

## Class 1 – Protection & Indemnity and Other Risks

### Section 2A. Liability to passengers.

Liability to pay damages or compensation:-

- (i) for personal injury, illness or death of any passenger of an insured vessel and hospital, medical or funeral expenses incurred in relation to such injury, illness or death. In this paragraph funeral expenses shall include the repatriation of dead bodies;
- (ii) ~~to passengers on board an insured vessel (other than for those risks covered under paragraphs (i) and (iii) of this Section) arising as a consequence of a casualty to the insured vessel, including the cost of forwarding passengers to destination or return to port of embarkation and of maintenance of passengers ashore;~~  
other than for those risks covered under paragraphs (i) and (iii) of this Section to passengers on board an insured vessel, including the cost of forwarding passengers to destination or return to port of embarkation and of maintenance of passengers ashore arising as a consequence of a collision, stranding, explosion, fire or any other incident affecting the physical condition of the insured vessel so as to render it incapable of safe navigation to its intended destination or constituting a threat to the life, health or safety of passengers;
- (iii) for loss of or damage to the effects of any passengers on board an insured vessel;

*PROVIDED THAT:-*

- (a) Cover under this Section is limited to liabilities, costs and expenses arising out of any act, neglect or default on board or in relation to the insured vessel.
- (b) The terms of the passage ticket or other contract between the passenger and the Member have been approved by the Managers in writing and cover for the liabilities, costs and expenses set out in this Section has been agreed between the Member and the Managers on such terms as the Managers may require.
- (c) There is no cover under this Section in respect of liabilities, costs and expenses incurred by a Member for personal injury, illness or death or loss or damage to property, delay or any other consequential loss sustained by any passenger on an insured vessel by reason of carriage of that passenger by air, except where such liabilities, costs and expenses occur during repatriation by air of injured or sick passengers following a casualty to the insured vessel, or during excursions from the insured vessel (but subject to proviso (d) below).
- (d) There is no cover under this Section in respect of contractual liabilities, costs and expenses incurred by a Member arising in respect of a passenger on board the insured vessel whilst on an excursion from the insured vessel 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.
- (e) Unless and to the extent that the Member has obtained appropriate special cover by agreement in writing with the Managers, there is no cover under this Section in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.

### 3A. SPECIAL COVER FOR CHARTERERS AND RELATED PARTIES.

Without prejudice to the generality of Rule 3, where an entry of a vessel in the Association is in the name of or on behalf of a charterer (other than a bareboat charterer or charterer by demise), the charterer may be covered as a Member, and any cargo interests wholly owned or controlled by such charterer or in the same ownership or control as him may be covered as a Co-Assured, upon such terms and conditions as the Managers of the Association may require in respect of the following liabilities, losses, costs and expenses and against the risks set out in Rule 2 on the following terms and conditions, subject always to the Constitution and these Rules.

The Member shall be covered in respect of the following risks:

- (1) Liability as charterer to indemnify the owner or disponent owner of the insured vessel in respect of the risks set out in Rule 2.
- (2) Liability as charterer to pay damages to the owner or disponent owner of the insured vessel in respect of loss of or damage to the vessel, and/or loss of use of the vessel arising from such loss or damage, to the extent (and no more) that cover would otherwise be excluded by virtue of Rule 16(i) to (ix) and Proviso (a)(i) to Rule 2, Section 10.
- (3) Liability as charterer to contribute to general average, special charges or salvage in respect of freight and any property, other than cargo, carried on board the insured vessel and owned or leased by the Member.
- (4) Loss of or damage to fuel oil, stores and supplies belonging to the Member or for which he is responsible.
- (5) Both the Member and the Co-Assured shall be covered in the capacity of cargo owner in respect of:
  - (a) the liabilities, losses, costs and expenses set out in Rule 2, Section 11 and the Member shall further be covered against such liabilities, losses, costs and expenses where they arise out of an incident occurring at a time when the Co-Assured;
  - (b) owned all or part of the cargo being carried on the insured vessel; and
  - (c) was wholly owned or controlled by, or was in the same ownership or control as, the Member;

and where the liabilities, losses, costs and expenses in such circumstances arise by virtue of the relationship between the Member and the Co-Assured.

(6) Liabilities, losses, costs and expenses incurred as a charterer and covered under Rule 2 and under Rule 3A for which cover would otherwise be excluded by Rule 14, provided that:-

- (a) cover against such liabilities, losses, costs and expenses may be terminated by the Association on 7 days' notice;
- (b) there is no cover for liabilities, losses, costs and expenses arising otherwise than from the operation, ownership, management or chartering of a vessel, or in respect of cargo otherwise than in the ordinary course of transit as provided for in the Joint Cargo Committee Termination of Transit Clause (Terrorism) JC 2001/056;
- (c) there is no cover in respect of the risks set out in clause 5 of the Institute War and Strike Clauses, Hulls-Voyage 1/11/95, and
- (d) such cover shall terminate automatically in the circumstances and manner described in clause 6.2 of the Institute War and Strike Clauses, Hulls-Voyage 1/11/95.

(e) without prejudice to its general limit of liability under Rule 3A, the Association's liability under such cover in respect of all parties insured in respect of one vessel shall not exceed in the aggregate the amount of US\$100,000,000 inclusive of interest and costs. For the purposes of this proviso, claims in respect of loss of or damage to cargo on the same cargo carrying voyage (including claims in respect of cargo's contribution to general average payable by the Member solely by reason of a breach of the contract of carriage) shall be deemed to have arisen out of the same incident and that incident shall be deemed to have occurred at the earliest of:

(i) the first place of discharge or port at which such loss or damage was ascertained and at the time of such ascertainment; and

(ii) if such loss or damage was ascertained after discharge of the cargo from the insured vessel, at the time and place of discharge; and

(iii) where the Member sold the insured vessel (or otherwise disposed of the interest in the insured vessel in respect of which he has been insured) during the cargo carrying voyage, at the time when last entry for the insured vessel terminated and at the place where the insured vessel was at that time,

and a reference in this proviso to a cargo carrying voyage shall include, in cases where cargo is carried under a contract for carriage partly in the insured vessel and partly by other means of transport, the entire through or combined transport of that cargo under that contract.

(f) in respect of such cover, the Member warrants to the Association that the insured vessel is chartered on terms not less favourable to the Member than the following:

(i) owners may decline any orders sending the vessel to any place which is dangerous through war risks (as defined in clauses 1.1 to 1.3 of the Institute War and Strike Clause Hulls-Voyage 1/11/95);

(ii) owners may insure their own interests against such war risks; and

(iii) war risks, and the Member shall further use his best endeavours to procure a term of the charterparty that he is not liable for any loss, damage or expense which is or which could be covered by available war risks insurance on normal commercial terms.

(g) in the event of an entered vessel sailing for, deviating towards, or being within the Territorial Waters of any countries or places described in the Excluded Areas as set out below (including any port area that at the date of this notice constitutes part of such a country or place howsoever it may hereafter be described), additional premium shall be paid at the discretion of the Club's Managers.

Information of such voyage or deviation shall be given to the Managers as soon as practicable, but the absence of prior notice shall not affect the reinstatement of cover subject to the payment of additional premium to be agreed.

(h) in the event of the Member not requiring continuation of such cover for an entered vessel proceeding into or remaining in an excluded area, they shall so advise the Managers before the commencement of such voyage, deviation or period and Rule 14 shall apply. Such cover shall be reinstated once such an entered vessel leaves an Excluded Area.

PROVIDED THAT:-

Cover under paragraphs (1) to (6) of this Rule 3A is subject to the following provisos:-

(a) If the Co-Assured has an interest in the cargo carried on board that vessel that interest shall constitute, for the duration of the voyage on which such cargo is carried, an interest in the vessel sufficient to constitute him a Co-Assured in respect of such vessel under Rule 36, and the provisions of paragraph (c) of the preamble to Rule 2 shall not apply.

(b) The terms of each charterparty must be in all material respects in a form approved by the Managers.

- (c) To the extent that the risks covered under or by virtue of this Rule, including the risks covered under Rule 2, are reinsured by the Association, the Member and the Co-Assured shall only be entitled to recover from the Association the net amount actually recovered by the Association under such reinsurance in respect of his claim, together with that portion (if any) of the cover retained by the Association.
- (d) There is to be no cover under paragraph (4) of this Rule in respect of:
- (i) ordinary loss in weight or volume or ordinary degradation or deterioration of such fuel oil, stores or supplies;
  - (ii) loss, damage or expense caused by inherent vice or nature of such fuel oil, stores or supplies;
  - (iii) loss, damage or expense caused by delay, even where such delay is caused by a risk insured by the Association;
  - (iv) loss, damage or expense caused by a terrorist or any person acting from a political motive.
- (e) In respect of the cover under paragraph (4) of this Rule the Association waives any implied warranty of seaworthiness of the vessel.
- (f) The provisions of Rules 7(2) and 8(3)(b) and of the Oil Pollution Limitation of Cover and Charterer's Limitation of Cover clauses shall not apply, but the Committee shall have power under this Rule to make Bye-Laws from time to time providing for the limitation of or other restrictions upon the liability of the Association for claims under all paragraphs of this Rule 3A, including cover under Rule 2. In the absence of any such Bye-Law and save as provided in Rule 3(A)(6), the Association's liability under all paragraphs of this Rule 3A, including cover under Rule 2 or otherwise, in respect of all parties insured in respect of any one vessel under any one contract of insurance in respect of any one incident shall not exceed in the aggregate the amount of ~~US\$500,000,000~~ US\$400,000,000 inclusive of interest and costs. For the purposes of this proviso, claims in respect of loss of or damage to cargo on the same cargo carrying voyage (including claims in respect of cargo's contribution to general average payable by the Member solely by reason of a breach of the contract of carriage) shall be deemed to have arisen out of the same incident and that incident shall be deemed to have occurred at the earliest of:-
- (i) the first place of discharge or port at which such loss or damage was ascertained and at the time of such ascertainment; and
  - (ii) if such loss or damage was ascertained after discharge of the cargo from the insured vessel, at the time and place of discharge; and
  - (iii) where the Member sold the insured vessel (or otherwise disposed of the interest in the insured vessel in respect of which he has been insured) during the cargo carrying voyage, at the time when last entry for the insured vessel terminated and at the place where the insured vessel was at that time,

and a reference in this proviso to a cargo carrying voyage shall include, in cases where cargo is carried under a contract for carriage partly in the insured vessel and partly by other means of transport, the entire through or combined transport of that cargo under that contract.

### **31. APPLICATION FOR ENTRY.**

Any person who desires to enter a vessel for insurance in the Association shall make application for such entry in such form as may from time to time be required by the Managers.

The Managers shall be entitled in their absolute discretion to refuse any application for the entry of a vessel for insurance in the Association, whether or not the applicant is a Member of the Association.

Applications for the entry of a vessel or vessels may be made in respect of vessels which form part of a particular and specified fleet for ~~insurance the~~ purposes ~~of such entry only~~ and if the Association accepts such an application, the Association will treat such entries as belonging to such a fleet notwithstanding that the beneficial ownership of such vessels may be different from one another, and all Members and joint Members within each such fleet shall be jointly and severally liable to ~~perform all the obligations of any one of them towards the Association, including without limitation the liability to~~ pay all Calls and other sums due to the Association in respect of ~~any and all~~ vessels within that fleet entry. Any failure by a Member or joint Member in ~~that the same~~ fleet to ~~pay his Calls or perform any sums obligation whatsoever due from him to towards~~ the Association shall be deemed to be a failure ~~also~~ of all Members and joint Members within such fleet. ~~In the case of a failure to pay such Calls or any other sums whatsoever and shall entitle what soever due from such Member to the Association.~~ the Association ~~shall be entitled~~ to give notice to all or any of such Members or joint Members under Rule 41.

#### **41. TERMINATION OF INSURANCE FOR NON-PAYMENT.**

- (1) If a Member (whether as a Member of this or any other Class) has failed to pay on the due date for payment any sum due to the Association or to any other person on its behalf, ~~he shall be deemed to have failed to pay all sums (including but not limited to instalments determined under Rule 49(i)) whose date of payment to the Association or to any other person has been notified by the Association and~~ the Association may serve notice on the Member requiring him to pay such sums on or before the date specified in the notice which shall refer to one or more of the consequences of non-payment set out in paragraph (2) of this Rule.
- (2) If a Member fails to pay such sums in full on or before the date so specified in the notice:-
  - (i) that Member shall cease to be insured by the Association and the period of insurance shall terminate in respect of any and all vessels entered by him and
  - (ii) the Association shall cease to be liable and shall not thereafter become liable to that Member for any loss, damage, liabilities, costs or expenses whatsoever in respect of any or all vessels at any time entered by him, irrespective of whether insurance of such vessels terminated by reason of this or any other Rule or at any previous time for any other reason, or whether the events giving rise to such loss, damage, costs, expenses or liabilities occurred before or after termination and whether any claim by the Member against the Association was made before or after service of the notice.

#### *PROVIDED THAT:-*

- (a) such notice shall not be invalidated by reason that the sums specified therein as being due to the Association is greater or lesser than the sum actually due;
- (b) in determining what sums ~~is are~~ due to the Association under this or any other Rule or otherwise no account shall be taken of any amount due or alleged to be due by the Association to the Member and no set-off of any kind whatsoever shall be allowed against such sums (even if previously allowed) unless specifically agreed in writing by the Managers on behalf of the Association and referred to in such notice;
- (c) at the written request of the Member the Committee may determine to reinstate the Member and to extend the period of insurance in respect of any and all vessels entered by him on such terms as the Committee thinks fit and the Committee may further determine that the Association shall be liable to the Member for any liabilities, costs or expenses in respect of any and all vessels at any time entered by or for the Member to such extent and upon such terms as the Committee thinks fit.

#### 47B. RELEASES.

- (1) Without prejudice to Rule 47A (Overspill Claims and Calls) and for the purposes of this Rule 47B only, Calls means Calls other than Overspill Calls.

If a Member ceases to be insured in respect of an insured vessel for any reason whatsoever, the Managers may at any time after termination of insurance of that vessel calculate and notify ~~the~~ such Member of the estimated amount of his liability for further Calls which the Association may levy in respect of such vessel, according to the Release formula determined from time to time by the Committee, together with the amount of all other sums due by such Member to the Association.

- (2) In ~~assessing the estimated~~ determining the Release formula to be used for estimating the amount of liability of Members for further Calls the Committee may take into account any contingencies and other special considerations which ~~the Committee~~ it may determine are relevant for this purpose (including but not limited to matters such as inflation and currency fluctuations).

- (3) The amount s calculated and notified by the Managers under paragraph (1) of this Rule shall be a Release and shall be payable by ~~the Member without deduction on demand in full or in such instalments and on such dates as the Managers may require. If the Member pays the Release in full or in the instalments required by the Managers, he shall be under no further liability for any Calls, except for Overspill Calls, which the Association may levy after the date of such notification and have no right to share in the return of any excess payments which the Committee may thereafter determine in accordance with Rule 52(4).~~ such Member immediately or in such instalments and on such dates as the Managers may require, in either case without deduction.

~~A Member who may be entitled under the terms of the International Group Agreement 1985 or other similar document to elect to postpone payment of a Release until such time as the final level of all Calls, except for Overspill Calls, has been determined and invoiced shall immediately provide as security for payment a bank guarantee, acceptable to the Managers, of such amount as they deem at the time to be sufficient to cover the current level of Release. The Member shall in addition undertake that such guarantee shall be adjusted to cover any increases to Calls, except for Overspill Calls, and other sums due which thereafter may be determined. If the Member fails to arrange such adjustment within 21 days of written request to do so, the Managers may issue a demand for payment of a Release in accordance with the Rules.~~

- (4) ~~If the Member shall not have paid in full the amount of Release so calculated within 30 days of the service on him of the original notice thereof or shall not have paid on the due date any instalment required by the Managers under paragraph (3) of this Rule then for as long thereafter as he shall not have so paid the Member shall be subject to any subsequent revisions to the Release formula determined by the Committee. The revised amount shall be payable in place of the amount originally calculated within a further 30 days. When a Member has paid his Release in full in accordance with paragraph (3) of this Rule he shall be under no further liability for any further Calls which the Association may levy after the date of such notification and shall have no right to share in any return of an excess or any part thereof which the Committee may thereafter determine in accordance with Rule 52(4).~~

- (5) ~~A Member shall have no right to question any such assessment save that after payment thereof in full to the Association, he shall be entitled to claim repayment thereof in whole or in part by referring such matter to arbitration in accordance with Rule 59.~~ The Managers may, at any time prior to payment of a Release in full in accordance with paragraph (3) of this Rule, recalculate such Release in accordance with the Release formula referred to in paragraph (1) of this Rule and notify the relevant Member thereof, whereupon such Member shall become liable to pay such recalculated Release in accordance with this paragraph (5), credit being given against such recalculated Release for any part or instalments of a Release paid to the Association in respect of such vessel.

(6) Until a Member has paid his Release in full in accordance with paragraph (3) of this Rule, he shall remain liable to pay all Calls levied in respect of such vessel after the date of such notification, credit being given against such further Calls for any part or instalments of a Release paid to the Association in respect of such vessel.

(7) A Member who may be entitled under the terms of the International Group Agreement 1999 or other similar agreement to make a request to the Association to pay such further Calls instead of a Release, shall:

(a) make such request in writing no later than seven days after the Managers have notified such Release to such Member.

(b) within 14 days of the Managers' request to do so, provide to the Association as security for such further Calls a bank guarantee on terms and from a bank acceptable to the Managers in the amount of such Release together with such Member's written undertaking on terms acceptable to the Managers to increase, within 14 days of a request by the Managers to do so, the amount of such bank guarantee to cover any increase in the Association's or the Managers' estimate of such further Calls.

(8) Until a Member has both made a request as required by sub-paragraph 7(a) and provided a bank guarantee and undertaking as required by sub-paragraph 7(b), he shall remain liable to pay any Release or revised Release notified under paragraphs (1) and (5) of this Rule, and the Managers may recalculate such Release in accordance with the Release formula referred to in paragraph (1) and notify such Member thereof, whereupon he shall become liable to pay such recalculated Release in accordance with this paragraph (8), credit being given for any instalments of a Release received by the Association in respect of such vessel.

(9) A Member shall have no right to dispute any Release save that, after payment thereof in full to the Association or after payment of all instalments required by the Managers, the Member shall be entitled to claim repayment thereof in whole or in part using the procedure set out in Rule 59.

#### **49. PAYMENT OF CALLS AND OTHER SUMS DUE TO THE ASSOCIATION.**

(1) Calls and other sums due to the Association shall be paid on demand ~~save that Advance, Additional and Overspill Calls and Solvency Margin and Guarantee Fund Contributions shall be due and payable by or in such~~ instalments and on such dates as are determined by the Committee or the Managers.

(2) The Association shall have a lien on ~~the an~~ insured vessel for all Calls and other sums due to it under these Rules in respect of that vessel. Such lien shall extend to any and all other insured vessels which are part of ~~a the same~~ fleet as that vessel in accordance with Rule 31 and shall be in addition to, and in no way ~~may be~~ construed as a waiver or amendment ~~to of,~~ any other contractual or maritime lien which the Association may expressly or impliedly possess in respect of ~~the said such~~ insured vessel or vessels.

(3) The Association shall be entitled to set off any Calls or other sums due from a Member to the Association against any amounts for which the Association may be liable to such Member. No claim by a Member against the Association shall ~~constitute~~ afford that Member any right to make any set off against Calls or other sums due to the Association, nor shall it entitle a Member to withhold or delay payment of any such amounts.

(4) The currency of payment of any amounts due to the Association shall be determined by the Managers.

(5) If any Call, not being an Overspill Call, or other sum due to the Association from a Member is not paid and is considered to have become irrecoverable, the sums required to make good any resulting shortfall or deficiency in the funds of the Association shall become general expenses of the Association for which Calls may be levied or reserves applied in accordance with these Rules.



- (6) (a) The Committee may at any time by means of Bye Laws determine the rate of interest which shall be payable on any Calls or other sums due to the Association as from the due date of payment or such later date as may be specified.
- (b) The Managers may on behalf of the Association charge interest on Calls and other sums due at the rate specified in the Bye Laws.

**59. ARBITRATION JURISDICTION.**

- (1) Subject to Rule 47A if any difference or dispute shall arise between a Member and the Association as to the rights or obligations of the Association or the Member or as to any other matter whatsoever, the resolution of such difference or dispute shall be governed by English law and procedure and shall, at the option of the Association, either be determined by the High Court of Justice of England and Wales or be referred to the Arbitration in London of a sole legal Arbitrator. Such Arbitrator shall be a practising Queen's Counsel of practicing at the Commercial Bar and or, if none is available unavailable any other practicing Queen's Counsel and the submission to Arbitration and all the proceedings therein shall be subject to the provisions of the Arbitration Act 1950 1996 and any Statutory modification or re-enactment thereof. In any such Arbitration any matter decided or stated in any Judgement or Arbitration Award (or in any reasons given by an Arbitrator or Umpire for making any Award) relating to proceedings between the Member and any third party, shall be admissible in evidence.
- (2) No Member may bring or maintain any action, suit or other legal proceedings against the Association in connection with any difference or dispute unless he has first obtained an Arbitration Award in accordance with this Rule.
- (3) For the purpose of this Rule except paragraph (4) hereof the term "Member" shall also include a joint Member, a former Member, a Co-Assured, a trustee, an assignee, a successor to the Member and any other companies in the same or associated ownership or management as the Member or any of the foregoing or the shareholders, managers, agents or employees of any of them or any other person or entity claiming any insurance or re-insurance benefit from or other remedy against the Association, whether under these Rules or under a Bye law, Certificate of Entry, insuring or re-insuring agreement of this Association by contract or otherwise and the term "the Association" shall include any subsidiary or associated company of the Association or their or its Directors, agents or employees.
- (4) The Member warrants its authority to bind to Arbitration the other entities and individuals included within the above definition in paragraph (3) of this Rule. If any claim shall be made by any of them other than in Arbitration the Member shall procure that such claims be referred to Arbitration forthwith, pending which the Member shall not be entitled to proceed with any claim of its own against the Association connected with the same or any related subject matter; and the Association shall be entitled to recover from the Member any amounts agreed or adjudged to be due from the Association, and any costs incurred by it, in connection with any process other than Arbitration.
- (5) In any difference or dispute where the Member or Association as defined in paragraph (3) above includes more than one party they shall be deemed one party for the purposes of appointing an Arbitrator, receiving notices, and otherwise for all purposes in connection with the conduct of the Arbitration proceedings.
- (6) Any dispute or difference over the interpretation, effect or application of this Arbitration Jurisdiction clause shall be decided exclusively by the High Court of Justice of England and Wales in London, in accordance with English law.
- (7) Nothing in these Rules shall affect or prejudice the right of the Association to take action in accordance with the law of any country or state to enforce a right in rem or exercise a lien on ships or to obtain security by seizure, attachment or arrest of assets for any amounts payable to the Association.