



# INDIAN OCEAN P&I CLUB



## Rule Book



# **Rules of the Association - FOURTH EDITION**



## Indian Ocean P&I Club Association of Ceylon

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## Rule 1 **Articles of Association**

These Rules are subject to the Articles of Association of the Indian Ocean P&I Club Association of Ceylon, a company registered in Sri Lanka. Copies of the Articles of Association are available on request from the Managers.

## Rule 2 **Definitions**

In these Rules the following definitions are intended:

**"Application Form",**

an application for Entry required from every prospective Member in the standard format stipulated by the Managers, providing information material to the risk to each and every Member and which shall be deemed to be attached to and form part of the Certificate of Entry.

**"Call Contribution",**

the agreed rating for the provision of Cover payable by the Member to the Club according to the terms set out in a debit note.

**"Cargo",**

goods including anything used or intended to be used to pack or secure goods (other than containers or other equipment owned by or leased to the Member) carried or intended to be carried from one place to another place.

**"Certificate of Entry",**

the contract of Cover between the Club and the Member as issued by the Club and any endorsements attached thereto.

**"Claim for Recovery",**

a claim by a Member for reimbursement of a payment by him to a third party in respect of a Covered risk to the Member under Rules 24 to 40 (see also Rule 10).

**"Classification Society",**

a society with which the Entered Ship is classed in accordance with Rule 21, governing maintenance (and construction), repairs, alterations and periodic inspections of the Entered Ship.

**"Club",**

means the Indian Ocean P&I Club Association of Ceylon

**"Club Application Form",**

the appropriate form for application for Entry as per Rule 3.

**"Club year"**

the period from any 1st January to 31st December in the same year, both dates inclusive, being the policy year applicable to the Club's principal reinsurance contracts. See also Rule 9B



**"Container",**

a box, freight Container, trailer, flat, pallet or any similar re-usable packing for Cargo during carriage.

**"Contract of Cover" see "Certificate of Entry"**

**"Cover" or "Covered"**

Means the protection offered to the Member by the Club as set out in the Certificate of Entry.

**"Directors",**

a quorum of the board of Directors for the time being of the Club.

**"Entry", "Entered" or Entered Ship",**

means a Ship which has been entered by the Member under a Certificate of Entry with the Club.

**"Entry Year" – see "Club year"**

**"Fines",**

includes penalties and other impositions similar in nature to fines imposed in respect of an Entered Ship by any court, tribunal or authority of competent jurisdiction.

**"Fleet Entry",**

the Cover of more than one Ship by one or more Members on the basis that those Ships will be treated together as a fleet for underwriting purposes.

**"Hague Rules",**

the Rules agreed in the International Convention for the Unification of Certain Rules Relating to Bills of Lading signed in at Brussels on 25 August 1924.

**"Hague-Visby Rules",**

the Rules contained in the schedule to the Carriage of Goods by Sea Act 1971.

**"Hamburg Rules",**

the Rules agreed at the United Nations Convention on the Carriage of Goods by Sea at Hamburg on 31st March 1978

**"Hull Entry",**

a cover entry covering loss or damage to the hull and machinery of a Ship, including an excess liability entry.

**"Joint Entrants",**

in addition to multiple Members, it shall also mean an associated company in relation to any Member, being a holding company, subsidiary company or fellow subsidiary of the same holding company.

**"Managers",**

means Indian Ocean P&I Club Management (Pvt.) Ltd and any subsidiary or affiliated liaison companies.



**"Member",**

an owner, part owner, charterer, mortgagee, trustee, operator, manager or builder of a Ship who holds a Certificate of Entry issued by the Club.

**"OPA 90",**

the United States of America Oil Pollution Act of 1990.

**"Passenger",**

a person holding a passage ticket on board an Entered Ship, who is not a Seaman or Supernumerary.

**"Personal Effects",**

personal property, documents, navigational instruments and tools intended for use by a Seaman on board an Entered Ship.

**"Rules",**

the Rules of the Club.

**"Seaman",**

anyone, including the master serving on board an Entered Ship under a contract of employment and listed in the Ship's articles, whether on board the Entered Ship or not.

**"Ship",**

a Ship, boat, hovercraft, jetfoil or other vessel capable of navigation in or on water for any purpose, but excluding a fixed platform, fixed rig, or remotely operated vehicle.

**"Supernumerary",**

anyone, other than a Seaman or Passenger, who is named in the Ship's articles or otherwise permitted by the Member to sail on board the Entered Ship.

**"Terms of Entry",**

in relation to an Entered Ship, the risks covered by the Club, any specific terms which may apply thereto, the Call Contribution and the amounts to be deducted (deductibles) from any reimbursement made by the Club.

**"Towage" or "Towed",**

any operation in connection with the holding, pushing, pulling, moving, escorting or guiding of or standing by a Ship or object.

In interpreting these Rules, words denoting the singular shall also denote the plural and vice versa; the masculine gender shall include the feminine and vice versa and any reference to persons shall also extend to partnerships and companies.

Any notes to the Rules (*in italics*) are not part of the Rules but are merely included for explanation purposes.

Rule 3 **Application for Entry**

- A. A prospective Member may apply for Entry of a Ship or Ships with the Club using a Club Application Form obtainable directly from the Managers or from his broker. The details given by the prospective Member on the Application Form will, if the Entry is accepted, be understood to form the basis of the



contract of Cover between the Club on the one hand and the Member named in the Certificate of Entry or any Joint Entrant on the other hand so that if the Member knowingly or negligently supplies false details of any kind in the Application Form, the Managers may terminate the Certificate of Entry from its inception without notice. Once his application is accepted, the Member undertakes to inform the Managers promptly about any changes in the details originally recorded in the Application Form.

The terms in this Rule apply equally to any Joint Entrant involved with the Entered Ship (see Rule 7).

- B. Applications for Entry may be made and accepted in respect of Ships of which the beneficial ownership is separate on terms that the Ships concerned shall be deemed (for these Cover purposes only) to form part of the specified fleet whereby the Managers shall deal with the Cover of such Ships in combination and not individually, in consideration for which all Members within each such Fleet Entry shall accept joint and several liability to pay all amounts due to the Club by way of Call Contributions or otherwise in respect of all Ships within that Fleet Entry. Such joint and several liability shall continue after cessation of Cover in respect of amounts due to the Club.
- C. The Managers shall have the discretion to accept or reject any application for Entry, even from an existing Member, without giving reasons.

#### Rule 4 **Terms of Entry**

- A. The Managers may accept an Entry of a Ship on whatever terms relating to Call Contributions, payment terms and Member risks as may be agreed with the prospective Member. Any risk accepted to be outside the scope of Rules 24 to 40 but subject to Rule 22, may be subject to the existence and availability to the Club of appropriate recover. In the case of such a risk (outside the scope of Rules 24 to 40) the Club's liability to the Member will not exceed the recovery obtained by the Club from its reinsurers.
- B. A Member is only covered against risks which arise:
  - (i) out of events occurring during the period of Cover of an Entered Ship in the Club;
  - (ii) in respect of the Member's interest in the Entered Ship; and
  - (iii) in connection with the operation of the Entered Ship by or on behalf of the Member.
- C. The cover afforded by the Club under these Rules is conditional on payment of calls or premiums in accordance with these Rules unless otherwise agreed by the Managers in writing.
- D. No act, omission, course of dealing, forbearance, delay or indulgence by the Club in enforcing any of these Rules or any of the terms or conditions of its contracts with Members nor any granting of time by the Club shall prejudice or affect the rights and remedies of the Club under these Rules or under such



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

- E. The period of insurance of an Entered Ship in the Club shall commence at the time and date specified in the Certificate of Entry and shall continue until noon on the renewal date next ensuing and thereafter, unless terminated in accordance with these Rules, from Entry Year to Entry Year.

## Rule 5 **Certificate of Entry**

As soon as possible after a Ship has been Entered, the Managers will issue to the Member a Certificate of Entry which will show:

- i. the names of the Member (and any Joint Entrants if requested);
- ii. the names of any mortgagees and the text of any agreement with them (see Rule 8);
- iii. the name, gross tonnage, classification and flag of the Ship;
- iv. the Member risks ;
- v. the date when the Entry began and the date on which the existing Cover arrangements cease; and
- vi. any other Terms of Entry agreed.

These details will be entered in the Managers' computer data bank. The Member consents to such electronic storage of information and the Managers are authorised at any reasonable time to provide a Member with a copy of the data record about him on request.

*Note - The Certificate of Entry is evidence only of a contract of indemnity Cover between the Member and the Club and shall not be construed as evidence of any undertaking, financial or otherwise, on the part of the Club to any other party. In the event that a Member tenders the Certificate of Entry as evidence of Cover under any applicable law relating to financial responsibility, or otherwise shows or offers it to any other party as evidence of Cover, such use of the Certificate of Entry by the Member is not to be taken as any indication that the Club thereby consents to act as guarantor or to be sued directly in any jurisdiction whatsoever. The Club does not so consent.*

## Rule 6 **Continuation of Entry and Changes in the Terms of Entry**

In respect of each Entered Ship, a Member will remain a Member for the Certificate of Entry Period and will thereafter continue as a Member for each succeeding Certificate of Entry Period, subject to the original Calls and Terms of



Entry agreed when the Ship was first Entered or any subsequently agreed variations thereof unless the Entry is terminated in accordance with the provisions of Rule 52 or terminated at the end of the current Certificate of Entry Period, if no agreement has been reached between the Member and the Managers to renew the Entry prior to the expiry of the Certificate of Entry Period.

## Rule 7 **Joint Entrants**

- A. The Managers may at the request of and with the consent of a Member enter a Ship:
- (i) in the names of or on behalf of more persons than one (hereinafter referred to as Joint Entrants);
  - (ii) upon terms that the benefit of the cover afforded by the Club to such a Member in respect of the Entered Ship shall be extended to any associate company of that Member (hereinafter referred to as co-assured).
- B. The rights and obligations as between the Club and Joint Entrants or co-assured shall be such as may be agreed between the Member and the Managers but in any event shall be subject to the following provisions:
- (i) where by reason of the provisions of a particular contract a Joint Entrant or co-assured carries on operations and/or activities customarily carried on by or at the risk and responsibility of a Member the cover afforded to such Joint Entrant or co-assured shall extend only to the risks, liabilities and expenses arising out of such operations and/or activities as are within the scope of the Member's cover as Insured under these Rules;
  - (ii) the liability of the Club to a Member, Joint Entrant or co-assured shall be limited to the reimbursement of claims relating to liabilities, costs or expenses incurred by one or more of such Joint Entrants or co-assured to the extent and amount only that the Member
    - (a) would have incurred the same liabilities, costs and expenses if the said claims had been pursued against them, and
    - (b) would thereafter have been entitled to obtain reimbursement from the Club in accordance with the Terms of Entry of the Entered Ship;
  - (iii) the total liability of the Club in respect of any one event to the Member, Joint Entrants or co-assured shall not exceed the amount which would have been recoverable by the Member from the Club in respect of such event;
  - (iv) there will be no Claim for Recovery by one Joint Entrant where the Claim for Recovery has already been reimbursed to the Member or another Joint Entrant;



- (v) Joint Entrants are jointly and severally liable to pay any amounts due to the Club;
- (vi) receipt by one Joint Entrant of a payment will be equally sufficient to discharge the Club from any obligations in respect of that payment; and
- (vii) notice to any Joint Entrant by the Managers will be taken as notice to all those concerned in the Certificate of Entry and the knowledge of any one of those Joint Entrants will be taken to be knowledge shared by them all.

## Rule 8 **Mortgagees**

Where an Entered Ship is mortgaged, it is a Term of Entry that the Member consents to the interest of the mortgagees being noted in the Certificate of Entry. The Member also agrees to allow the Managers, subject to the provisions for automatic cancellation of Entry in Rule 52 B, to give undertakings to the mortgagees:

- i. where the mortgagees have notified the Managers that the Member is in default under the mortgage, to pay the mortgagees whatever would otherwise have been paid by the Club to the Member;
- ii. to inform the mortgagees if the Member gives notice of his intention to terminate the Entry on the mortgaged Ship with the Club; and
- iii. to give reasonable notice to the mortgagees if the Managers intend to cancel the Member's Entry on the mortgaged Ship.
- iv. The Club shall be entitled, in settling any Claim for Recovery presented by a mortgagee, to set off such amount as the Managers estimate to be sufficient to discharge any liabilities of the Member to the Club whether existing at, or incurred after or likely to be accrued in the future, notwithstanding any apparent provision in the Terms of Entry which purports to bar any such right of set-off.

## Rule 9 **Risks Attaching and Liabilities (Losses) Occurring**

- A. A Shipowner shall become a Member of the Club when he enters a Ship in the Club and subject to Rules 45 and 52, a Member shall cease to be a Member when he ceases to have any Ships Entered.
- B. A Member's Certificate of Entry (policy) year shall run from the date of Entry of the first Ship Entered by that Member and even if more than one Ship is Entered, shall expire one calendar year after the date of Entry of the first Ship of the Fleet Entry; with the cover of other Ships in the Fleet Entry all terminating on that same day, irrespective of the date when each of the Ships other than the first Ship was Entered.



- C. A Member's liability to contribute Calls, including supplementary Calls, shall be determined in accordance with Rule 51 by the Managers with reference to the reinsurance costs, claims reserving and investment policies applicable to the Club Year in which the Member's Certificate of Entry year first began.
- D. Risks (liabilities) occurring during the Certificate of Entry Period shall be recorded in the Ship's claims record according to the Certificate of Entry year in which the incident giving rise to liability occurred.

## Rule 10 **Right to Insurance**

A. A Member in any particular Certificate of Entry Period is entitled to recover from the Club, subject to the Member's Terms of Entry, any payments which he has made in respect of the legal liabilities listed in Rules 24 to 40 which result from incidents occurring in direct connection with the operation of an Entered Ship during that Certificate of Entry Period and (with the exception of those arising under Rule 39) directly out of the ownership or management of an Entered Ship. Liabilities (apart from those arising under Rule 39) which arise in any other manner are not Insured.

B. Unless the Managers otherwise agree and except as set out in sub-clauses (i) and (ii) below, a Member cannot Claim for Recovery from the Club any payment Insured under the Certificate of Entry for the Ship concerned, unless the Member has first made a complete payment to the claimant and obtained a receipt and release from further liability or other proof of payment acceptable to the Managers. The only exceptions to this Rule are:

- (i) in the case of legal or other fees for the services of lawyers or experts, Insured under Rule 36 where, provided that the Managers have made the appointment or approved the appointment, the lawyer or expert will be paid direct by the Club; and
- (ii) where a Member has failed to discharge a legal liability to pay damages or compensation for loss of life or personal injury or illness of any Seaman, the Club shall discharge or pay such Claim for Recovery on the Member's behalf directly to such Seaman or dependant thereof.

### PROVIDED ALWAYS THAT:

- (a) The Seaman or dependant has no enforceable right of recovery against any other party and would otherwise be uncompensated;
- (b) The Claim for Recovery from the Club shall under no circumstances exceed the amount which the Member would otherwise have been able to recover from the Club under the Rules and the Terms of Entry; and
- (c) Any payment made by the Club pursuant to this Rule 10 B (ii) is made as agent only of the Member, and the Member shall be liable to reimburse the Club for the full amount of such payment.



## Rule 11 **Hull, War Risks and Double Insurance**

- A. The Member warrants that unless the Managers otherwise agree in writing, every Entered Ship is and will remain throughout the period of Entry protected against hull and machinery risks, including war, with financially sound security approved by the Managers for a value not less than her current sound market value in charter-free condition. Whilst the Member may elect to insure the Entered Ship against hull and machinery risks including war on whatever terms are considered appropriate by the Member, for the purposes of provision of Cover hereunder, the Member is deemed to have arranged coverage on conditions no less wide than those of Lloyd's Marine Entry MAR form 1/1/82 with Institute Time Clauses (Hulls) Total Loss, General Average and 3/4ths Collision Liability 1/11/95 and Institute War and Strikes Clauses (Hulls - Time) 1/11/95 attached. Any claim which could be recovered from such policies will not be recoverable from the Club except as provided in Rule 28 - Liability for Running Down or Collision, or Rule 33 - Liability for Life Salvage Special Compensation and in General Average.
- B. Notwithstanding any breach by the Member of any warranty or warranties in Rule 11 A, such breach or breaches shall not discharge the Club from liability if the Managers in their sole and absolute discretion consider that the Member has exercised due diligence to comply with his obligations under Rule 11 A.
- C. Where the Member is a member elsewhere in any manner whatsoever, any of the liabilities, costs and expenses which would otherwise be recoverable from the Club, other than Cover which is specifically stated to be excess of the Club Cover (including those incorporating a "difference in conditions" clausung), there shall be no contribution by the Club to such liabilities, costs and expenses on the basis that the terms and conditions in such other cover exclude or limit liability on the grounds of double cover or similar wording. In no case shall the Club be liable for any franchise, deductible or deducting borne by a Member under such other cover.

## Rule 12 **Proper Value**

Without prejudice to Rule 11, should a Member wish to make a Claim for Recovery from the Club on the basis that because of under valuation of the Entered Ship, he has not been able to obtain a full indemnity under other cover, the Managers must be satisfied that the Member has, nevertheless, regularly reviewed the member value of the Entered Ship with the help of brokers or ship valuers in order to maintain cover for such value. The Managers may impose terms when exercising their discretion and the Member must comply with such terms to the satisfaction of the Managers and within any time limit imposed by the Managers, before any Claim for Recovery under the Certificate of Entry can be considered by the Managers.

## Rule 13 **War Risks**

- A. Subject to the limitations and conditions set out in clause B hereof, cover is provided against the liabilities, costs or expenses set out in Rules 24 to 40 hereof (whether or not a contributory cause of the same being incurred was any neglect on the part of the Member or on the part of the Member's servants or agents)



notwithstanding the fact that 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:

- (i) war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power or by any act of terrorism;
- (ii) capture, seizure, arrest, restraint or detainment, barratry, piracy and the consequences thereof or any attempt thereat;
- (iii) mines, torpedoes, bombs, rockets, shells, explosives, or other similar weapons of war provided that the exclusion in this sub-paragraph shall not apply to liabilities, costs or expenses which arise solely by reason of:
  - (a) the transport of any such weapons whether on board the Entered Ship or not;
  - (b) the use of such weapons, either as a result of government order or with the agreement of the Managers in writing where the reason for such use is the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the Terms of Entry provided by the Club.

B. Cover shall extend to Claims for Recovery:

- (i) which do not exceed the agreed limit of liability for the Ship in question, and
- (ii) which are in excess of the greater of:
  - (a) the amounts recoverable under the Entered Ship's hull and/or war risks policies with any protection and indemnity inclusion clauses attached thereto
  - (b) except where the entry is a charterer's entry, the proper value of the Entered Ship as defined in Rule 12 hereof, and

C. PROVIDED ALWAYS THAT

- (a) cover pursuant to Rule 13 A may be cancelled by the Managers giving notice effective on the expiry of seven days from midnight on the day on which notice of cancellation is issued by the Managers; whether or not such notice of cancellation has been given, cover shall terminate automatically:
  - (i) 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:



(ii) in the event of the Entered Ship being requisitioned either for title or use: this insurance excludes loss, damage, liability or expense arising from such requisition;

(b) cover shall not become effective if, subsequent to acceptance by the Club and prior to the intended time of attachment of risk, there has occurred any event which would have automatically terminated cover under the provisions of this Rule;

(c) the Club shall not provide Insurance for any liabilities, costs or expenses if the provision of such insurance would create a liability for the Member under the Tanker Oil Pollution Indemnification Agreement 2006 (TOPIA 2006) to contribute to the IOPC Supplementary Fund.

#### Rule 14 **Limitation of Cover**

- A. Under no circumstances will the Club be liable, either to a Member or otherwise, for any amount in excess of a Member's legal liability in respect of a given accident or occurrence. A Member's right to reimbursement is conditional upon his protecting so far as possible any rights to limitation of liability which he may have.
- B. The amount recoverable from the Club (before the application of any deductible) in respect of liabilities, costs and expenses arising out of one event or occurrence or series of events or occurrences resulting from and including any one event or occurrence, shall not exceed the limit stated in the Certificate of Entry. The stated limit will apply to the aggregate of all foregoing liabilities, costs and expenses of the Member and any Joint Entrant as per Rule 7, each of whose respective liabilities, costs and expenses shall be abated pro rata.
- C. If a Member consciously abandons or, by virtue of his not being a shipowner, is not entitled to any limitation of liability which he could have enjoyed if he were a shipowner, any reimbursement by the Club is limited to the amount to which a shipowner could have limited his liability, as assessed by the Managers.

*Note - This Rule is intended to refer in particular to Joint Entrants who are not entitled to limitation of liability as shipowners. An example would be a Member's subsidiary company which provided crew management on an Entered Ship.*

- D. It is a condition precedent to any Cover being available hereunder from the Club, that the Member shall have Cover with the Club to the maximum limit of liability considered expedient and that there shall be no placement through another protection and indemnity entry except with the Club hereunder, unless same has been agreed in writing by the Managers in advance of the attachment of the Entry.
- E. Demise charterers are entitled to the same scope of Cover as owners, as provided by Rule 14 B above.
- F. A Member shall have no right to recovery of interest on any claim it may have against the Club.



- G. A Member shall have no right to recover any losses suffered as a consequence of delay or failure on the part of the Club to reimburse the Member (unless the Directors, in their absolute discretion, decide otherwise).

## Rule 15 **Nuclear Fuels, Radioactive Matter and Other Substances**

Unless otherwise agreed in writing with the Managers, there shall be no Claim for Recovery in respect of any liabilities, costs or expenses directly or indirectly caused or contributed to by or arising from:

- i. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- ii. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof or of any radioactive matter;
- iii. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- iv. any chemical, biological, bio-chemical or electromagnetic weapon;

PROVIDED always that this exclusion shall not apply to liabilities, costs or expenses arising out of or in consequence of the emission of ionising radiation from, or the radioactive, toxic, explosive or other hazardous or contaminating properties of "excepted matter" (as defined in Section 26 (1) of the Nuclear Installations Act 1965 of the United Kingdom or any amendments thereto or regulations made there under) carried as Cargo in an Entered Ship on such terms as the Managers may in their sole discretion stipulate in writing.

*Note - The United Kingdom Nuclear Installations Act 1965 reflects the provisions of the OECD Paris Convention on Carriage of Nuclear Material. "Excepted matter" is nuclear matter consisting only of one or more of the following*

- i. isotopes prepared for use of industrial, commercial, agricultural, medical or scientific purposes;*
- ii. natural or depleted uranium;*
- iii. small quantities of nuclear matter as prescribed (see United Kingdom Nuclear Installations (Excepted Matter) Regulations 1965).*

## Rule 16 **Towage or Other Contracts**

- A. A Member is covered in respect of liabilities arising under a contract for routine Towage of the Entered Ship to or from a berth, or anywhere else where the custom of the port or trade involves Towage of Ships in the ordinary course of trade are Covered.
- B. However, liabilities arising under any contract for Tonnage of an Entered Ship other than the customary tonnage covered under paragraph A of this Rule will not be Covered unless the terms of the contract have been approved by the



Managers, subject to any additional Terms of Entry which may be applied and subject to any additional Call Contribution having been paid.

## Rule 17 **Towage by an Entered Ship**

- A. A Member is covered in respect of Liabilities arising from and/or in respect of towage (of another ship, object or cargo) by an Entered Ship.

### PROVIDED THAT

Liability for loss of or damage to or wreck removal of the towed ship, object or cargo is excluded unless:

- (i) such towage was necessary for the purpose of saving life or property at sea, or
- (ii) the Entered Ship is towing under an approved contract, or
- (iii) cover has otherwise been agreed by the Managers in writing.

*Note: The contracts set out under B and C below are approved provided that they are not amended so as to increase the liability of the Entered Ship. In countries where the terms of those contracts would not be enforceable at law the Managers may approve, on a case by case basis, contracts in which a Member contracts on the basis most likely to be effective in upholding the right to limit liability provided always that the towage contract should not impose upon the tug any liability for the negligence of any other party*

- B. Where there is a contract with the owner of the tow:

- i the United Kingdom, Netherlands, Scandinavian or German standard towage conditions;
- ii the International Ocean Towage Agreement's "Towhire" or "Towcon" conditions;
- iii Lloyd's Standard Form of Salvage Agreement 1980 (LOF 1980), or Lloyd's Standard Form of Salvage Agreement 1990 (LOF 1990), or Lloyd's Standard Form of Salvage Agreement 1995 (LOF 1995), or Lloyd's Standard Form of Salvage Agreement 2000 (LOF 2000);
- iv terms as between the owner of the Entered Ship on the one part, and the owner of tow and the owners of any cargo or other property on board the tow on the other part, that each shall be responsible for any loss or damage to his own vessel, cargo or other property on his own vessel and for loss of life or personal injury of his own employees or contractors, without any recourse whatsoever against the other, that is "knock for knock" terms.

- C. Where there is no direct contractual relationship with the owner of the tow:



A charter which contains:

- i "knock for knock" terms covering the property of co-venturers or other contractors of the charterers as well as the property of the charterers themselves; or
- ii a separate clause within the charter requiring that all towage be carried out on terms no less favourable than "knock for knock" terms.

## Rule 18 **Deductibles**

The Certificate of Entry for each Entered Ship will specify the amounts agreed between the Member and the Managers to be deducted from any Claims for Recovery by the Club, however all fees and expenses related to experts, lawyers, surveyors and the like in accordance with Rule 36 and for sue and labour expenses in accordance with Rule 38 will be reimbursed to the Member without application of any deductible. No more than two deductibles will be applied to Claims for Recovery arising out of any one accident or occurrence.

## Rule 19 **Notice of Claim**

- A. A casualty or incident likely to involve a Member in a loss and give rise to a Claim for Recovery under the Certificate of Entry should be reported in writing to:

**Claims Department**  
**Indian Ocean P&I Club Management (Pvt) Ltd**  
**# 09-03, World Trade Center**  
**Colombo – 1, Sri Lanka**  
**Phone +94 11 7808 300**  
**Fax +94 11 7808 303**  
**Email Claims@iopai.com**

In connection with a potential or actual casualty or incident, the Member can also make contact with the nearest listed international correspondent for assistance, providing notification thereafter is made as soon as practical to the above mentioned persons.

*Note - Through the Club's network of worldwide international correspondents, around the clock responses to requests for security can be provided in accordance with Rule 41 as well as the provision of on the spot assistance in mitigating or containing the cost of any actual or potential Claim for Recovery under the Certificate of Entry. Details of the international correspondents can be obtained from the website and from the relevant booklet provided to members.*

- B Every casualty or incident which involves or is likely to involve a Member in a loss and which may give rise to a Claim for Recovery under the Certificate of Entry must be notified in writing to the above persons with such supporting documentation or information as may be available as soon as possible but in no case later than six months after such casualty, incident or receipt by the Member of notice that a claim is to or may be made against him.



- C No liability should be admitted or payment made in respect of any claim or expense for which reimbursement from the Club will be sought, unless the Managers or have given their approval in writing. If no prior approval has been obtained from the Managers or if the amount of the Claim for Recovery is in excess of any settlement authority, there will be no reimbursement by the Club without the Directors' approval.

A Member must:

- i. Promptly notify the Managers of every event or matter which is liable to give rise to a Claim for Recovery upon the Club and of every event or matter including any legal or arbitration proceedings commenced against the Member which is liable to cause the Member to incur liabilities or expenses for which he may be Covered by the Club.
- ii. Promptly notify the Managers of every survey or opportunity to survey in connection with such event or matter.
- iii. At all times promptly notify the Managers of any information, documents or reports in his or his agents' possession, power or knowledge relevant to such event or matter.
- iv. Whenever so requested by the Managers, promptly produce to the Managers and/or allow the Managers or their agents to inspect, copy or photograph, all relevant documents of whatsoever nature in his or his agents' possession or power.
- v. Permit the Managers or their agents to interview any servant, agent or other person who may have been employed by the Member at any time whom the Managers may consider likely to have any direct or indirect knowledge of the matter or who may have been under a duty at any time to report to the Member in connection therewith.

If a Member commits any breach under this Rule the Directors may in their absolute discretion reject any Claim for Recovery by the Member arising out of the relevant event, casualty or incident, or reclaim the sum otherwise recoverable from the Club in respect thereof by such amount as the Directors may determine.

## Rule 20 **Duty to Act as a Prudent Uninsured**

- A A Member must at all times, whether before, at the time of, during, or after any casualty or incident likely to involve loss and to give rise to a Claim for



Recovery, act as prudently to protect his interests as he should have done or as he would have done, had he not been Covered by the Club.

- B It shall be the duty of the Member and his agents at all times, whether before, at the time of, during or after the occurrence of any event or matter liable to give rise to a Claim for Recovery by a Member from the Club to take all such steps, whether in relation to his business or to the Entered Ship or otherwise, as may be reasonable for the purpose of averting or minimising any expense or liability in respect of which he may be covered by the Club.
- C If a Member commits any breach under this Rule the Directors may in their absolute discretion reject any claim by the Member arising out of the relevant event, casualty or incident, or reclaim the sum otherwise recoverable from the Club in respect thereof by such amount they may determine.

## Rule 21 **Classification and Maintenance**

- A. Unless otherwise agreed in writing between the Member and the Managers, a Member is Covered, subject to Rules 21 (C) and 21 (D) and the following Terms of Entry shall apply to every Entered Ship
- i. the Ship must be and remain throughout the period of Entry classed with a Classification Society approved by the Managers;
  - ii. notwithstanding the Classification Society with which the Entered Ship is classed, any incident or condition or intervention or direction of State or Port regulatory or supervisory authority which might cause Lloyd's Register of Shipping (as if the Entered Ship were classed Lloyd's 100A1) to make recommendations as to repairs or the Managers to request the Entered Ship and/or the management systems and/or the operational practices employed in relation to the Entered Ship, whether on board or ashore, to be surveyed must be promptly reported to the Classification Society with which the Entered Ship is classed and to the Managers;
  - iii. the Member must comply at all times with all the rules, recommendations and requirements of the Classification Society relating to the Entered Ship and where that Classification Society specifies a time or times within which action must be taken in relation to the Entered Ship the Member must take such action within such time or times;
  - iv. the Member authorises the Managers to inspect any records or documents and obtain any information relating to the maintenance of class of the Entered Ship in the possession of any Classification Society with which the Entered Ship is or at any time has been classed and will where necessary authorise such Classification Society or Societies to disclose and make available such documents and information to the Managers upon request by the Managers and for whatsoever purposes the Managers may consider necessary;
  - v. the Member must immediately inform the Managers if, at any time during the period of Entry, the Classification Society with which the Entered Ship is



classed is changed and advise the Managers of all outstanding recommendations, requirements or restrictions specified by any Classification Society relating to that Ship as at the date of such change; and

- vi. the Member must comply with all International safety and security standards which may be laid down including all statutory requirements of the State of the Entered Ship's flag relating to the construction, adaptation, condition, fitment and equipment 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.
- vii. The Member must promptly call to the attention of the Classification Society with which it is entered (or the Classification Society's surveyors) any incident or condition which has given or might give rise to damage in respect of which the Classification Society might make recommendation as to repairs or other action to be taken by the Member.

Unless and to the extent that the Managers otherwise decide, the Member shall not be entitled to any Claim for Recovery from the Club in respect of any incident arising during the period of Entry in which the Member is not fulfilling or has not fulfilled his obligations under this Rule.

- B. Notwithstanding Rule 21 A (i) to (vii), if the Entered Ship has never been classed or it is customary or usual for Ships engaged in the Member's type of operation not to hold class, the requirement for the Entered Ship to be classed with a Classification Society approved by the Managers is removed subject to all local governmental, coastguard, state or port certification requirements being maintained throughout the period of Entry. Nevertheless, the provisions of Rule 21 C will continue to apply.
- C. The Managers may as part of the Terms of Entry of an Entered Ship require the Member or prospective Member at any time and/or from time to time, to submit the Entered Ship and/or the management systems and/or operational practices employed in relation to the Entered Ship whether on board or ashore to survey by a surveyor appointed by the Managers. The Member or prospective Member shall afford all facilities as may be required for such inspection and shall comply with all recommendations as the Managers may make following such inspection. The Managers in their discretion may require the Member or prospective Member to bear the expense of such a survey.

In the light of such survey or in the event of failure by the Member to submit the Entered Ship and/or the management systems and/or operational practices employed in relation to the Entered Ship whether on board or ashore to such survey within the time limit specified by the Managers, the Managers shall have the power, in their discretion, to:

- i. refuse the Entry of the Ship or to terminate the Certificate of Entry on the Ship forthwith; or
- ii. refuse the Entry of the Ship or to maintain the Certificate of Entry on the Ship until repairs or other action recommended by the surveyor have been carried out to the satisfaction of the Managers within any time limit prescribed by the Managers; or



- iii. agree to accept the Entry of the Ship or to maintain the Certificate of Entry on the Ship on such special terms as the Managers may in their discretion decide for such time or period as the Managers may specify provided always that if the Member does not accept such special Terms of Entry, he shall have the option of cancelling the Certificate of Entry of the Ship forthwith.

Notwithstanding the provisions of this Rule, nothing shall relieve the Member of his obligation to keep at all times his Entered Ship in a proper condition and the management systems and operational practices employed in relation to the Entered Ship, whether on board or ashore, up to a proper standard. Any recommendations or observations of a surveyor acting under any part of this Rule shall be treated as within the actual knowledge of the Member. Any failure by the Member to implement the said recommendations shall entitle the Managers in their discretion to refuse, in whole or in part, a Claim for Recovery from the Member in respect of any incident whatsoever occurring after such recommendations have been made.

- D. It is a condition precedent to any Cover being available hereunder from the Club, that if applicable, both the Member and the Entered Ship must be and remain throughout the period of Entry in compliance with the requirements of the International Safety Management (ISM) Code and any subsequent amendments thereto as may be implemented. The Member will likewise ensure that a Document of Compliance for itself and a Safety Management Certificate for the Entered Ship in accordance with the aforementioned ISM Code are maintained throughout the period of Entry.

## Rule 22 **Liabilities Excluded from the Rules**

Unless special Cover has been agreed with the Managers in accordance with Rule 4, there shall be no recovery from the Club in respect of:

- A liabilities, costs and expenses incurred by a Member arising from salvage services rendered to or by an Entered Ship under contract or otherwise;
- B liabilities, costs and expenses incurred by a Member arising from drilling, core sampling, oil or gas production, dredging, diving, pipe or cable laying, waste incineration or disposal operations or the operation of helicopters from an Entered Ship;
- C without prejudice to the generality of (ii), liabilities, costs and expenses incurred by a Member during the course of performing specialist operations including but not limited to bunkering, 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 spill response training, (but excluding fire-fighting) to the extent that such liabilities, costs and expenses arise as a consequence of:
  - i. claims brought by any party for whose benefit the work has been performed, or by any third party (whether connected with any party for whose benefit the work has been performed or not), in respect of the specialist nature of the operations; or



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

provided that these exclusions shall not apply to liabilities, costs and expenses incurred by a Member in respect of:

- a. loss of life, injury or illness of Seamen and other personnel on board the Entered Ship,
- b. the wreck removal of the Entered Ship, and
- c. oil pollution emanating from the Entered Ship or the threat thereof,

but only to the extent that such liabilities, costs and expenses are Covered in accordance with the Certificate of Entry;

D occupational disease and cumulative injury being any abnormal condition that fulfils all of the following criteria:

- 1. it is not traceable to a definite compensatable accident occurring during a Seaman's present or past employment;
- 2. it has been caused by exposure to a disease producing agent or agents present in a Seaman's occupational environment in the case of occupational disease, or it has occurred from and has been aggravated by a repetitive employment related activity in the case of cumulative injury;
- 3. it has resulted in the death of, injury to, illness of or disability of a Seaman;

E loss of or damage to the hull, machinery and equipment of the Entered Ship, unless such a loss is a result of the seizure of the Entered Ship as part of a penal sanction (in which case Rule 35 (vii) will apply);

F loss of freight or hire;

G demurrage or detention of an Entered Ship;

H losses to the Member as a result of any other person's insolvency or the Member's inability to recover any debts owed to him;

I financial or consequential losses of the Member, including losses resulting from the cancellation of a charter party;

J any loss, damage, expense or liability directly or indirectly caused by or contributed to by or arising from 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.



## Rule 23 **Privity and Criminal Liability**

- A. The provisions of the Marine Insurance Act 1906 are specifically incorporated in these Rules, and these Rules and all contracts of insurance made by the Club shall be subject to and shall incorporate the provisions of the Marine Insurance Act 1906.

*Note - Section 39 (5) of the Marine Act provides:*

*"In a time entry there is no implied warranty that the Ship shall be seaworthy at any stage of the adventure, but where, with the privity of the assured, the Ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness."*

- B. There will be no recovery from the Club if the nature of the carriage, trade or voyage in which the Entered Ship is engaged, is imprudent, unsafe, unduly hazardous or improper or the Claim for Recovery arises out of the wilful misconduct of the Member (being an act intentionally done, or a deliberate omission with knowledge that the performance or omission will probably result in loss, damage or injury, or an act done or omitted in such a way as to allow an inference of a reckless disregard of the probable consequences).
- C. The Club will not insure any liabilities incurred by a Member as a result of his having knowingly engaged in criminal activity, such as drug or other smuggling, carrying on an illegal trade or blockade running. Such liabilities can only be Covered under Rule 35 provided that the Member can prove to the satisfaction of the Managers that he neither knew of nor recklessly ignored the criminal conduct in question and that he took all reasonable steps in endeavouring to prevent it occurring.

## Rule 24 **Liabilities in respect of Seamen and Supernumeraries**

### **A. Liabilities in respect of Seamen**

A Member is covered in respect of:

- i. Liabilities to pay damages or compensation for death, personal injury or illness of any Seamen of an Entered Ship who is on board or is proceeding to or from the Entered Ship, and hospital, medical, funeral and other expenses necessarily incurred in relation to such death, personal injury or illness.
- ii. Liabilities to pay damages or compensation for loss or damage to the personal effects of any Seaman of an Entered Ship who is on board or is proceeding to or from the Entered Ship.
- iii. Statutory liabilities to pay compensation to any Seaman of an Entered Ship who is on board or is proceeding to or from the Entered Ship, caused in consequence of the actual or constructive total loss of the Entered Ship.



- iv. Repatriation and substitution expenses necessarily incurred as a consequence of the death, personal injury, illness or desertion of any Seaman of an Entered Ship who is on board or is proceeding to or from the Entered Ship. If such expenses are incurred for any other reason the Managers may in their absolute discretion allow the whole or any part thereof as they deem equitable save that are covered under this Rule.

PROVIDED THAT 24(A)(iv) shall not extend to expenses arising as a result of:

1. The expiry of a Seaman's period of service on the 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;
  2. Any other discretionary act of the Member;
  3. The sale of an Entered Ship.
- v. Where liabilities, costs and expenses of the type covered under this Rule are incurred under the terms of a crew agreement or other contract of service or employment and would not have been incurred but for those such terms, liabilities, costs or expenses shall be covered by the Managers but only to the extent that those terms shall have been previously approved by the Managers in writing.

### **B. Liabilities in respect of Supernumeraries**

Where the liabilities, costs and/or expenses described in Rule 24(A) are incurred in respect of any Supernumerary carried on an Entered Ship and who is on board or is proceeding to or from the Entered Ship, said Supernumerary (ies) shall be treated as if they were a Seamen for the purposes of Rule 24(A) and so are covered by Rule 24(A).

### **C. Liabilities in respect of spouses and children**

A Member is covered in respect of:

- (a) Liabilities to pay damages or compensation for death, personal injury or illness of the spouse or child of a Seaman and/or Supernumerary travelling on board an Entered Ship, and hospital, medical, funeral and other expenses necessarily incurred in relation to such death, personal injury or illness.
- (b) Repatriation expenses of a spouse or child travelling on board an Entered Ship in the event of the Seaman's/Supernumerary's repatriation or if the spouse's presence is necessarily required to attend a child who has become dangerously ill during the course of the voyage.



#### **D. Liabilities of other non-Passengers**

Apart from those individuals described in Rules 24(A), 24(B) and 24(C), other non-Passengers are not covered by Rule 24. If a Member requires cover under Rule 24 (for example if a Member requires maintenance personnel to be covered) then the Member must notify the Managers within sufficient time for the Managers to obtain any additional insurance cover which might be required. Any additional insurance premium will be for the Member's account.

#### **Rule 25 Liabilities in respect of third parties**

A Member is covered in respect of:

##### **A. ILLNESS, INJURY OR DEATH**

Liability to pay damages or compensation for personal injury, illness or death of any person and hospital, medical or funeral or other expenses incurred in relation to such injury, illness or death.

##### **B. LOSS OF OR DAMAGE TO EFFECTS**

Liability to pay damages or compensation for loss of or damage to effects of any person on board an Entered Ship.

##### **PROVIDED THAT**

There shall be no right of recovery in respect of claims relating to cash, bonds or other negotiable instruments, jewellery, precious or rare metals or stones, valuables or objects of a rare or precious nature.

##### **C. LIMITATIONS**

- a. Cover under this section shall not extend to liabilities to Seamen (including Supernumeraries, spouses and children) or Passengers carried under a contract of carriage for reward which may be covered by Rule 24 and Rule 26.
- b. If any of liabilities identified in paragraphs A and B of this Rule are incurred under the terms of contract and would not have arisen but for those terms, there shall be no right of recovery in respect of such liabilities unless the terms of the contract have been agreed by the Managers in writing.
- c. Cover under paragraphs A and B of this Rule is limited to liabilities arising out of a negligent act or omission on board or in relation to an Entered Ship or in relation to the handling of her cargo from the time of receipt of that cargo at the port of shipment until delivery of that cargo at the port of discharge.



## Rule 26 **Liability for Passenger Claims**

A Member is covered in respect of any legal liability which he may incur as a direct result of the operation of the Entered Ship to any Passenger pursuant to the terms of a contract of carriage for:

- i. the death of or injury to the Passenger;
- ii. the cost of maintenance, medical treatment, funeral expenses and repatriation of sick, injured or dead Passengers;
- iii. the cost of port charges, bunkers, Ship's stores, provisions and crew wages (but not loss of profit, hire or freight) incurred by the Member in deviating the Entered Ship to land or to obtain medical attention for a sick or injured Passenger;
- iv. the cost of forwarding Passengers to destinations or for returning them to the port of embarkation or for maintenance ashore, following a casualty which shall be defined as an incident involving either collision, stranding, explosion, fire or other cause rendering the Ship incapable of safe navigation to its intended destination or a threat to the life, health or safety of Passengers;
- v. loss of or damage to the baggage of Passengers;

provided always that the Club shall not be liable for:

- a. liabilities incurred pursuant to a contract of carriage which has not been approved by the Managers, subject to the right of the Managers in their sole and absolute discretion and upon whatever Terms of Entry they deem appropriate, to determine otherwise;
- b. liabilities to a Passenger who has received a ticket for a package holiday the cost of which includes carriage to the Entered Ship before the cruise and/or from the Entered Ship after the cruise, for incidents occurring during the course of such carriage;
- c. contractual liabilities, costs and expenses incurred by a Member arising in respect of a Passenger on an excursion from the Entered Ship in circumstances where either
  - i. a separate contract has been entered into by the Passenger for the excursion whether or not with the Member; or
  - ii. the Member has waived any or all of his rights of recourse against any sub-contractor or other third party in respect of the excursion
- d. claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables, jewellery, works of art or objects of a rare or precious nature unless specifically agreed in writing in advance with the Managers on such Terms of Entry as may be agreed.



**Rule 27 Liability for Stowaways and Refugees**

A Member can recover from the Club the liabilities and expenses of maintaining, landing, repatriating or deporting stowaways, refugees or people saved at sea, in port charges, bunkers, Ship's stores, provisions and crew wages, excluding loss of profit, hire or freight. Said liabilities and expenses are recoverable from the Club only (a) to the extent that the Member is legally liable for those liabilities and expenses and (b) to the extent that they cannot reasonably be recovered otherwise.

**Rule 28 Liability Insured for Running Down or Collision**

A. To the extent that any liability mentioned in this Rule is not covered under the collision liability clause contained in the Hull Entry of the Entered Ship, and so long as the Member has complied with Rule 11, a Member is insured against his legal liability towards another Ship and its Cargo in the event of a collision, as follows:

- i. One-fourth or such other proportion as may have been agreed by the Managers of such liabilities, costs and expenses arising out of the collision (other than as listed in Rule 28(A)(ii) below).
- ii. Liability for or relating to:
  - a. the raising, removal, disposal, destruction, lighting or marking of obstructions, wrecks, cargoes, or any other thing;
  - b. any real or personal property or thing whatsoever (except other vessels or property on other vessels);
  - c. pollution or contamination of any real or personal property except other vessels with which the Entered Ship is in collision and property on such other vessels;
  - d. the cargo or other property on the Entered Ship, or general average contributions, special charges or salvage paid by the owners of that cargo or property;
  - e. loss of life, personal injury or illness.

B. If for the purpose of obtaining an indemnity for collision liability under the Hull Entry, the Entered Ship is found to have been under-insured a Member may be able to recover the difference between the actual liability and the reduced amount recovered from the Hull Entry.

PROVIDED THAT:

(i) for the purposes of Rule 28(B), in the Manager's opinion, the Member has complied with Rule 12. If Rule 12 has not been complied with, the amount recoverable will be the difference between the full liability and a proper value, as assessed by the Managers.



Any cover for the purposes of Rule 28(B) is solely at the discretion of the Club Directors.

(ii) Any deductible under the Hull Entry will not be recoverable from the Club.

(iii) No recovery shall be made pursuant to Rule 28 if there would otherwise be a right of recovery under the Hull Entry of the Entered Ship but for the conduct of the Member.

(iv) If two Entered Ships belonging to the same Member collide with each other, the Member shall be entitled to claim from the Club, and the Club shall have the same rights, as if the Entered Ships had belonged to different members.

(v) If both of the vessels in the collision are to blame then, where the liability of either or both of the vessels in collision becomes limited by law, then claims under this Rule shall be settled upon the principle of single liability. In all other cases claims under this Rule shall be settled upon the principle of cross liabilities as if the owner of each vessel had been compelled to pay the owner of the other vessel such proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Member in consequence of the collision.

## Rule 29 **Liability for Cargo and Other Property on Board**

A. A Member is covered against his liability as a shipowner or otherwise as carrier for loss of or damage to Cargo carried, intended to be carried, or having been carried in the Entered Ship; for the extra cost, above the normal cost of discharging sound Cargo, incurred in discharging or disposing of damaged Cargo (but only if and to the extent that the Member is unable to recover those costs from any other party); and in the case of general average, in respect of Cargo's proportion of general average adjusted in accordance with the York-Antwerp Rules 1994 or 2004, if this is irrecoverable because of a breach of the contract of carriage by the Member.

PROVIDED THAT There will be no recovery from the Club in the following circumstances:

- i. if the contract of carriage does not incorporate the Hague, Hague-Visby or Hamburg (if the Member is legally obliged to incorporate the latter) Rules, in the case of sea transport, or CMR or CMI in the case of road or rail transport respectively; except where the liability does not exceed the standard laid down in those conventions, in which case Cover will not be prejudiced by the conventions not having been incorporated in the contract of carriage;
- ii. if the Cargo is carried on deck unless either the Cargo is carried under a contract of carriage which permits the Cargo to be carried on deck, states that the cargo is being carried on deck and exonerates the Member from all liability in respect of such Cargo, or such carriage has been agreed in writing by the Managers;
- iii. if the Cargo is delivered without production of the original bill of lading;



- iv. if the bill of lading contains a description of the Cargo or its stowage which either the Member or the Entered Ship's command know to be inaccurate;
  - v. if the bill of lading contains a date of shipment which the Member or the Entered Ship's command know to be incorrect or where the Member has not notified the consignees or parties named in the bill of lading of the true date of shipment;
  - vi. where the bill of lading or other document of title shows a precise value (ad valorem) for the goods carried, or where the Member incurs a liability which he would not otherwise have had or is deprived of the right to limitation of liability by reason of a deviation from the contractually agreed voyage, or from events occurring during or after a deviation;
  - vii. where the Cargo carried is wholly or partly owned by the Member himself unless such Cargo is fully member on clauses customary to the trade;
  - viii. where the Cargo is delivered at a port other than that named in the bill of lading, without the approval of the Managers;
  - ix. to insure the normal running costs of the Entered Ship, in port charges, bunkers, Ship's stores, provisions and crew wages, together with loss of profit, detention, demurrage, hire or freight;
  - x. where the Member becomes liable for failure to arrive or late arrival at a port of loading, or for failure to load Cargo in an Entered Ship, except where such a liability has arisen under a bill of lading already issued;
  - xi. delivery of Cargo carried under a way bill or similar non-negotiable document to a party other than the party nominated by the shipper as the person to whom delivery should be made;
  - xii. delivery of cargo carried under a negotiable bill of lading without production of that bill of lading by the person to whom delivery is made;
  - xiii. if the bill of lading, way bill or other document containing or evidencing the contract of carriage contains any fraudulent misrepresentation;
  - xiv. any deliberate breach of the contract of carriage on the part of the Member or the Entered Ship's command.
- B. A Member is covered for any liability in respect of the loss of or damage to any property apart from Cargo on the Entered Ship which does not belong to the Member or to a Joint Entrant, if such property is reported to and approved by the Managers.

PROVIDED THAT, unless the Member has obtained appropriate special cover with the Managers, there shall be no Claim for Recovery from the Club for any liability arising under a contract for indemnity entered into by him and would not have arisen but for such contract or indemnity.



- C. Liability is not covered in respect of gold, silver, platinum, jewellery, precious stones, bank notes, coins, bonds or rare or precious objects, unless the Managers have agreed in advance for their carriage on such Terms of Entry as may be determined.
- D. Liability and costs are not Covered as a consequence of:
- i. the Member's participation in a paperless trading system being the use of any system or contractual arrangement the predominant purpose of which is to replace paper-based documentation in shipping and/or international trade with electronic messages including without limitation, the Bolero system (a joint venture of the Through Transport Mutual; or
  - ii. Cover Association Limited and SWIFT; or
  - iii. a document which is created or transmitted under a paperless trading system which document contains or evidences a contract of carriage; or
  - iv. the carriage of goods pursuant to such a contract of carriage;

PROVIDED THAT the Directors may in their discretion pay a proportion or the whole of any such liability, cost or expense in so far as it determines would have arisen and would have been Covered if the Member had not participated in or used a paperless trading system and any contract of carriage had been contained in or evidenced by a paper document.

- E. Where the value of any Cargo is declared upon the bill of lading at a figure in excess of US\$2,500 (or the equivalent in the currency in which the declared value is expressed) per unit, piece or package, the right of recovery from the Club under this Rule shall not exceed US\$2,500 per unit, piece or package unless otherwise agreed by the Managers in writing.
- F. A Member may obtain from the Club an advance corresponding with Cargo interest's proportion of general average before liability for this proportion is determined, provided that:
- i. at least three months have elapsed after the final general average adjustment has been issued;
  - ii. the advance will be limited to 80% of Cargo's proportion of general average, net of Ship's sacrifices;
  - iii. the Member has provided the Club with a signed loan agreement and a deed of assignment acceptable to the Managers and has undertaken to refund to the Club any recoveries obtained from Cargo interests up to the value of the advance given.



## Rule 30 **Liability for Damage to Fixed and Floating Objects**

A Member is covered for any liability as a result of damage or loss caused by the Entered Ship to any property (whether fixed or floating) (such as docks, lock-gates, or buoys).

PROVIDED THAT

A. There shall be no right of recovery under this Rule in respect of:

- (i) liabilities which arise under the terms of any contract or indemnity to the extent that they would not have arisen but for those terms;
- (ii) liabilities against which cover is available under Rules:

Rule 16 Towage or Other Contracts

Rule 17 Towage by an Entered Ship

Rule 24 Liabilities in respect of Seaman and Supernumeraries

Rule 25 Liabilities in respect of Third Parties

Rule 26 Liability for Passenger Claims

Rule 28 Liability for Running Down or Collision

Rule 29 Liability for Cargo and Other Property on Board

Rule 31 Liability for Pollution

Rule 32 Liability for Wreck Removal and Associated Liabilities

including any liabilities excluded from the above mentioned Rules by reason of same provision, warranty, condition, exception, limitation or other like term applying to claims under any of said Rules

- (iii) any franchise or deductible borne by the Member under the Hull Entry of the Entered Ship.

C. If the Entered Ship causes loss or damage to property or infringes rights belonging wholly or in part to the Member, the Member shall have the same rights of recovery from the Club and the Club shall have the same rights as if such property or rights belonged wholly to different owners.

## Rule 31 **Liability for Pollution**

A. A Member is Insured for any liability in respect of an actual or threatened pollution of the environment caused by an escape of oil or another polluting substance.

The following are defined as liabilities and are Insured:

- (i) compensation or damages paid:



- (ii) the cost of clean-up or preventative work, including liability for damage caused by the clean-up work;
- (iii) the cost of compliance with any government or local authority orders aimed at preventing or cleaning up a specific pollution incident;
- (iv) payments to salvors under the exception to the principle of "no cure - no pay" in Lloyd's Standard Form of Salvage Agreement (1980) or (1990) or (1995) or (2000) or as is imposed on the Assured pursuant to Article 14 of the International Convention on Salvage 1989, in relation to oil pollution;
- (v) liabilities arising if the Entered Ship is held responsible for pollution from another Ship, object or structure;
- (vi) liabilities for oil pollution arising from wreck removal, damage to fixed or floating objects, towage, or other contracts within the meaning of and subject to the provisions of Rule 16.

B. A Member is not Insured for liability for any pollution, actual or threatened, caused by an escape of oil or other polluting substance within the State and / or Federal waters of the United States of America including the waters of the United States of America Exclusive Economic Zone, which means the zone established by Presidential Proclamation numbered 5030 dated March 10, 1983.

### Rule 32 **Liability for Wreck Removal and Associated Liabilities**

- A. The Club will indemnify a Member if he becomes legally liable for the following if the Entered Ship becomes wrecked:
- i. the cost of wreck removal;
  - ii. the cost of removing Cargo or bunkers from the wreck;
  - iii. damages or compensation to third parties;
  - iv. the cost of lighting or marking the wreck.

PROVIDED THAT there shall be no Claim for Recovery unless the Entered Ship became a wreck as the result of a casualty occurring during the Entered Ship's period of Cover.

- B. Any Claim for Recovery from the Club in respect of this Rule must give credit for any salvage value realised in respect of the wreck or its contents or any amount recovered from any other party (including its stores).
- C. There will be no Claim for Recovery from the Club under this Rule if the Member gave up his ownership of the Entered Ship (otherwise than by abandoning her) without the consent of the Managers, after it became wrecked and before undertaking any work or accepting any liability which could have become the subject of a Claim for Recovery from the Club.



- D. Where the liabilities arise, or the expenses are incurred, under the terms of any contract or indemnity and would not have arisen but for those terms, those liabilities or expenses are only Covered if and to the extent that
- i. those terms have been agreed by the Managers in writing, or
  - ii. the board of the Club in its discretion decides that the Member should be reimbursed.
- E. Unless the board of the Club in its discretion shall otherwise determine, there shall be no right of recovery from the Club under this Rule where the liabilities, costs and expenses or any part thereof would not have been incurred had the Entered Ship been insured at such value as in the discretion of the Directors represents the full market value of the Entered Ship, disregarding any charter or other engagement to which the Entered Ship may be committed.

Rule 33 **Liability for Life Salvage, Special Compensation and in General Average**

- A. A Member may recover from the Club the amount of any salvage award in respect of any life-saving operation mounted to benefit the Entered Ship, to the extent that this is not recoverable from hull or Cargo underwriters or Cargo owners.
- B. Except to the extent that the Member is Covered for liabilities under Rule 31 A (iv) a Member is Covered for liability which he may incur to pay special compensation to a salvor pursuant to Article 14 of the International Convention on Salvage 1989 as incorporated into or applicable to the Lloyd's Standard Form of Salvage Agreement (1980) or (1990) or (1995) or (2000).
- C. A Member may recover from the Club the Ship's proportion of salvage or general average adjusted in accordance with the unamended York-Antwerp Rules 1994 or special charges to the extent that these are not recoverable from the Hull Policies because the Covered value is less than the contributing value assessed for the Entered Ship; provided always that Rule 12 has been complied with to determine the proper value of the Entered Ship for the purpose of hull cover.

Rule 34 **Liability for Infectious Diseases**

In the case of an outbreak of infectious disease onboard or in connection with the Entered Ship, or in case the Entered Ship is quarantined, a Member can make a Claim for Recovery from the Club for:

- i. the cost of disinfection of the Entered Ship or people on board;
- ii. maintenance of Passengers, Seamen and Supernumeraries ashore; and
- iii. extra expenditure on port charges, bunkers, Ship's stores, provisions and crew wages incurred as a direct consequence of the outbreak, to the extent that they exceed the normal running costs of the Entered Ship.



provided always that there will be no recovery from the Club if the Member knew or ought reasonably to have anticipated that the Entered Ship would have been quarantined if ordered to a particular port, unless the orders were given under a contract made before the quarantine was imposed or were in any other way unavoidable.

## Rule 35 **Liability for Fines and Penalties**

- A. Provided always that Rule 23 applies to such liabilities, so that the Club will provide no indemnity for the consequences of criminal conduct knowingly undertaken by a Member and provided that there will never be cover for penalties for overloading, the Club will cover liability for any Fine or penalty as listed below, legally imposed arising out of the operation of the Entered Ship, or imposed on a Seaman or other employee of the Member for whom he is responsible and whom he agrees to reimburse. The following Fines or penalties are Covered:
- i. Fines for failure to maintain safe working conditions on or in relation to the Entered Ship;
  - ii. Fines for short-delivery or over-delivery of Cargo, or failure to comply with regulations relating to Cargo manifests or to other documentation concerning the Entered Ship, her Cargo or other property on board;
  - iii. Fines for oil or other pollution (subject to the provisions of Rule 14);
  - iv. Fines for smuggling;
  - v. Fines for infringements of any law or regulation, except for those of the Classification Society, relating to the construction, adaptation, alteration or fittings of the Entered Ship;
  - vi. Fines for breaches of immigration law or regulations;
  - vii. notwithstanding Rule 13 (ii), confiscation of the Entered Ship as part of a penal sanction imposed by a competent government body; this Cover will apply only subject to the Managers' approval and the amount recoverable from the Club will not exceed the sound market value of the Entered Ship in charter-free condition, or the Covered value, whichever is the lesser amount;
  - viii. Fines for any other offence, subject to the Managers' approval.
- B. There shall be no right of recovery under this Rule for fines arising out of infringements or violations of or non-compliance with the provisions regarding construction, adaptation and equipment of ships contained in the International Convention for the Prevention of Pollution from ships, 1973, as modified by the Protocol of 1978 and as modified or amended by any subsequent protocol, or the legislation of any state giving effect to that Convention; but the Directors in their discretion may admit claims for such fines to such extent as they think fit.
- C. There shall be no right of recovery under this Rule for fines arising out of infringements or violations of or non-compliance with the provisions of the ISM or



ISPS Codes; but the Directors in their discretion may admit claims for such fines to such extent as they think fit.

## Rule 36 **Experts & Lawyers**

- A. A Member is Covered in respect of fees and disbursements of experts, surveyors and lawyers instructed by the Managers or by him with the Managers' approval to investigate, advise upon and defend claims Covered under these Rules.
- B. If a Member wishes to instruct an expert, surveyor or lawyer, he must obtain the approval of the Managers, or else the fees of the firm appointed will not be paid by the Club.
- C. Where an expert, surveyor or lawyer has been instructed, the Member agrees that such expert, surveyor or lawyer will be paid by the Club directly. The Managers will inform the Member concerning the fee to be paid and the payment will be recorded in the Member's claims record. If a Member advises the Managers that he considers that a particular fee or expense is unreasonable, the Managers will investigate and use their best endeavours to ensure that only a reasonable amount is charged.
- D. Without prejudice to any other provisions of these Rules and without waiving any of the Club's rights hereunder the Managers may at any time appoint on behalf of a Member upon such terms as they may think fit lawyers, surveyors or other persons for the purpose of dealing with any matter liable to give rise to a Claim for Recovery by the Member upon the Club, including, but not limited to, investigating, or advising upon any such matter and taking or defending legal or other proceedings in connection therewith. The Managers may also at any time discontinue such employment as they may think fit.
- E. All lawyers, surveyors and other persons appointed by the Managers on behalf of a Member or appointed with the prior consent of the Managers shall at all times be deemed to be appointed on their terms that they have been instructed by the Member at all time to:
  - (i) give advice and to report to the Managers in connection with the matter without prior reference to the Member; and
  - (ii) produce to the Managers without reference to the Member any documents or information in their possession or power relating to such matter as if such person had been appointed to act and had at all times been acting on behalf of the Club and notwithstanding that any such advice, report, documents or information would otherwise be the subject of legal or any other form of privilege.

## Rule 37 **Inquiry Expenses and Test Cases**

Subject to the Managers' approval, a Member can recover from the Club:

- i. the cost of representation or any other expenses to which he may become liable in connection with any formal inquiry into a casualty involving a Entered Ship;



- ii. any costs or expenses reasonably incurred in connection with a "test case" concerning a question of principle within the scope of the Club's Certificate of Entry; and
- iii. the cost of defence against interference in his business by a government body, considered by the Managers to be unwarranted.

#### **Rule 38 Sue and Labour Expenses**

Provided that the Managers have given prior approval to the steps taken, a Member can recover from the Club costs or expenses incurred solely in avoiding or minimising any liability covered under the Certificate of Entry.

PROVIDED THAT there shall be no right of recovery under this Rule for any costs or expenses related to ransom demands, extortion, blackmail, bribery or any illegal payments.

#### **Rule 39 Container Cover and Through Transit Liabilities**

- A. Provided that this Cover has been specifically agreed with the Managers, subject to any additional Terms of Entry which may be applied and subject to any additional Call Contribution having been paid, a Member can recover certain liabilities towards third parties which he may incur as an owner, operator, lessee or carrier of Containers whether or not such Containers are intended to be, are being or have been carried on an Entered Ship. The limit of liability covered must be specifically agreed with the Managers and the liabilities Covered are to be of the same type as those specified in Rules 24 to 38 relating to an Entered Ship.
- B. Provided that it has been specifically agreed with the Managers, subject to any additional Terms of Entry which may be applied and subject to any additional Call Contribution having been paid, a Member can cover the risk of loss or damage to Containers owned or leased by him, including any liability to contribute in general average or salvage arising out of his interest in Containers

#### **Rule 40 Omnibus Rule**

A Member may recover from the Club those liabilities to third parties including any costs and expenses, arising out of the operation or management of an Entered Ship, which are not specified or expressly excluded in these Rules or the Member's Certificate of Entry, to the extent that the Directors of the Club in their absolute discretion may decide.

#### **Rule 41 Guarantees**

- A. In order to prevent the arrest or detention of an Entered Ship, the Managers have the discretion to give guarantees in the form of letters of undertaking, indemnities, bonds, or bank guarantees to claimants, according to which the Club undertakes to pay whatever sum the Member may be held liable, by a court of competent jurisdiction or by agreement, to pay to a claimant, either in



respect of a liability Member under the Certificate of Entry for the Entered Ship, or in respect of a liability outside the scope of the Certificate of Entry.

- B. If a guarantee is given in respect of any matter outside the scope of the Member's Certificate of Entry, the Club will be entitled to be indemnified by the Member to the extent that any payment is made under the guarantee in respect of any matter outside the Member's Certificate of Entry.
- C. The Managers may demand from a Member whatever counter security they think appropriate before providing any guarantee.
- D. The Managers will not provide any letters of undertaking, indemnities, bonds, or bank guarantees to claimants where payment of a Call Contribution is outstanding in accordance with Rule 42.
- E. The Managers are the agents of the Club in providing guarantees and will be under no liability, corporate or personal, under the terms of such guarantees, or in relation to the giving or withholding of any guarantee.

#### **Rule 42 Purposes of Calls from Members**

- A The purposes for which Call Contributions may be called by the Managers from a Member and collected by the Managers are:
  - i. to reimburse to Members Claims for Recovery settled or expected to be settled under Rules 24 to 40 or any other Terms of Entry allowing payment to the Member;
  - ii. to pay whatever reinsurance premium may be considered necessary by the Managers;
  - iii. to pay fees and expenses to lawyers, correspondents and experts and brokerage or commission to brokers, agents or other producers of business;
  - iv. to pay to the Managers whatever amounts may be agreed by the Managers for the purpose of administration of the Club;
  - v. to provide funds to establish solvency margins or guarantee funds if required by law;
  - vi. to permit the continued operation of the Club;
  - vii. to establish and maintain contingency reserves if approved by the Managers;
  - viii. to make up any deficit in the funds of the Club; and for any other purpose agreed by the Managers.
  - ix. to pay such sums as may be required by any government legislation or regulation to be set aside for the entitlement or maintenance of an adequate solvency margin or guarantee fund in respect of any Entry Year.



B Without prejudice to the generality of paragraph B(vii) of this Rule,

- (i) the Directors may, in their absolute discretion, establish and maintain reserves or other accounts to provide a source of funds which can be applied for any general purpose of the Club including the following:
  - a. to stabilise the level of additional calls and to eliminate or reduce the need to levy additional calls in respect of any Entry Year, past, present or future;
  - b. to eliminate or reduce the deficiency which has occurred or may be thought likely to occur in respect of any closed Entry Year, to protect the Club against any actual or potential losses on exchange, or in connection with its investments, realised or unrealised.
- (ii) the Directors may apply the sums standing to the credit of any reserve for any of the purposes for which the reserve was maintained even though the sum be paid in respect of any different Entry Year or years from that in which the funds originated. The Directors may also apply the sums standing to the credit of any reserve from any other or different purposes whenever the Directors consider this to be in the interest of the Club or its Members. The Directors may also at any time transfer the sums from one reserve to another.
- (iii) the funds required to establish such reserves or accounts may be raised in any of the following ways:
  - a) the Directors, when deciding on the rate of any mutual or additional calls for any Entry Year, may resolve that any specified amount or proportion of such calls shall be transferred to and applied for the purpose of any such reserve or account.
  - b) the Directors may on the closing of any Entry Year or at any time or times thereafter resolve that any specified amount or proportion of the funds standing to the credit of that Entry Year shall be transferred to and applied for the purposes of any such reserves or account.

#### Rule 43 **Assessment of Members' Call**

- A. The amount of a Member's Call Contribution, that is his rating, will be assessed and agreed with the Member by the Managers, who will take into consideration the Member's claims record and future exposure to liability claims and his fair share of the items listed under Rule 42 (ii) to (ix) above having regard to the amount of his Call Contribution when compared with the Call Contribution of the Club as a whole and his claims record when compared with that of the other Members.
- B. A Member's Call Contribution rating will be expressed in U.S. dollars or other agreed currency amount to form an estimated total cost.



- C. The Member will pay the estimated total cost in the Entry Year in such instalments as may be determined by the Managers.
- D. Should a supplementary call or calls be determined by the Managers at any time as necessary up until the year is closed under Rule 46 in order to meet the provisions of Rule 42, such supplementary call or calls will be expressed as a percentage of the estimated total cost and payable upon the date or dates specified.

A Member's liability to contribute to the funds of the Club may be limited in full as a fixed Call Contribution Entry, or in part at the discretion of the Managers and if so agreed, will be recorded in the Member's Certificate of Entry.

*[Note - Fixed Call Contribution Entries will normally be limited to charterers and state owned fleets.]*

#### Rule 44 **Payment of Call from Members**

- A. Any Call payable to the Club by or on behalf of a Member must be paid within 21 days of the due date specified in a debit note by the Managers or of the date when the debit note is deemed to have been delivered in accordance with Rule 53, whichever is the later, failing which such amounts shall incur interest at 5% above the London Interbank U.S. Dollar Six Month Offer Rate (LIBOR) calculated from the latest payment date specified in the debit note until the actual payment date. The interest rate will be fixed on the first working day of each month during the period when the amount in question remains unpaid
- B. Where such a Call Contribution remains unpaid for more than 45 days after the issue of the debit note or of the specified instalment date within the debit note then, unless otherwise agreed with the Managers, the Entry will automatically lapse from the date up to which the last payment of Call Contribution has been received (see Rule 52). No extension for the payment of Call Contributions due will be granted and thereafter, the Managers may or may not choose to reinstate Cover entirely at the Managers' discretion should the outstanding Call Contribution be settled in its entirety.
- C. No Claim for Recovery of any kind by a Member against the Club will be allowed as a set-off against liability to pay in full any Call Contributions debited by the Managers.
- D. The Managers may at any time at their discretion require a Member to provide security for the payment of Call Contributions or other amounts due to the Club in the form of a bank guarantee or letter of credit for an amount specified by the Managers given by a bank approved by the Managers. If a Member fails to arrange such a bank guarantee or letter of credit within 14 days of being called upon by the Managers to do so, the Entry of the Ship concerned will automatically lapse without further notice.
- E. If a Member defaults in payment of Call Contributions or any other amounts due to the Club and the Managers agree that these amounts are unrecoverable, then default shall be deemed a Call Contribution on the other Members under Rule 42.
- F. Members must pay a Call Contribution in such instalments and on such dates and in such currency or currencies as the Managers specify.



## Rule 45 **Release Calls**

- A. A Member or a former Member is always liable to pay calls for Call Contributions to the Club and cannot be released from such liability without the written agreement of the Managers.
- B. Following termination of a Member's Entry, the Managers may but are not obliged to assess a release call based on an estimate of the Member's liability to pay future supplementary calls. In assessing the estimate, the Managers may take into account any contingencies and other special considerations which in the opinion of the Managers are relevant (including matters such as inflation and currency fluctuations). On receipt of such assessment the former Member must within 21 days thereafter (which period can be extended by the Managers on such terms as they at their sole discretion deem appropriate) either:
  - i. pay the release call in which case the former Member will be discharged from further liability to the Club for future supplementary calls; or
  - ii. select to pay future supplementary calls (whether less than, more than, or the same amount as the assessed release call) as and when they become due and payable and to secure such payment by means of a bank guarantee or letter of credit. Such supplementary calls are payable in the manner and on the terms specified in Rule 44 and the former Member is discharged from liability for supplementary calls only when all such supplementary calls and any interest due thereon have been paid in full. The Managers have the discretion to reject the guarantee or letter of credit if its wording or the bank providing the security is not acceptable to them. Should no guarantee be offered or should the Managers reject the guarantee or letter of credit, then the release call assessed by the Managers must be paid either within 21 days (or any extended period agreed by the Managers) of receipt of the assessment by the former Member or forthwith if more than 21 days (or any extended period agreed by the Managers) has expired prior to rejection of the guarantee. If such payment is not made, then the former Member also remains liable under Rule 45 A to pay any Call Contributions in excess of the release call which may be assessed by way of future supplementary calls.

## Rule 46 **Closing a Club Year**

- A. The Managers may at any time after the end of a Club Year declare that the Club Year is closed. This means that the Members Entered during that Club Year are released from liability to pay further supplementary Calls in relation to that Club Year.
- B. Before closing a Club Year, the Managers may:
  - (i) make supplementary Calls;
  - (ii) return any surplus to the Members in proportion to the amount of their Calls, except where a Member has paid a release or has been expelled from the Club for non-payment of Calls, in which case a return will not be given to the Member concerned.



- C. Before or after closing a Club Year, the Managers may:
- (i) transfer amounts which they judge to be surplus to the requirements listed in Rule 42 to reserves or to the credit of any other Club Year;
  - (ii) transfer amounts from any other Club Year to make up a deficit.

**Rule 47 General Powers of the Managers Concerning Calls**

The Managers have power to decide in respect of the Club:

- i. for the purpose of calculating whether supplementary calls are due in respect of a Entry Year, or for any other purpose what Claims for Recovery or expenses will be considered to have arisen during that Entry Year;
- ii. who are the Members liable to pay such supplementary calls or to pay any other amounts required by the Club; and
- iii. the amount payable in respect of such a Call Contribution by each Member.

**Rule 48 The Club's Entitlements**

If a Member owes any amount to the Club, it will entitle the Managers to deduct that amount from any payment due to the Member. Further, the Managers shall be entitled to and the Member hereby grants, a lien on the Ship(s) of the Member (including those of a Joint Entrant), whether Member with the Club or not, in respect of any amount owed by the Member to the Club.

**Rule 49 Laid up Returns**

- A. Unless otherwise agreed, if an Entered Ship is laid-up without Cargo in a safe port as approved by the Managers for more than 30 days with not more than a quarter of her usual complement of officers and crew on board, the Member is entitled to a reduction of 50% in the Call Contribution after deduction of administrative expenses, payable for the period of lay-up provided such claim is notified in writing to the Managers within three months of the cessation of such lay-up.
- B. Notwithstanding Rule 49 A, if an Entered Ship has been laid-up or is likely to be laid-up without Cargo for more than 90 days with not more than a quarter of her usual complement of officers and crew on board, the Member at the Manager's sole discretion may terminate the Entry hereunder and make such other arrangements for coverage as is deemed appropriate by the Member. A pro rata return of the annual Call Contribution for the unexpired proportion of the Entry Year will be granted to the Member, after deduction of administrative expenses, subject to there being no payment of Call Contribution outstanding in accordance with Rule 44 and provided that a claim for a pro rata return is notified in writing to the Managers within three months of the end of the Entry Year.



## **Survey of Vessels after Lay-Up**

If an Entered Ship has been laid-up for a period of six months or more, whether the Entered Ship has been entered in the Club for all or part of the period of lay-up and whether or not laid-up returns have been claimed or paid in accordance with Rule 49 the Member shall give the Managers notice that the Entered Ship is to be recommissioned not less than seven days before the Entered Ship leaves the place of lay-up.

Upon receipt of such notice the Managers in their discretion may appoint a surveyor or such person as they may think fit to inspect the Entered Ship on behalf of the Club, and the Member shall afford such facilities as may be required for such inspection.

The Member shall comply with such recommendation as the Managers may make following such inspection.

Unless and to the extent that the Directors in their discretion otherwise decide, a Member who commits any breach of his obligations under paragraphs A to C above shall not be entitled to a right of recovery from the Club in respect on any claim whatsoever arising after such breach is committed until such time as the Member has complied with these obligations.

In no case shall a Member be entitled to recover any liabilities or expenses arising out of any defect or matter concerning the Entered Ship which was revealed in the course of such inspection.

## **Rule 50 Investments**

- A. The funds of the Club may be invested by the Managers by means of the purchase of such stocks, shares, bonds, debentures or other securities or the purchase of such currencies, commodities or other real or personal property, or by means of being deposited in such accounts as they think fit, or by such other method as they may approve.
- B. Unless the Managers otherwise decide, the funds of all Entry Years and of any reserve account standing to the credit of the Club shall be pooled and invested as one fund.
- C. When funds are so pooled the net investment income arising thereon including any realised capital gains or losses shall, unless the Managers otherwise decide, be credited or debited as the case may be to the Entry Year in which such income, gains or losses arise.



## Rule 51 **Decisions and Powers of the Directors**

- A. Where the approval or other decision of the Directors is required in accordance with these Rules, it can be given at a meeting of the Directors of the Club.
- B. Even in those circumstances in which the Member would not otherwise be able to obtain payment of a Claim for Recovery under the Rules, the Directors have the absolute discretion to pay a Claim for Recovery in full or in part and on such terms as they deem fit.
- C. Nothing done or not done by the Directors or the Managers on any particular occasion in relation to any matter whatsoever shall be treated as an admission or promise that the Club will not rely strictly on its rights under the Rules in relation to that particular matter or any other or as a waiver of such rights.

## Rule 52 **Termination of Entry**

- A. In the following circumstances, the Entry and therefore all Cover of Ships with the Club by a Member will be terminated, returning daily pro rata Call Contributions for the current Entry Year from the date of termination after deduction of administrative expenses:
  - i. if the Member owns or operates the Entered Ships as an individual (that is not through a company), his coverage will be cancelled if he becomes bankrupt or makes any arrangement or composition with his creditors as an alternative to bankruptcy, or if he becomes incapable by reason of his mental disorder of managing or administering his property and affairs, or upon his death;
  - ii. if the Member is a company, its Entry will be cancelled if a winding-up order is made, or if a receiver, administrator, trustee, custodian, liquidator, or other similar official is appointed or if any of its property is seized by a creditor except where an Entered Ship is arrested as part of a claim covered by the Certificate of Entry. Where the Managers are satisfied that a winding-up order or receivership, or any other liquidation, is part of an amalgamation or reconstruction and that the position of the rest of the Members of the Club is not prejudiced, they may agree that the Member's Entry will continue despite the winding-up;
  - iii. if in accordance with Rule 44 D a Member has been requested to provide security for Call Contributions and no security acceptable to the Managers has been provided within 14 days, the Entry of all his Ships will be deemed to have lapsed and therefore automatically cancelled from the date up to which the last payment of Call Contribution has been received;
  - iv. if a Member fails to settle a debit note from the Managers within 45 days, the Entry of all his Ships will be deemed to have lapsed and therefore automatically cancelled from the date up to which the last payment of Call Contribution has been received, unless otherwise agreed;
  - v. if the Managers in their discretion and without giving any reason, have given 14 days' notice of termination of the Entry, at the end of the notice period given;



provided that the Managers may at their absolute discretion and upon whatever Terms of Entry they think appropriate, determine otherwise.

- B. In the following circumstances the Entry of a particular Entered Ship will be terminated, returning daily pro rata Call Contribution for the current Entry Year from the date of termination after deduction of administrative expenses:
- i. if the Member ceases to have an interest in the Entered Ship (as defined in Rule 2) or, if he remains a Member but transfers the control of possession of the Entered Ship by demise charter or otherwise, or ceases to have the interest in her specified in the Certificate of Entry;
  - ii. if the Entered Ship becomes a total loss or is accepted by her Hull or war risks underwriters as a constructive total loss, or upon a decision by the Managers that the Entered Ship is to be considered or deemed to be an actual or constructive total loss or otherwise abandoned;
  - iii. if the Entered Ship is reported missing, at noon Greenwich Mean Time on the thirtieth day after the date of the last report of the Entered Ship;
  - iv. if the Entered Ship is laid-up without Cargo for more than 90 days with not more than a quarter of her usual complement of officers and crew on board, in accordance with Rule 49 B at the Manger's discretion;
  - v. if the Managers have given 14 days' notice of variation to the Terms of Entry and there is no agreement as to the variation, at the end of the notice period given;
  - vi. if the Managers have exercised their discretion to terminate the Entry under Rule 21 B, at the time and date specified by the Managers;
  - vii. if the Managers in their discretion and without giving any reason, have given 14 days' notice of termination of Entry, at the end of the notice period given;

provided that the Managers may at their absolute discretion and upon whatever Terms of Entry they may think appropriate, determine otherwise.

- C. If a Member's Entry is terminated for any reason whatsoever in respect of any or all of his Entered Ships, then even after the termination of Entry the Member, his successors in title, trustees in bankruptcy or liquidators remain liable to pay to the Club any amounts owed to the Club unless a release call has been paid in accordance with Rule 45. Notwithstanding Rule 43 C and D, on termination of a Member's cover, the Managers must issue debit notes for the payment in full of all instalments of Call Contributions and supplementary calls, if applicable, previously deferred. These debit notes and any subsequent debit notes which may be issued for future supplementary calls are payable within 21 days of issue and interest is due on late payments in accordance with Rule 44 A.
- D. If a Member's Entry is terminated in respect of any or all of his Entered Ships, usually liabilities occurring before the date of termination will be Covered notwithstanding the ending of the Entry; however, if a Member's Entry is terminated because of non-



payment of Call Contributions or any other debt to the Club, or because of any failure to comply with these Rules, then the Club will not be liable to pay anything to the former Member, his successors in title, trustees in bankruptcy or liquidators, even in respect of liabilities which arose before the date when the Entry terminated.

- E. Notwithstanding the provisions of the above Rule, the Managers have the discretion to agree to make payments for former Members who have been expelled from the Club, upon whatever terms they may deem appropriate.

### Rule 53 **Notices & Debit Notes**

Unless otherwise agreed with the Managers, any notice or debit note sent by the Managers on behalf of the Club to a Member (or to a mortgagee) or vice versa may be sent by e-mail. The notice or debit note will be deemed to be received immediately upon transmission of the e-mail message. The e-mail address of the Managers to which notices should be sent is:

**Underwriter@iopai.com**

Where a notice is sent by the Club or by the Managers to a Member recorded on a Certificate of Entry, notice sent to the first party named in the Certificate of Entry or to the broker, agent or other producer (if the Entry is made through a broker, agent or other producer) will be treated as sufficient notice to the Member concerned and to any Joint Entrant concerned in the Certificate of Entry.

### Rule 54 **Disputes**

- A. Any difference or dispute between the Member and the Club which cannot be amicably resolved must first be referred to the Managers for a decision. Such a decision must be given within six months of notice of the dispute being given to the Managers. If no decision is given by the Managers within six months, or if, when the Managers have given their decision the Member remains unsatisfied, then the difference or dispute must be referred to arbitration in London by two arbitrators, one to be nominated by each party and an umpire to be appointed by the arbitrators if they fail to agree. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its own arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of the sole arbitrator shall be binding on both parties as if he had been appointed by agreement.
- B. The arbitrators are to be members of the London Maritime Arbitrators' Association and the arbitration will be subject to the Arbitration Acts 1996 and any statutory amendments and the rules of the London Maritime Arbitrators' Association as published from time to time. No Member may bring or maintain any action, suit or other legal proceedings against the Club in connection with



any such difference or dispute unless the Member has first obtained an arbitration award in accordance with this Rule.

- C. Subject to the provisions of Rule 54 A, the merits of any Claim for Recovery shall be determined by the English High Court which shall have exclusive jurisdiction in such matters. However, nothing herein shall affect or prejudice the right of the Club to take action and/or commence proceedings in any jurisdiction to enforce its right of lien on Ships or to otherwise obtain security by seizure, attachment or arrest of assets for any amounts owed to the Club.

## Rule 55 **Law**

These Rules and any Terms of Entry agreed form a contract of Cover between the Club and a Member and subject to the right of the Club under Rule 54 B to enforce its right of lien in any jurisdiction in accordance with local law in such jurisdiction, shall be construed in accordance with English law.

## Rule 56 **Cyber Attack Exclusion**

1. Subject only to Clause 58.3 below, in no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from 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.
2. Subject to the conditions, limitations and exclusions of this policy, the indemnity otherwise recoverable hereunder shall not be prejudiced by the use or operation of any computer, computer system, computer software programme, computer process or any other electronic system, if such use or operation is not as a means for inflicting harm.
3. Where the Insurer is covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, Clause 58.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system, computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

## Rule 57 **Maritime Labour Convention 2016 Abandonment Indemnity Issues**

1. It is hereby agreed that in the event of relinquishing of possession or control of the Insured Vessel by the Assured, the application of Rule 52 of this policy (termination of cover of the Insured Vessel) shall be suspended for a period of 120 days, save where there is foreclosure by a mortgagee. This suspension shall apply solely for the purposes of discharging the legal liabilities referred to in Clauses 57.2 & 57.3 below.
2. Suspension pursuant to Clause 57.1 above shall be for the sole purpose of the Insurer discharging legal liabilities of the Assured in respect of :-



- a. Medical and Funerary Expenses pursuant to Clause 3 of this policy;
- b. Repatriation of crew and personal luggage transportation costs;
- c. Accommodation and food costs;
- d. Outstanding wages;

where such liability would otherwise fall to be met by the competent authority of an Assured that has ratified the MLC to Standard A2.5.5(a) and Guidelines B2.5.1.3(a)-(e), and only to the extent that such competent authority would otherwise be liable to meet such liabilities, costs and expenses.

3. Any payment in respect of a liability, costs or expense pursuant to Clause 57.2 above shall be made on behalf of the Assured, and the Assured shall be liable to reimburse the Insurer, for all costs and expenses paid pursuant to Clauses 57.2.3 and 57.2.4 above.
4. There shall be no cover under this MLC Abandonment Clause 30 days after notice of termination has been given in accordance with Regulation 2.5, Standard A2.5.2.11 or Regulation 4.2, Standard A4.2.12.

#### Rule 58 **Sanctions Limitation Exclusion**

There shall be no recovery by an Assured in respect of any Ship entered by the Assured for any liability, loss, damage, cost or expense where the provision of cover or any payment in respect thereof exposes or may expose the Association, any Subsidiary or the Managers to the risk of violating applicable law, including but not limited to, the prohibitions and requirements of any economic, financial, or trade sanctions administered by any state, international or supranational organisation or other authority; or to the risk of being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any state, international or supranational organisation or other authority which sanction, prohibition or adverse action the Members' Committee in its sole discretion determines may materially affect the Association, any Subsidiary or the Managers in any way whatsoever

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