bio-chemical or electromagnetic weapon;
- (2) the use or operation, as a means for inflicting harm, of any computer virus.

## **SPECIAL CLAUSE FOR PAYMENT OF CALLS OR PREMIUMS BY A GOVERNMENT-AFFILIATED CORPORATION**

The Association has determined, in respect of the Members listed hereunder, notwithstanding the provision of Rule 1.2, to exempt such Members from some or all of the provision(s) of Rule 7.1, 7.2 and/or 8.1, on the condition that the Members shall pay such part of, or the whole of, the calls or premiums as determined by the Association on or before the dates specified below:-

- (a) In respect of an Independent Administrative Institute (IAI) and/or a National University Corporation (NUC) and/or a local public enterprise (as determined by the Association), on one working day after the Member receives a Government grant for its operating costs
- (b) In respect of a local government (as determined by the Association), on one working day after their budget for this cover has been implemented.

## BIO-CHEM CLAUSE

1 In respect of an insurance contract with no fixed sum insured or the Special Cover for Charterers, the Association shall indemnify a Member for the following liabilities, costs or expenses as would be covered solely by reason of the operation of the proviso of Rule 35.1(2) for which the Member has become liable to pay and has paid, subject to the following terms and conditions:

- (a) Liabilities, costs and expenses referred to in Rule 19
- (b) Legal costs and expenses referred to in Rule 32 incurred solely for the purpose of avoiding or minimizing any liability or risk insured by the Association as set out in Rules 19 through 31 inclusive

where such liabilities, costs and expenses are not recoverable under either

- (a) cover provided by the Association for such liabilities, costs and expenses as would be covered under the Rules of the Association but for the exclusion of war risks in Rule 35.1(2), or
- (b) any underlying war risk policies covering the same risks.

2 (1) Subject to 2.(2) below the limit of liability of the Association under this Clause in respect of all claims shall be in the aggregate US\$30 million each ship any one accident or occurrence or series thereof arising from any one event.

(2) In the event that there is more than one entry by any person for Bio-Chem cover as provided herein in respect of the same ship with the Association and/or any other insurer which participates in the Pooling Agreement or General Excess Loss Reinsurance Contract, the aggregate of claims in respect of all liabilities, costs, losses and expenses arising under such entries shall be limited to the amount stipulated in 2.(1) above. If such claims exceed this amount, the liability of the Association under each such entry shall be limited to such proportion of that amount as the claims arising under that entry bear to the aggregate of all such claims recoverable from the Association and any such other insurer.

3 At any time or times before, or at the commencement of, or during the Policy Year, this cover may, by notice to the Member, be cancelled by the Association from a date and time specified by the Association, not being less than 24 hours from midnight GMT on the day the notice of cancellation is given to the Member. The Association may at any time after the issue of notice of such cancellation resolve to reinstate this cover on such terms and conditions and subject to such limit as the Association in its discretion may determine.

4 The deductible shall be the deductible applicable to the relevant cover set out in the Certificate of Entry for the Entered Ship.

5 This Clause is subject to English law and practice.

## **SMALL TANKER OIL POLLUTION INDEMNIFICATION AGREEMENT 2006 (as amended 2017) (“STOPIA 2006 (as amended 2017)”) CLAUSE**

A Member insured in respect of a ship which is a “relevant ship” as defined in the Small Tanker Oil Pollution Indemnification Agreement 2006 (as amended 2017) (“STOPIA 2006 (as amended 2017)”) shall, unless the Association otherwise agrees in writing, be a party to STOPIA 2006 (as amended 2017) for the period of entry of that ship in the Association.

Unless the Association has agreed in writing or unless the Association in its discretion otherwise determines, there shall be no cover under the Rule 25 of the Association in respect of such a ship so long as that Member is not a party to STOPIA 2006 (as amended 2017).



## **TANKER OIL POLLUTION INDEMNIFICATION AGREEMENT 2006 (as amended 2017) (“TOPIA 2006 (as amended 2017)”) CLAUSE**

A Member insured in respect of a ship which is a "relevant ship" as defined in the Tanker Oil Pollution Indemnification Agreement 2006 (as amended 2017) (“TOPIA 2006 (as amended 2017)”) shall, unless the Association otherwise agrees in writing, be a party to TOPIA 2006 (as amended 2017) for the period of entry of that ship in the Association.

Unless the Association has agreed in writing or unless the Association in its discretion otherwise determines, there shall be no cover under the Rule 25 of the Association in respect of such a ship so long as that Member is not a party to TOPIA 2006 (as amended 2017).

# CAPITAL INVESTOR CLAUSE

## **Rule 1 Conclusion of Insurance Contract**

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The Association may extend cover for expenses and liabilities incidental to the operation of ships which are owed by a Capital Investor, as defined in terms of Rule 2 below, in accordance with the provision of this Capital Investor Clause, ("Capital Investor Cover") subject to the following conditions.

- (1) The Association may provide cover to a Capital Investor by way of an extension to a "Relevant Contract", being a contract of insurance for either (a) no fixed sum insured; or, (b) Special Cover for Charterers, between a Member and the Association. Such Capital Investor shall be regarded a Joint Member together with that Member.
- (2) A Member who has entered, (or prospective Member who seeks to enter), a ship with the Association, and who wishes cover to be provided to a Capital Investor in terms of this Capital Investor Clause ("Clause"), shall submit a prescribed application form for such cover as the duly authorised agent of the Capital Investor, and the form shall bear the signature or seal of the Capital Investor.
- (3) The regulatory authority of the Association has consented to the provision of Capital Investor Cover, in terms of this Clause, to the Capital Investor.

## **Rule 2 Definition**

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A "Capital Investor" is a person who is neither a Member nor entitled to be a Member, but who conducts one, or more, of the activities (a) – (d) set out hereunder (as stipulated under the Article 1.2(3) of the Enforcement Regulation of the Ship Owners' Mutual Insurance Association Law), in respect of an Entered Ship (as defined under Rule1.1 of the Rules of the Association), for which there exists a Relevant Contract that covers the expenses and liabilities incidental to the operation of the Entered Ship.

The aforementioned activities are:-

- (a) investment
- (b) financing
- (c) mortgage
- (d) assuming unlimited responsibility for a debt of corporate body which owns or leases the subject ship or is involved in activities (a) or (b), above, on the subject ship

## **Rule 3 Risks Covered**

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The Association shall indemnify a Capital Investor who holds Capital Investor Cover, for such liabilities, costs and expenses as would be covered under the Rules of the Association, subject to the terms and conditions set out in the relevant Certificate of Entry for the Entered Ship, for which the Capital Investor has become liable to pay, and has paid, according to the provisions of

CHAPTERS II, III, IV and V of the Rules of the Association, (replacing "Capital Investor" for "Member", when appropriate). However, Capital Investor Cover shall extend only to the risks, liabilities and expenses for the Entered Ship:-

- (a) arising out of operations and/or activities customarily carried on by, or at the risk and responsibility of, the Member who, in terms of Rule 1(2) of this clause, facilitated the provision of such Capital Investment Cover; and
- (b) which are within the scope of the cover afforded by the Rules of the Association, together with any special terms set out in the Certificate of Entry.

#### **Rule 4 Termination of Insurance Contract**

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1 If, for any reason, the Relevant Contract between the Member and Association terminates, the insurance contract for Capital Investor Cover shall immediately, thereby, terminate.

2 Should the Capital Investor no longer fall within the definition of a Capital Investor, (as set out in Rule 2 of this Clause):-

- (a) the Capital Investor Cover shall terminate immediately thereupon. However, the insurance contract between the Member and the Association in respect of the subject ship shall not also be terminated.
- (b) the Member and the Capital Investor shall give written notice of such change of status of the Capital Investor, without delay, to the Association.

#### **Rule 5 Others**

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In respect of matters which are not stipulated for in this Clause, the provisions of the Rules of the Association shall apply mutatis mutandis to Capital Investor. In such case, reference to "Members" as stated in the Rules of the Association shall be read as "Capital Investor", except where the context otherwise requires.

## PASSENGERS AND SEAMEN LIABILITY LIMITATION CLAUSE

- 1 Unless otherwise limited to lesser sum or the sums as set out in paragraph 2 and 3 below, the Association's aggregate liability arising under any one owner's entry shall, in accordance with the Pooling Agreement, be limited to
  - (1) US\$2 billion (US\$2,000,000,000) in respect of liability to Passengers each ship any one occurrence.
  - (2) US\$3 billion (US\$3,000,000,000) in respect of liability to Passengers and Seamen each ship any one occurrence.
  
- 2 Where an owner, demise charterer, manager and operator in respect of the same ship are separately insured with the Association and/or by any other insurer which participates in the Pooling Agreement of the International Group of P&I Clubs, the aggregate of claims in respect of liability to Passengers recoverable from the Association and/or such other insurers shall be limited to US\$2 billion (US\$2,000,000,000) each ship each occurrence in accordance with the Pooling Agreement, and the liability of the Association shall be limited to such proportion of that sum as the claims recoverable by such persons from the Association bears to the aggregate of all such claims otherwise recoverable from the Association and all such insurers.
  
- 3 Where an owner, demise charterer, manager and operator in respect of the same ship are separately insured with the Association and/or by any other insurer which participates in the Pooling Agreement of the International Group of P&I Clubs, the aggregate of all claims in respect of liability to Passengers and Seamen recoverable from the Association and/or such other insurers shall be limited to US\$3 billion (US\$3,000,000,000) each ship any one occurrence in accordance with the Pooling Agreement, and liability of the Association shall be limited, provided always that:
  - (1) where claims in respect of liability to Passengers have been limited to US\$2 billion (US\$2,000,000,000) in accordance with paragraph 2 above to such proportion of the balance of US\$1 billion (US\$1,000,000,000) as the claims recoverable by such persons in respect of liability to Seamen bears to the aggregate of all such claims otherwise recoverable from the Association and all such insurers; and
  - (2) in all other cases, to such proportion of US\$3 billion (US\$3,000,000,000) as the claims recoverable by such persons in respect of liability to Passengers and Seamen bears to the aggregate of all such claims otherwise recoverable from the Association and all such insurers.
  
- 4 For the purpose of this Clause "PASSENGERS AND SEAMEN LIABILITY LIMITATION CLAUSE" a "Passenger" shall mean a person carried onboard a vessel under a contract of carriage or who, with the consent of the carrier, is accompanying a vehicle or live animals covered by a contract for the carriage of

goods and a "Seaman" shall mean any other person onboard a ship who is not a Passenger.

- 5 Any matters which are not stipulated for in this Special Clause shall be subjected to the Rules of the Association.

## SPECIAL CLAUSE FOR VOYAGES AFFECTED BY SANCTIONS

1 Any and all claims arising out of any voyage where recovery from the Association may be affected because of any sanction, prohibition, restriction or other adverse action of a competent authority or government applying to the reinsurers of any reinsurance contract (including but not limited to the Pooling Agreement, the Group Excess Loss Reinsurance Contract and other reinsurance contracts specially arranged by the Association), shall not be covered under the Rules of the Association unless the Member has complied with the following undertakings, namely:

- (1) to make a declaration in writing to the Association in advance of fixing an entered ship for any voyage, on which recovery from the Association may be affected by any sanction, prohibition or restriction or other adverse action of a competent authority or government, indicating the detail of such voyages including the schedule, full details of the cargoes to be carried, the name of the port or place where the cargoes are loaded and discharged and the end user of any such cargo.

AND

- (2) to provide a Letter to the Association confirming that:
  - (a) the Member is aware of the sanctions, prohibitions and restrictions that may apply to such voyage, including those imposed by the United States and European Union authorities (even where the Member is not subject to these sanctions) and that the Member accepts that recovery of any and all claims will be limited to the extent that the Association is able to reimburse the Member as a result of any sanctions, prohibition or restriction.
  - (b) the Member shall conduct such voyages in the full knowledge of the risk that the Association may lawfully cancel the contract of insurance or decline to pay claims or reduce the amount of any payment thereof under Rules 11.3(3) and 36(9) due to such voyages.
  - (c) the Member shall pay any costs and / or expenses arising out of any incident relating to such voyages to the extent that such costs and expenses are not recoverable from the Association under the Rules of the Association and the Member fully understands that the Association shall not provide security for the benefit of the Member to the extent that such sum or sums are not recoverable from the Association under the Rules of the Association.
  - (d) the Member shall on demand reimburse to the Association such sum or sums as the Association has paid on behalf of the Member under any guarantee, undertaking or certificate whatsoever provided by the Association on behalf of the Member or on behalf of a ship entered with the Association by or on behalf of the Member to the extent that such payment either is, or in the opinion of the Association is, in respect of liabilities, costs and expenses not recoverable from the Association under the Rules of the Association.
- (3) the Member shall on the demand of the Association have the Letter counter-signed by a reliable guarantor who expressly accepts joint and several

liability for the obligations set out in the Letter. The Member must obtain prior approval of such guarantor from the Association and the Association shall have an absolute discretion as to the approval of a guarantor.

2 In the event that the Member undertakes a voyage as described in this Clause without declaring it to the Association in advance, or that the Member makes such a declaration but fails to provide a Letter, both as set out in 1. above, the Association may cancel:

- (1) any certificate required for the purposes of compliance with Article VII of the International Convention on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof, or
- (2) any certificate required for the purposes of compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, or
- (3) a non-war certificate issued by the Association in compliance with either Article 4 bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol thereto of 2002 or Regulation (EC) No.392/2009 of the European Parliament and of the Council of 23rd April 2009 on the liability of carriers of passengers by sea in the event of accidents, or
- (4) a certificate issued by the Association in compliance with Article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007.

# MARITIME LABOUR CONVENTION EXTENSION CLAUSE 2016 ("MLC EXTENSION")

- 1 Subject only to the other provisions of this MLC Extension ("the Extension"), the Association shall discharge and pay on the Member's behalf under the 2006 Maritime Labour Convention, as amended (MLC 2006) or domestic legislation by a State Party implementing MLC 2006:
  - (a) Liabilities in respect of outstanding wages and repatriation of a seafarer together with costs and expenses incidental thereto in accordance with Regulation 2.5, Standard A2.5 and Guideline B2.5; and
  - (b) Liabilities in respect of compensating a seafarer for death or long-term disability in accordance with Regulation 4.2, Standard A4.2.1 and Guideline B4.2.
  
- 2 The Member shall reimburse the Association in full:
  - (a) any claim paid under paragraph 1(a) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable under Rule 19.1(6)(a); and
  - (b) any claim paid under paragraph 1(b) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable under Rule 19.1(1).
  
- 3 There shall be no payment under paragraph 1(a) or paragraph 1(b) if and to the extent that the liability, cost or expense is recoverable under any social security scheme or fund, separate insurance or any other similar arrangement.
  
- 4 The Association shall not discharge or pay any liabilities, costs or expenses under paragraph 1(a) or paragraph 1(b), irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member or the Member's servants or agents, where such liabilities, costs or expenses were directly or indirectly caused by or contributed to by or arise from:
  - (a) Any chemical, biological, bio-chemical or electromagnetic weapon
  - (b) The use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, computer virus or processor any other electronic system.
  
- 5 The Extension may be cancelled in respect of War Risks by the Association on 30 days' notice to the Member (such cancellation becoming effective on the expiry of 30 days from midnight of the day on which notice of cancellation is issued). Whether or not such notice of cancellation has been given the Extension hereunder shall terminate automatically in respect of the War Risks:
  - (i) Upon the outbreak of war (whether there be a declaration of war or not) between any of the following: United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China and this Extension excludes loss, damage, liability or expenses arising from such outbreak of war,



(ii) In respect of any ship, in connection with which cover is granted hereunder, in the event of such ship being requisitioned either for title or use and this Extension excludes loss, damage, liability or expenses arising from such requisition.

6 The Extension shall be subject to Rule 11.3(3), Rule 35.1(3) and Rule 36(9).

7 Without prejudice to paragraph 5, cover under the Extension shall cease 30 days after notice of termination in accordance with either Regulation 2.5, Standard A2.5.2.11 or Regulation 4.2, Standard A4.2.1.12.

8 Any dispute arising out of or in connection with the Extension shall be referred to the arbitration by the Japan Shipping Exchange, Inc. (Ippan Shadan Hojin Nihon Kaiun Shukaijo), and any award of the arbitration shall be final and binding on the parties involved, provided, however, that, subject to agreement between all the parties involved, the dispute may be referred to the arbitration by an arbitrator registered with the London Maritime Arbitrators' Association.

9 For the purpose of the Extension:

“Member” means any insured party who is liable for the payment of calls, contributions, premium or other sums due under the terms of entry.

“Seafarer” shall have the same meaning as in MLC 2006.

“War Risks” means the risks set out in Rule 35.1(2).