

# United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited

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## The Rules

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## Foreword

### The Rules

(Effective on and from noon Greenwich Mean Time on 20th February, 2014).

These Rules were adopted in accordance with the powers conferred by The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited Consolidation & Amendment Act 1993 and the Bye-Laws of The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited, which said Bye-Laws provide for the alteration, abrogation of or addition to the Rules by Resolution of the Association.

These Rules shall be the Rules of The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited

The notes to the Rules are for guidance only and do not form part of the Rules.

## Introductory

- 1 The standard cover afforded by the Association to an Owner who has entered his ship in the Association is set out in Rule 2.
- 2 The risks specified in Rule 2 are always subject to the conditions, exceptions, limitations and other terms set out in Rule 5 and in the remainder of these Rules.
- 3 The cover set out in these Rules may be excluded, limited, modified or otherwise altered by any special terms which have been agreed in writing between an Owner and the Managers.
- 4 By virtue of Rules 3 and 4 an Owner may be insured against risks other than those set out in Rule 2 where such special terms have been agreed in writing between the Owner and the Managers. Unless otherwise expressly agreed such special insurance shall be subject to the conditions, exceptions, limitations and other terms set out in Rule 5 and in the remainder of these Rules.
- 5 An Owner is only insured against loss, damage, liability or expense incurred by him which arises:
  - i out of events occurring during the period of entry of a ship in the Association;
  - ii in respect of the Owner's interest in the entered ship; and
  - iii in connection with the operation of the ship by or on behalf of the Owner.
- 6 An Owner who has entered his ship in the Association for insurance against any of the aforesaid risks is bound (subject to (7) below) to pay Calls to the Association in accordance with Rules 8 and 19 to 23 ("Call Entries").
- 7 By virtue of Rule 9 an Owner may be insured on the special terms that he is liable to pay a fixed premium to the Association ("Fixed Premium Entries"), provided that this has been expressly agreed in writing between the Owner and the Managers.
- 8 Save as provided in Rule 1(9), the cover provided by the Association as set out in these Rules is solely for the benefit of the Owner, and any Joint Owner, Group Affiliate, other association or insurer, or permitted assign, to the extent allowed by Rules 10, 11, 13 and 15. It is not intended, save as provided in Rule 1(9), that rights should be acquired by any third party, through the operation of the Contracts (Rights of Third Parties) Act 1999 of the United Kingdom or similar legislation.

## Rule 1 (continued)

- 9 Notwithstanding the provisions of Rule 5A, where an Owner has failed to discharge a legal liability to pay damages or compensation for illness, personal injury or death of a seaman, the Association shall discharge or pay such claim on the Owner's behalf directly to such seaman or dependent thereof

PROVIDED ALWAYS that:

- (i) the seaman or dependent has no enforceable right of recovery against any other party and would otherwise be uncompensated,
- (ii) subject to (iii) below, the amount payable by the Association shall under no circumstances exceed the amount which the Owner would otherwise have been able to recover from the Association under the Rules and the Owner's terms of entry,
- (iii) where the Association is under no liability to the Owner in respect of such claim in accordance with Rule 31(B)(ii)(a) and (d) by reason of cancellation for non-payment of amounts due to the Association, the Association shall nevertheless discharge or pay that claim to the extent only that it arises from an event occurring prior to the date of cancellation, but as agent only of the Owner, and the Owner shall be liable to reimburse the Association for the full amount of such claim



## **Risks Covered**

Unless otherwise agreed between an Owner and the Managers, the risks covered by the Association are as set out in Sections 1 to 26 below, PROVIDED ALWAYS that:

- i Unless and to the extent that the Directors otherwise decide, an Owner is only insured in respect of such sums as he has paid to discharge the liabilities or to pay the losses, costs or expenses referred to in those sections;
- ii The maximum amount recoverable by an Owner in respect of any one event may be limited by virtue of the limits set out in Rule 5(B), or by virtue of a resolution of the Directors made before the commencement of the relevant policy year;
- iii Unless otherwise agreed between an Owner and the Managers, an Owner's recovery from the Association shall be subject to the deductibles set out in Appendix B to this Rule.

## **Section 1**

### **Liability to persons other than seamen**

A Liability to pay damages or compensation for personal injury, illness or death of any person (other than the persons specified in paragraphs (B) and (C) of this Section and in Sections 2 and 3) and hospital, medical or funeral expenses incurred in relation to such injury, illness or death.

B Liability to pay damages or compensation for personal injury, illness or death of any person engaged to handle the cargo of an entered ship.

PROVIDED ALWAYS that:

- a) Cover under paragraphs (A) and (B) of this Section 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 from the shipper or pre-carrier at the port of shipment until delivery of that cargo to consignee or onward carrier at the port of discharge.
- b) Where the liability arises under the terms of any contract or indemnity and would not have arisen but for those terms, that liability is not covered under this Section but may be covered under and in accordance with Section 14 of this Rule.
- c) Where the liability is in respect of a person on another ship, and arises out of a collision between that ship and the entered ship, that liability is not covered under this Section but may be recoverable under and in accordance with Section 10(B) of this Rule.

C Liability to pay damages or compensation:

- i for personal injury, illness or death of any passenger and hospital, medical or funeral expenses incurred in relation to such injury, illness or death;
- ii to passengers on board an entered ship arising as a consequence of a casualty to that ship while they are on board, including the cost of

## Rule 2 (continued)

forwarding passengers to destination or return to port of embarkation and of maintenance of passengers ashore;

- iii for loss of or damage to the effects of any passenger.

PROVIDED ALWAYS that:

- a) The terms of the passage ticket or other contract between the passenger and the Owner have been approved by the Managers in writing and cover for the liabilities set out in this paragraph (C) has been agreed between the Owner and the Managers on such terms as the Managers may require.
- b) There shall be no recovery from the Association under this paragraph (C) in respect of liabilities for personal injury or death, or loss of or damage to property, delay or any other consequential loss sustained by any passenger by reason of carriage by air, except where such liability occurs either
  - i during repatriation by air of injured or sick passengers or of passengers following a casualty to the entered ship; or
  - ii subject always to proviso (c) of this paragraph (C), during an excursion from the entered ship.
- c) There shall be no recovery from the Association under this paragraph (C) in respect of the contractual liability of an Owner for death or injury to a passenger whilst 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 Owner, or
  - ii the Owner has waived any or all of his rights of recourse against any sub-contractor or other third party in respect of the excursion.
- d) Unless and to the extent that the Owner has obtained appropriate special cover by agreement with the Managers, there shall be no recovery from the Association in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.
- e) For the purpose of this paragraph (C), 'casualty' means 'an incident involving either:
  - (i) collision, stranding, explosion, fire, or any other cause affecting the physical condition of the entered ship so as to render it incapable of safe navigation to its intended destination; or
  - (ii) a threat to the life, health or safety of passengers in general'.
- f) Where liabilities to passengers include liabilities arising under a non-war certificate issued by the Association in compliance with either Article 4bis of the Athens Convention relating to Carriage of Passengers and their Luggage by Sea, 2002 and Guidelines for its implementation or Regulation (EC) No. 392/2009 of the European Parliament and of the Council which gives effect thereto ("Certified Liabilities") and such liabilities exceed or may exceed in the aggregate the limit of cover of US\$2,000 million as specified in Rule 5(B)(iii)(1)
  - i. the Managers may in their absolute discretion defer payment of a claim in respect of those liabilities or any part thereof until the Certified Liabilities, or such part of the Certified Liabilities as the Managers may decide, have been discharged; and

- ii. if, and to the extent any Certified Liabilities discharged by the Association exceed the said limit any payment by the Association in respect thereof shall be by way of loan and the Member shall indemnify the Association in respect of such payment.

## **Section 2**

### **Injury and death of seamen**

Liability to pay damages or compensation for personal injury or death of any seaman, and hospital, medical, funeral and other expenses necessarily incurred in relation to such injury or death, including expenses of repatriating the seaman and sending abroad a substitute to replace him.

PROVIDED ALWAYS that:

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

## **Section 3**

### **Illness and death of seamen**

Liability to pay damages or compensation for illness and death resulting from illness of any seaman, and hospital, medical, funeral or other expenses necessarily incurred in relation to such illness or such death including expenses of repatriating the seaman and sending abroad a substitute to replace him.

PROVIDED ALWAYS that:

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

## **Section 4**

### **Repatriation and substitute expenses**

A Repatriation and substitute expenses which are not recoverable under Sections 2 and 3 of this Rule and which are incurred in sending abroad a substitute to replace a seaman of an entered ship who has been left ashore, or incurred under statutory obligation in repatriating any seaman of the entered ship.

PROVIDED ALWAYS that:

This paragraph A of Section 4 does not cover expenses which arise out of or are the consequence of

## Rule 2 (continued)

- (i) 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, or
- (ii) breach by the Owner of any agreement or other contract of service or employment, or
- (iii) sale of the ship, or
- (iv) any other act of the Owner in respect of the entered ship.

B Repatriation and substitute expenses incurred in compliance with Guideline B2.5 of Regulation 2.5 of the 2006 Maritime Labour Convention (MLC 2006) or domestic legislation by a State Party implementing MLC 2006 unless costs are otherwise recoverable under Rule 2, Sections 2, 3 or 4A.

C Notwithstanding Rule 5A, where a Member has failed to discharge or pay the liabilities referred to in Section 4B above, the Association shall discharge or pay such claim on the Member's behalf directly to such seaman.

PROVIDED ALWAYS that:

- (a) where the Association is under no liability in respect of the claim by reason of a cesser under Rule 29A or cancellation under Rule 31, the Association shall nevertheless discharge or pay a claim under Section 4C incurred within the earlier of three months of the date of cesser or cancellation, or the expiry of the policy, but only as agent of the Owner and the Owner shall reimburse the Association in full for such claim; and
- (b) the Owner shall reimburse the Association in full for any claim paid under Section 4B of Rule 2.

## Section 5

### Loss of and damage to the effects of seamen and others

Liability to pay damages or compensation for loss of or damage to the effects of:

A Any seaman,

B Any other person, on board an entered ship (other than the persons specified in paragraph (C) of Section 1).

PROVIDED ALWAYS that:

- a) Unless and to the extent that the Owner has obtained appropriate special cover by agreement with the Managers, there shall be no recovery from the Association in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.
- b) Where the liability arises under the terms of a contract and would not have arisen but for those terms, that liability is not covered by the Association unless and to the extent that those terms shall have been previously approved by the Managers in writing.

### **Section 6** **Shipwreck unemployment indemnity**

Liability to compensate any seaman for the loss of his employment caused in consequence of the actual or constructive total loss of an entered ship, where the wages or compensation are payable under statutory or other legal obligation or under the terms of any crew agreement or other contract of service or employment if and to the extent that those terms have previously been approved by the Managers.

### **Section 7** **Diversion expenses**

Expenses of diversion of an entered ship where and to the extent that those expenses (i) represent the net loss to the Owner (over and above such expenses as would have been incurred but for the diversion) in respect of the cost of fuel, insurance, wages, stores, provisions and port charges and (ii) are incurred solely for the purpose of securing treatment for an injured or sick person or while awaiting a substitute for such person or for the purpose of landing stowaways or refugees, or (with the Managers' agreement) a deceased person, or for the purpose of saving life at sea.

### **Section 8** **Stowaways and refugees**

Expenses, other than those covered under Section 7 of this Rule, incurred by the Owner in discharging his obligations towards or making necessary arrangements for stowaways or refugees, but only if and to the extent that the Owner is legally liable for the expenses or they are incurred with the approval and agreement of the Managers.

### **Section 9** **Life salvage**

Sums legally due to third parties by reason of the fact that they have saved or attempted to save the life of any person on or from an entered ship but only if and to the extent that such payments are not recoverable under the Hull Policies of the entered ship or from cargo owners or underwriters.

### **Section 10** **Collision with other ships**

The liabilities, set out in paragraphs (A), (B) and (C) below, to pay costs and damages to any other person as a consequence of a collision between an entered ship and any other ship, but only if and to the extent that such liabilities

## Rule 2 (continued)

are not recoverable under the collision liability clause contained in the Hull Policies of the entered ship:

- A One fourth, or such other proportion as may have been agreed in writing by the Managers, of the liabilities arising out of the collision other than the liabilities listed in paragraph (B) of this Section.
- B Four fourths of the liabilities arising out of the collision for or relating to
  - i removal or disposal of obstructions, wrecks, cargoes or any other thing whatsoever,
  - ii any real or personal property or any thing whatsoever except other ships or property on other ships,
  - iii 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,
  - iv loss of life, personal injury, illness, repatriation or substitute expenses,
  - v an escape or discharge (other than from the entered ship), of oil or any other substance, or the threat thereof, but excluding damage to other ships with which the entered ship is in collision and property on such other ships.
  - vi remuneration paid, pursuant to the Special Compensation P&I Club (SCOPIC) Clause, or any revision thereof, in respect of the salvage of a ship with which the entered ship is in collision.
- C That part of the Owner's liabilities arising out of the collision, other than the liabilities listed in paragraphs (A) and (B) of this Section, which exceeds the sum recoverable under the Hull Policies of the entered ship solely by reason of the fact that the sum of the liabilities arising out of the collision exceeds the valuation of the ship in those policies.  
PROVIDED ALWAYS that:
  - a) Unless and to the extent that the Directors in their discretion otherwise decide, recovery from the Association under paragraph (C) of this Section shall be limited to the excess (if any) of the amount which would have been recoverable under the Hull Policies of the entered ship if that ship had been insured thereunder at the proper value in accordance with Rule 5(D)
  - b) Unless otherwise agreed by the Managers at the time of entry or of subsequent annual renewal, an Owner shall not be entitled to recover from the Association any franchise or deductible borne by him under the Hull Policies of the entered ship.
  - c) If a claim arises under this Section in respect of a collision involving two ships belonging wholly or partly to the same Owner, he shall be entitled to recover from the Association, and the Association shall have the same rights, as if the ships had belonged to different owners.
  - d) Unless otherwise agreed between the Owner and the Managers as a term of the ship's entry in the Association, if both ships are to blame, then where the liability of either or both of the ships in collision becomes limited by law, claims under this Section shall be settled upon the principle

of single liability, but in all other cases claims under this Section shall be settled upon the principle of cross-liabilities, as if the owner of each ship had been compelled to pay the owner of the other ship such proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Owner of the entered ship in consequence of the collision.

*Note: Any oil pollution element in a claim under this Section 10 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.*

### **Section 11** **Loss or damage to property**

Liability to pay damages or compensation for any loss of or damage to any property (including infringement of rights) whether on land or water and whether fixed or moveable.

PROVIDED ALWAYS that:

- a) There shall be no recovery by an Owner under this Section in respect of:
  - i Liability which arises under the terms of any contract or indemnity to the extent that it would not have arisen but for those terms.
  - ii Liability which is within the scope of the following Sections of this Rule, or within any proviso, limit, exclusion or deductible applicable to those Sections:  
Section 1(C) Liability to persons other than seamen.  
Section 5 The effects of seamen and others.  
Section 10 Collision with other ships.  
Section 12 Pollution risks.  
Section 13 Liability arising out of towage of or by an entered ship.  
Section 15 Wreck liabilities.  
Section 17 Cargo liabilities.  
Section 18 Property on the entered ship.
  - iii Any franchise or deductible borne by the Owner under the Hull Policies of the entered ship.
- b) If an entered ship causes loss or damage to property or infringes rights belonging wholly or in part to the Owner of the entered ship, the Owner shall have the same rights of recovery from the Association as if such property or rights belonged wholly to different owners.

*Note: Any oil pollution element in a claim under this Section 11 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.*

### **Section 12** **Pollution risks**

The liabilities, losses, damages, costs and expenses set out in paragraphs (A) to (E) below when and to the extent that they are caused by or incurred in consequence of the discharge or escape from an entered ship of oil or any other substance, or the threat of such discharge or escape:

## Rule 2 (continued)

PROVIDED ALWAYS that

- a) There shall be no recovery in respect of any liability, loss, damage, cost or expense arising as a consequence of the presence in, or the escape or discharge or threat of escape or discharge from, any land-based dump, storage or disposal facility, of any substance previously carried on the entered ship, whether or not as cargo, fuel, stores or waste, except to the extent that the Directors in their discretion, and without having to give any reasons for their decision, otherwise determine.
  - b) Unless and to the extent that special cover has been agreed in writing by the Managers, the Association shall not reimburse any liability, loss, cost or expense which would have been recoverable in general average if the cargo of the entered ship had been carried on terms no less favourable to the Owner than those of the York-Antwerp Rules 1994.
  - c) Unless the Managers otherwise agree in writing, the Owner of an entered ship which is a "relevant ship" as defined in the Small Tanker Oil Pollution Indemnification Agreement 2006 (STOPIA 2006) shall during the currency of that Agreement be a party to STOPIA 2006 for the period of entry of such ship in the Association and, unless the Directors otherwise determine, shall not be entitled to any recovery under this Rule 2, Section 12 in respect of such ship in relation to any casualty, event or matter occurring during a period when the Owner is not a party to STOPIA 2006.
  - d) Unless the Managers otherwise agree in writing, the Owner of an entered ship which is a "relevant ship" as defined in the Tanker Oil Pollution Indemnification Agreement (TOPIA) shall during the currency of that Agreement be a party to TOPIA for the period of entry of such ship in the Association and, unless the Directors otherwise determine, shall not be entitled to any recovery under this Rule 2, Section 12 in respect of such ship in relation to any casualty, event or matter occurring during a period when the Owner is not a party to TOPIA.
- A Liability for loss, damage or contamination.
- B Any loss, damage or expense which the Owner incurs, or for which he is liable, as a party to any agreement approved by the Directors, including the costs and expenses incurred by the Owner in performing his obligations under such agreements.
- C The costs of any measures reasonably taken for the purpose of avoiding or minimizing pollution or any resulting loss or damage together with any liability for loss of or damage to property caused by measures so taken.
- D The costs of any measures reasonably taken to prevent an imminent danger of the discharge or escape from the entered ship of oil or any substance which may cause pollution.
- E The costs or liabilities incurred as a result of compliance with any order or direction given by any government or authority, for the purpose of preventing or reducing pollution or the risk of pollution, provided always that:



- a) such compliance is not a requirement for the normal operation or salvage or repair of the entered ship; and
- b) such costs or liabilities are not recoverable under the Hull Policies of the entered ship.

*Note: Oil pollution claims under this Section 12 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.*

### Section 13

#### Liability arising out of towage of or by an entered ship

##### **A Customary towage of an entered ship**

Liability, other than for the cost of the contracted services, under the terms of a contract for the customary towage of an entered ship, that is to say:

- i towage for the purpose of entering or leaving port or manoeuvring within the port during the ordinary course of trading, or
- ii towage of such entered ships as are habitually towed in the ordinary course of trading from port to port or from place to place, to the extent that the Owner is not insured against such liability under the Hull Policies of the entered ship.

##### **B Towage of an entered ship other than customary towage**

Liability under the terms of a contract for towage of an entered ship other than the customary towage covered under paragraph (A) of this Section but only if and to the extent that cover for such liability has been agreed with the Managers upon such terms as the Managers may require.

##### **C Towage by an entered ship**

Liability arising out of the towage of another ship or object by an entered ship but only if and to the extent that:

- i cover for such liability has been agreed with the Managers upon such terms as the Managers may require, or
- ii the Directors shall in their discretion decide that having regard to all the circumstances the claim falls within the scope of the Association and that the Owner should be reimbursed.

*Note: Any oil pollution element in a claim under this Section 13 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.*

### Section 14

#### Liability arising under certain indemnities and contracts

Liability for loss of life, personal injury or illness, or for loss of or damage to property, arising under the terms of an indemnity or contract given or made by or on behalf of the Owner relating to facilities or services provided or to be provided to or in connection with an entered ship, but only if and to the extent that:

## Rule 2 (continued)

- i the terms have previously been approved by the Managers and cover for the liability has been agreed between the Owner and the Managers on such terms as the Managers may require, or
- ii the Directors in their discretion decide that the Owner should be reimbursed.

*Note: Any oil pollution element in a claim under this Section 14 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.*

## Section 15 Wreck liabilities

- A Costs or expenses relating to the raising, removal, destruction, lighting or marking of the wreck of an entered ship, when such raising, removal, destruction, lighting or marking is compulsory by law or the costs thereof are legally recoverable from the Owner.
- B Costs or expenses relating to the raising, removal or destruction of any property being carried or having been carried on an entered ship, not being oil or any other substance within the scope of Section 12 of this Rule, when such raising, removal or destruction is compulsory by law or the costs thereof are legally recoverable from the Owner but only if and to the extent that:
  - i such property does not form part of the entered ship and is not owned or leased by the Owner or by any company associated with or under the same management as the Owner; and
  - ii the Owner is unable to recover such costs or expenses from the owner or insurer of such property, or from any other party.
- C Liabilities incurred by an Owner as the result of any such raising, removal or destruction of the wreck of an entered ship or any property as is referred to in paragraphs (A) and (B) of this Section, or any attempt thereat.
- D Liabilities incurred by an Owner as the result of the presence or involuntary shifting of the wreck of an entered ship or as a result of his failure to remove, destroy, light or mark such wreck, including liability arising from the discharge or escape from such wreck of oil or any other substance.

PROVIDED ALWAYS that:

- a) The entered ship became a wreck as the result of a casualty or event occurring during the period of that ship's entry in the Association, in which case the Association shall continue to be liable for the claim notwithstanding that in other respects the liability of the Association shall have terminated pursuant to Rule 29(C).
- b) In respect of a claim under paragraph (A) of this Section, the value of all stores and materials saved, as well as the wreck itself, shall first be deducted from such costs or expenses and only the balance thereof, if any, shall be recoverable from the Association.
- c) Nothing shall be recoverable from the Association under this section if the Owner shall, without the consent of the Managers in writing, have transferred his interest in the wreck, otherwise than by abandonment, prior to the raising,

- removal, destruction, lighting or marking of the wreck or prior to the incident giving rise to the liabilities, costs and expenses referred to in this Section.
- d) Where the liability arises under the terms of an indemnity or contract, and would not have arisen but for those terms, such costs and expenses are only recoverable under this Section if and to the extent that
- (i) the terms of the indemnity or contract have previously been approved by the Managers and cover has been agreed between the Owner and the Managers on such terms as the Managers may require, or
  - (ii) the Directors in their discretion decide that the Owner should be reimbursed.

*Note: Any oil pollution element in a claim under this Section 15 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.*

### Section 16 Quarantine expenses

Additional expenses incurred by the Owner of an entered ship as a direct consequence of an outbreak of infectious disease on that ship, including quarantine and disinfection expenses and the net loss to the Owner (over and above such expenses as would have been incurred but for the outbreak) in respect of the cost of fuel, insurance, wages, stores, provisions and port charges.

### Section 17 Cargo liabilities

The liabilities and costs set out in paragraphs (A) to (D) below when and to the extent that they relate to cargo intended to be or being or having been carried in an entered ship:

#### **A Loss, shortage, damage or other responsibility**

Liability for loss, shortage, damage or other responsibility arising out of any breach by the Owner, or by any person for whose acts, neglect or default he may be legally liable, of his obligation properly to load, handle, stow, carry, keep, care for, discharge or deliver the cargo or out of unseaworthiness or unfitness of the entered ship.

#### **B Disposing of damaged cargo or sound cargo from a damaged ship**

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

#### **C Failure of consignee to remove cargo**

The liabilities and additional costs (over and above the costs which would have been incurred by him if the cargo had been collected or removed) incurred by an Owner solely by reason of the total failure of a consignee to

## Rule 2 (continued)

collect or remove cargo at the port of discharge or place of delivery, but only if and to the extent that such liabilities or costs exceed the proceeds of sale of the cargo and the Owner has no recourse to recover those liabilities or costs from any other party.

### **D Through or transhipment bills of lading**

Liability for loss, shortage, damage or other responsibility in respect of cargo carried by a means of transport other than the entered ship, when the liability arises under a through or transhipment bill of lading, or other form of contract, approved by the Managers, providing for carriage partly to be performed by the entered ship, provided that the Owner has contracted on terms that seek to preserve rights of recourse against others involved in the performance of the contract of carriage.

*Note: For the purpose of paragraph D, a contract is deemed to be approved if it incorporates the ICC Rules or the internationally accepted conventions such as CMR 1956 (Convention relative au Contrat de transport international de Marchandises par Route), CIM 1980 (Les règles uniformes concernant le Contrat de transport International ferroviaire de Marchandises), or the Warsaw Convention 1929 or 1955, as appropriate.*

PROVIDED ALWAYS that:

#### **a) Standard Terms of Contracts of Carriage**

Unless and to the extent that the Directors in their discretion otherwise decide, or special cover has been agreed in writing by the Managers, there shall be no recovery from the Association in respect of liabilities which would not have been incurred or sums which would not have been payable by the Owner if the cargo (including cargo on deck) had been carried under a contract incorporating terms no less favourable to the Owner than the Association's recommended standard terms of carriage which shall be the Hague Visby Rules and/or such other rules and/or conventions as the Directors may from time to time determine.

*Note: For the 2013 policy year the Standard Terms of Contracts of Carriage are the Hague Visby Rules, i.e. the Rules contained in the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25th August, 1924, as amended by the Protocol to that Convention signed at Brussels on 23rd February, 1968.*

#### **b) Deviation**

Unless and to the extent that the Directors in their discretion otherwise decide, or cover has been confirmed in writing by the Managers prior to the deviation, there shall be no recovery from the Association in respect of liabilities costs and expenses which arise out of or which are incurred as a consequence of a deviation, in the sense of a departure from the contractually agreed voyage or adventure which deprives the Owner of the right to rely on defences or rights of limitation which would otherwise have been available

to him on the basis of the standard terms of carriage referred to in proviso (a) above to reduce or eliminate his liability.

### **c) Claims payable only at the discretion of the Directors**

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

- i Discharge of cargo at a port or place other than the port or place provided in the contract of carriage;
- ii Delivery of cargo carried under a non-negotiable bill of lading, waybill or similar document without production of such document by the person to whom delivery is made, where such production is required by the express terms of that document or the law to which that document, or the contract of carriage contained in or evidenced by it, is subject, except where the Owner is required by any other law to which the carrier is subject to deliver, or relinquish custody or control of, the cargo, without production of such document.
- iii Delivery of cargo carried under a negotiable bill of lading or similar document of title without production of that bill of lading or document by the person to whom delivery is made, except where cargo has been carried on the entered ship under the terms of a non-negotiable bill of lading, waybill or other non-negotiable document, and has been properly delivered as required by that document, notwithstanding that the Owner of that entered ship may be liable under the terms of a negotiable bill of lading or other similar document of title issued by or on behalf of a party other than that Owner providing for carriage partly by a means of transport other than the entered ship;
- iv The issue of an ante dated or post dated bill of lading, waybill or other document containing or evidencing the contract of carriage, that is to say a bill of lading, waybill or other document recording the loading or shipment or receipt for shipment on a date prior or subsequent to the date on which the cargo was in fact loaded, shipped or received as the case may be;
- v A bill of lading, waybill or other document containing or evidencing the contract of carriage, issued with the knowledge of the Owner or the Master of the entered ship with an incorrect description of the cargo or its quantity or its condition;
- vi Either the failure to arrive or late arrival of the entered ship at a port of loading, or the failure to load any particular cargo or cargoes in an entered ship other than liabilities, loss and expenses arising under a bill of lading already issued.

### **d) Ad Valorem Bills of Lading**

Unless and to the extent that special cover has been agreed in writing by the Managers, the Association shall not pay for liability arising from carriage under an ad valorem bill of lading or other document of title, waybill or other contract of carriage in which a value of more than US\$2,500 (or the

## Rule 2 (continued)

equivalent in any other currency) is declared and/or inserted by reference to a unit, piece, package or otherwise, where the effect of such a declaration/insertion is to deprive the carrier of any right or rights of limitation to which he would otherwise have been entitled and cause him to incur a greater liability than he would have done but for such declaration/insertion, to the extent that such liability thereby exceeds US\$2,500 (or the equivalent in any other currency) in respect of any such unit piece or package

### **e) Rare and valuable cargo**

Unless and to the extent that the Managers of the Association have been notified prior to any such carriage, and any directions made by the Managers have been complied with, there shall be no recovery from the Association in respect of claims relating to the carriage of specie, bullion, precious or rare metals or stone, plate or other objects of a rare or precious nature, bank notes or other forms of currency, bonds or other negotiable instruments.

### **f) Property of the Owner**

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

## **Section 18**

### **Property on the entered ship**

Liability of an Owner for loss of or damage to any containers, equipment, fuel or other property on board the entered ship.

PROVIDED ALWAYS that:

- a) Such property is not within the scope of Section 1(C) or Section 5 of this Rule (the effects of passengers, seamen and others) or Section 17 of this Rule (cargo liabilities) or within any proviso, exclusion, limit or deductible applicable to those Sections;
- b) Such property does not form part of the entered ship and is not owned or leased by the Owner or by any company associated with or under the same management as the Owner; and
- c) Unless and to the extent that the Owner has obtained appropriate special cover by agreement with the Managers, the Association shall not reimburse an Owner to the extent that any liability arises under a contract or indemnity entered into by the Owner and would not have arisen but for such contract or indemnity.

## **Section 19**

### **Unrecoverable general average contributions**

The proportion of general average, special charges or salvage which an Owner may be entitled to claim from cargo or from some other party to the marine adventure and which is not legally recoverable solely by reason of a breach of the contract of carriage.

PROVIDED ALWAYS that:

Proviso (a) (Standard terms of carriage), Proviso (b) (Deviation) and Proviso (c) (Claims payable only at the discretion of the Directors) of Section 17 of this Rule shall apply to any claim under this Section.

## **Section 20**

### **Ship's proportion of general average**

The entered ship's proportion of general average, special charges or salvage not recoverable under the Hull Policies by reason of the value of the ship being assessed for contribution to general average or salvage at a sound value in excess of the insured value under the Hull Policies.

PROVIDED ALWAYS that:

Unless and to the extent that the Directors in their discretion otherwise decide, recovery from the Association under this Section shall be limited to the amount (if any) of the ship's proportion which would not have been recoverable under the Hull Policies if the ship had been insured thereunder at the proper value in accordance with Rule 5(D).

## **Section 21**

### **Special compensation to salvors**

Liability of an Owner to pay special compensation to a salvor of an entered ship, but only to the extent that such liability:

- i is imposed on the Owner pursuant to Article 14 of the International Convention on Salvage, 1989, or is assumed by the Owner under the terms of a standard form of salvage agreement approved by the Directors, and
- ii is not payable by those interested in the salvaged property.

*Note: Any oil pollution element in a claim under this Section 21 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.*

*Note: At 20th February 2013, the Directors have approved*

- a) *Lloyd's Standard Forms of Salvage Agreement LOF 90, LOF 95, LOF 2000, LOF 2011 and any other standard form of salvage contract incorporating the provisions of the International Convention on Salvage 1989, to the extent of the liability of the owner to pay special compensation pursuant to Article 14 of the Convention or to pay remuneration pursuant to the Special Compensation P&I Clause (SCOPIC) or its revision (SCOPIC 2000), if incorporated in such contract, and*

## Rule 2 (continued)

- b) *Lloyd's Standard Form of Salvage Agreement, 1980, to the extent of the liability of the owner of a tanker to reimburse a salvor for his "reasonably incurred expenses" (together with any increment awarded thereon) under the exception to the principle of "no cure-no pay" contained in clause 1(a) of that Agreement.*

## Section 22

### Fines

- A Fines as set out in paragraphs (B) to (F) below when and to the extent that they are imposed in respect of an entered ship by any court, tribunal or authority and are imposed:
- i upon the Owner, or
  - ii upon any person whom the Owner may be legally liable to reimburse (other than under the terms of a contract or indemnity) or reasonably reimburses with the approval of the Managers, or
  - iii upon any person whom the Owner may be legally liable to reimburse under the terms of a contract or indemnity, but only if and to the extent that such terms have previously been approved by the Managers in writing.
- B Fines for short or overlanded or over delivery of cargo, or for failure to comply with regulations relating to declaration of goods or to documentation of the entered ship in respect of her cargo;
- C Fines for smuggling or for any infringement of any customs law or customs regulation relating to the construction, adaptation, alteration or fitment of the entered ship;
- D Fines for contravention of any law or regulation relating to immigration;
- E Fines in respect of an accidental discharge or escape of oil or other substance, or the threat thereof;
- PROVIDED ALWAYS that:
- There shall be no recovery from the Association in respect of fines arising out of
- a) the overloading of an entered ship or
  - b) 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 or amended by the Protocol of 1978 and any subsequent Protocol, or such of those aforesaid provisions as are contained in the laws of any State giving effect to that Convention or to such Protocol.
- F Any fine to the extent that
- (i) the Owner has satisfied the Directors that he took such steps as appear to the Directors to be reasonable to avoid the event giving rise to such fine and
  - (ii) the Directors in their discretion and without having to give any reasons for their decision, decide that the Owner should recover.



G Notwithstanding the terms of Rule 5(G)(i), the Directors in their discretion may authorise the payment, in whole or in part, of an Owner's claim for loss of an entered ship following confiscation of the ship by any legally empowered court, tribunal or authority by reason of the infringement of any customs law or customs regulation:

PROVIDED ALWAYS that:

- a) the amount recoverable from the Association shall under no circumstances exceed the market value of the ship without commitment at the date of the confiscation;
- b) the Owner shall have satisfied the Directors that he took such steps as appear to the Directors to be reasonable to prevent the infringement of the customs law or regulation giving rise to the confiscation;
- c) any amount claimed under this paragraph (G) of Section 22 shall be recoverable to such extent only as the Directors in their discretion may determine without having to give any reasons for their decision.

*Note: Claims relating to oil pollution fines under this Section 22 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.*

### **Section 23** **Enquiry expenses**

Costs and expenses incurred by an Owner in defending himself or in protecting his interests before a formal enquiry into the loss of or into a casualty involving the entered ship but only to the extent and on such conditions as the Directors in their discretion may determine.

### **Section 24** **Expenses incidental to the operation of ships**

Liabilities, costs and expenses incidental to the business of owning, operating or managing ships which in the opinion of the Directors fall within the scope of the Association;

PROVIDED ALWAYS that:

- a) Subject to paragraph (b) of this proviso there shall be no recovery under this Section in respect of liabilities, costs and expenses, which are expressly excluded by other provisions of these Rules;
- b) The Directors may authorise payment of claims which are excluded by Rule 5(G) of these Rules but only if a majority of three-quarters of those Directors present when the claim is considered so decides;
- c) Any amount claimed under this Section shall be recoverable to such extent only as the Directors in their discretion may determine without having to give any reasons for their decision.

## Rule 2 (continued)

### Section 25

#### Sue and labour and legal costs

- A Extraordinary costs and expenses (other than those set out in paragraph (B) of this Section) reasonably incurred on or after the occurrence of any casualty, event or matter liable to give rise to a claim upon the Association and incurred solely for the purpose of avoiding or minimizing any liability or expenditure against which the Owner is wholly or, by reason of a deductible, partly insured by the Association, but only to the extent that those costs and expenses have been incurred with the agreement of the Managers or to the extent that the Directors in their discretion decide that the Owner should recover from the Association.
- B Legal costs and expenses relating to any liability or expenditure against which the Owner is wholly, or, by reason of a deductible, partly insured by the Association, but only to the extent that those costs and expenses have been incurred with the agreement of the Managers or to the extent that the Directors in their discretion decide that the Owner should recover from the Association.

### Section 26

#### Expenses incurred by direction of the Association

Costs, expenses and loss which an Owner may incur either (i) by reason of a special direction of the Directors in cases in which the Directors decide that it is in the interests of the Association that the direction be given, or (ii), in the absence of such special direction, as a result of action which he has taken or refrained from taking if the Directors in their discretion decide that such action was in the interests of the Association and that the Owner should recover from the Association.

**Appendix A to Rule 2**  
**Association's liability for oil pollution claims**

- A The Association's liability for claims in respect of or relating to an escape or discharge of oil (other than for loss of or damage to such oil), howsoever arising, whether under Section 12 or any other Section or combination of Sections of Rule 2, shall be limited to such sum or sums as the Directors may determine pursuant to Rule 5(B)(ii) and shall be subject to such terms and conditions as the Directors may from time to time determine.
- B Without prejudice to the generality of paragraph A of this Appendix the Directors may determine prior to the commencement of the policy year that cover in respect of oil pollution liabilities, whether arising under any convention, statute, law, agreement or otherwise and whether arising in any geographical area or trade or otherwise shall be excluded, restricted or afforded only on terms that an additional premium is payable in respect of such cover, in which event such additional premium shall be payable in such amount and on such terms as the Directors may determine or as may be agreed between the Owner and the Managers.

**Appendix B to Rule 2**  
**Deductibles**

Unless otherwise agreed between the Owner and the Managers as part of the terms upon which the ship is entered in the Association, the Owner's recovery from the Association for liabilities, losses, costs and expenses shall be subject to such deductibles as the Directors shall decide before each policy year commences.

*Note: The certificate of entry for the entered ship and any endorsement thereto will state any special deductibles agreed as a term of the entry with the Club.*

## Rule 3

### Special Cover

- A Subject to the Act, the Managers may accept entries of ships on terms which afford cover to an Owner against any special or additional risks not set out in Rule 2. The nature and extent of the risks and the terms of the cover shall be as agreed in writing between the Owners and the Managers.
  
- B Notwithstanding Rule 1(5), an Owner may be insured on the special term that the risks insured may arise otherwise than in respect of the entered ship or otherwise than in connection with the operation of the entered ship provided always that this shall have been expressly agreed in writing between the Owners and the Managers.
  
- C Without prejudice to the generality of Rule 13C, the Managers may reinsure in whole or in part the risk or risks of the Association insured under this Rule 3, or under Rule 4, and where such reinsurance is arranged the Owner shall be entitled to recover only the net amount actually recovered under such reinsurance arrangements, together with that portion (if any) of the risk or risks retained by the Association.

### Special Cover for Charterers, Specialist Operations and Passenger Ships

Without prejudice to the generality of Rule 3, an Owner may be insured against such of the risks set out below as may be appropriate to his interest in an entered ship or to his operations as an Owner, but only by special agreement in writing with the Managers and upon such terms and conditions as the Managers may require.

#### Section 1 Charterers

For the purpose of this section, a 'charterer' shall mean a charterer other than a demise or bareboat charterer. Where the entry of a ship in the Association is in the name of or on behalf of a charterer, the following liabilities, losses, costs and expenses may be covered on such terms and conditions as may be agreed by the Managers in writing:

- A Liability of the charterer, together with costs and expenses incidental thereto, to indemnify the owner or disponent owner of the entered ship in respect of the risks set out in Rule 2.
- B Notwithstanding the provisions of sub-paragraphs (i), (ii) and (iii) of Rule 5(G) the charterer's liability, together with costs and expenses incidental thereto, for loss of or damage to the entered ship.
- C Notwithstanding the provisions of sub-paragraph (ii) of Rule 5(G) the loss incurred by the charterer as a result of loss of or damage to bunkers, fuel or other property of the charterer onboard the entered ship.

*Note: The full texts of cover provided under Rule 4, Section 1 are contained in Charterer's Addendum*

#### Section 2 Specialist operations

An Owner may be insured against any of the liabilities, fines, losses, costs or expenses which arise out of or during any of those operations in respect of which Cover is excluded or restricted either under Rule 5(H) or otherwise under these Rules upon such terms and conditions as may be expressly agreed in writing between the Owner and the Managers.

*Note: The terms and conditions which the Managers will normally require to be agreed in respect of the risks referred to in this section are set out in a separate document, available from the Managers, entitled "Standard Terms and Conditions of Cover under Rule 4 Section 2".*

## Rule 4 (continued)

### Section 3 Passenger ships

The Owner of a passenger ship may be insured against any of the following risks upon such terms and conditions as may be agreed by the Managers in writing:

- A Liability for loss of or damage to the effects of any passenger or personal injury, illness or death of any passenger and hospital, medical or funeral expenses incurred in connection therewith to the extent that such liability, costs or expenses are not recoverable under Section 1(C) of Rule 2.
- B Notwithstanding the provisions of sub-paragraph (vi) of Rule 5(G) liability to pay damages or compensation to passengers intended to be carried on board an entered ship arising as a consequence of a casualty to that ship, including the costs of travel and maintenance.
- C Liability to pay damages or compensation to passengers for breach of contract or warranty in respect of failure to provide facilities on board or in connection with a voyage on board an entered ship in accordance with the Owner's legal obligations.

## Conditions, Exceptions and Limitations

### A Payment first by the Owner

Unless the Directors in their discretion otherwise decide, it is a condition precedent of an Owner's right to recover from the funds of the Association in respect of any liabilities, costs or expenses that he shall first have discharged or paid the same out of funds belonging to him unconditionally and not by way of loan or otherwise.

### B Limitation of the Association's liability

#### i General

Subject to these Rules and to any special terms and conditions upon which a ship may be entered, the Association insures the liability of the Owner in respect of an entered ship as this liability may be determined and fixed by law including any laws pertaining to limitation of liability. The Association shall in no circumstances be liable for any sum in excess of such legal liability. If less than the full tonnage of a ship is entered in the Association, the Owner shall, unless the entry of the ship has been accepted on special terms which otherwise provide, be entitled only to recover such proportion of his claim as the entered tonnage bears to the full tonnage. Such proportion shall, if the Owner's claim is subject to any other limits under these Rules, be applied after the application of such limits.

#### ii Oil Pollution

For the purpose of this sub-paragraph and the provisos thereto, and without prejudice to anything elsewhere contained in these Rules, a "claim in respect of oil pollution" shall mean a liability, cost, loss or expense, howsoever incurred, in respect of or relating to an escape or discharge of oil or any threat or consequence of such escape or discharge, but excluding liability for loss of or damage to such oil.

Unless otherwise limited to a lesser sum, the Association's liability for any and all claims in respect of oil pollution shall be limited to such sum or sums as the Directors may from time to time determine.

Such limit shall, unless the Directors otherwise decide, apply in respect of any one entered ship each event and shall apply irrespective of whether the event involves the escape or threatened escape of oil from one or more than one ship and to all claims in respect of oil pollution brought by the Owner or Joint Owners of the entered ship whether under one Section or more than one Section of Rule 2. If the aggregate of such claims exceeds that limit, the liability of the Association for each claim shall be limited to such proportion of that limit as such claim bears to the aggregate of all such claims.

PROVIDED ALWAYS that:

- a) Where the entered ship provides salvage or other assistance to another ship following a casualty, a claim by the Owner of the entered ship in respect of oil pollution arising out of the salvage, the assistance or the casualty shall

## Rule 5 (continued)

be aggregated with any liabilities or costs incurred in respect of oil pollution by any other ship similarly engaged in connection with the same casualty when such other ships are insured for oil pollution risks by the Association or by any other insurer which participates in the Pooling Agreement. In these circumstances the limit of the Association's liability shall be such proportion of the limit determined by the Directors pursuant to sub-paragraph (ii) of this Rule 5(B) as the claim of the Owner bears to the aggregate of the said claims.

- b) Where a ship entered in the Association by or on behalf of any person (except a charterer other than a demise or bareboat charterer) is also separately insured in the name of or on behalf of the same or any other such person by the Association or by any other insurer which is a party to the Pooling Agreement for claims in respect of oil pollution, the aggregate recovery in respect of all such claims arising out of any one event shall not exceed the limit determined by the Directors pursuant to sub-paragraph (ii) of this Rule 5(B) and the liability of the Association to each such person insured by the Association shall be limited to such proportion of that limit as the maximum claim otherwise recoverable by such person from the Association bears to the aggregate of all such claims otherwise recoverable from the Association and from all such insurers.
- c) If and to the extent that the Owner has, in relation to any claim in respect of oil pollution, other insurance not being solely in excess of the limit determined by the Directors pursuant to this sub-paragraph (ii) of Rule 5(B) nor being a quota share arrangement agreed in advance with the Association in writing, then
  - 1) the amount of the said limit shall, as applied to such claim, be reduced by the amount of the stated limit of such other insurance and
  - 2) the Association shall not pay such claim to the extent that it does not exceed the stated limit of such other insurance.

*Note: For the 2013 policy year, the Directors have determined that the sums to which the Association's aggregate liability for any and all claims in respect of oil pollution shall be limited are; US\$1,000 million each event in respect of each ship entered by or on behalf of an Owner not being a charterer other than a demise or bareboat charterer.*

### iii **Passenger/Seaman**

For the purpose of this sub-paragraph and the provisos thereto, and without prejudice to anything elsewhere contained in the Rules, a "Passenger" shall mean a person carried onboard a ship under a contract of carriage or who, with the consent of the carrier, is accompanying a vehicle or live animals covered by a contract for the carriage of goods and a "Seaman" shall mean any other person onboard a ship who is not a Passenger.

Unless otherwise limited to a lesser sum, the Association's aggregate liability for any and all claims arising out of any one event shall not exceed

- 1) in respect of liability to Passengers US\$2,000 million; and
- 2) in respect of liability to Passengers and Seamen US\$3,000 million, for each ship entered by or on behalf of an Owner not being a charterer other than a demise or bareboat charterer.



PROVIDED ALWAYS that:

Where a ship entered in the Association by or on behalf of any person (except a charterer other than a demise or bareboat charterer) is also separately insured in the name of or on behalf of the same or any other such person by the Association or by any other insurer which is a party to the Pooling Agreement

- a) the aggregate of claims in respect of liability to Passengers recoverable from the Association and/or such other insurers shall not exceed US\$2,000 million any one event and the liability of the Association shall be limited to such proportion of that sum as the claims recoverable by such persons from the Association bears to the aggregate of all such claims otherwise recoverable from the Association and all such insurers;
- b) the aggregate of all claims in respect of liability to Passengers and Seamen recoverable from the Association and/or such other insurers shall not exceed US\$3,000 million any one event and the liability of the Association shall be limited:
  - i where claims in respect of liability to Passengers have been limited to US\$2,000 million in accordance with proviso (a) to such proportion of the balance of US\$1,000 million as the claims recoverable by such persons in respect of liability to Seamen bear to the aggregate of all such claims otherwise recoverable from the Association and all such insurers; and
  - ii in all other cases, to such proportion of US\$3,000 million as the claims recoverable by such persons in respect of liability to Passengers and Seamen bear to the aggregate of all such claims otherwise recoverable from the Association and all such insurers.

### **C Set-off**

Without prejudice to anything elsewhere contained in these Rules the Association shall be entitled to set off any amount due from an Owner against any amount due to such Owner from the Association.

### **D Exclusion of sums insurable under hull policies**

Unless and to the extent that the Directors in their discretion otherwise decide, or the Managers agree in writing as a term of entry, the Association shall not indemnify the Owner of an entered ship against any liabilities, costs or expenses against which that Owner would have been insured if at the time of the incident giving rise to those liabilities, costs or expenses the ship had been fully insured for its proper value under Hull Policies on terms equivalent to those of the Lloyd's Marine Policy MAR form 1/1/82 with the Institute Time Clauses Hulls 1/10/83 attached. For the purposes of these Rules "proper value" shall mean the market value of the ship, without commitment, at the date of the incident referred to above.

*Note: When considering the proper value for which an entered ship should be insured or deemed to be insured for the purposes of claims under Rule 2 Sections 10 and 20, the Directors will require to be satisfied that the hull and/or excess liability policies of the Owner concerned have been the subject of periodic review as market conditions may require, so that the total amount of liability coverage contained in those policies is maintained at levels approximating*

## Rule 5 (continued)

*to the market value of the ship without commitment. Owners are recommended to consult their brokers and/or shipvaluers to assess periodically in the light of the above, the proper amount for which insurances should be effected to cover against collision and general average or salvage liabilities. Provided the necessary insurances are placed on the basis of the advice received, the Directors will give every consideration to a claim if, as may transpire, the values and amounts upon which the insurances have been placed are lower than the values which may have been assessed by a Court or Tribunal for general average or salvage purposes.*

### **E Exclusion of war risks**

The Association shall not indemnify an Owner against any liabilities, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Owner or on the part of the Owner's servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was caused by:

- i War, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, or any act of terrorism.
- ii Capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;
- iii Mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war (save for those liabilities, costs or expenses which arise solely by reason of the transport of any such weapons whether on board the entered ship or not), provided always that this exclusion shall not apply to the use of such weapons either as a result of government order or with the written agreement of the Directors or the Managers where the reason for such use is the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the cover given by the Association.

PROVIDED ALWAYS that:

- a) In the event of any dispute as to whether or not an act constitutes an act of terrorism, the decision of the Directors shall be final.
- b) The Directors may resolve that special cover be provided to the Owner against any or all of the risks set out in Rule 2 notwithstanding that those liabilities, costs or expenses would otherwise be excluded by this paragraph (E) and that such special cover should be limited to such sum or sums and be subject to such terms and conditions as the Directors may from time to time determine.

### **F Exclusion of nuclear risks**

The Association shall not indemnify an Owner against any liabilities, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Owner or on the part of the Owner's servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was directly or indirectly caused by or arises from:

- 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
- iii any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- iv the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter

PROVIDED ALWAYS that:

- a) this exclusion shall not apply to liabilities, losses, costs or expenses arising out of the carriage of "excepted matter" as cargo on an entered ship. For this purpose "excepted matter" consists of certain radio isotopes, used in or intended to be used for any industrial, commercial, agricultural, medical or scientific purpose and such further exceptions as the Directors may approve within the scope of the definition of "excepted matter" contained in the Nuclear Installations Act 1965 of the United Kingdom and any regulations made thereunder.
- b) The Directors may resolve that special cover be provided to the Owner against any or all of the risks set out in Rule 2 notwithstanding that those liabilities, losses, costs, or expenses would otherwise be excluded by this paragraph (F) and that such special cover should be limited to such sum or sums and be subject to such terms and conditions as the Directors may determine.

**G Exclusion of damage to entered ship, loss of hire, etc.**

Subject to paragraph (F) of Section 22 and to Section 24 of Rule 2, the Association shall not, except as otherwise provided in this paragraph, pay for:

- i Loss of or damage to the entered ship or any part thereof;
- ii Loss of or damage to any equipment on board the entered ship or to any containers, lashings, stores or fuel thereon, to the extent that the same are owned or leased by the Owner or by any company associated with or under the same management as the Owner;
- iii The cost of repairs to the entered ship or any charges or expenses in connection therewith;
- iv Claims by or against the Owner relating to loss of freight or hire of an entered ship or any proportion thereof unless such loss of freight or hire forms part of a claim recoverable from the Owner for liabilities in respect of cargo or is, with the consent of the Managers, included in the settlement of such a claim;
- v Salvage or services in the nature of salvage and any costs and expenses in connection therewith;
- vi Loss arising out of cancellation of a charter or other engagement of an entered ship;
- vii Loss arising out of irrecoverable debts or out of the insolvency of any person, including insolvency of agents;
- viii Claims by or against the Owner relating to demurrage on, detention or delay to an entered ship unless such demurrage, detention or delay forms

## Rule 5 (continued)

part of a claim recoverable from the Owner for liabilities in respect of cargo within the scope of these Rules or is, with the consent of the Managers, included in the settlement of such a claim.

PROVIDED ALWAYS that:

The foregoing exceptions shall not apply to claims under the following Sections of Rule 2:

Section 9 Life Salvage,

Section 19 Unrecoverable general average contributions,

Section 20 Ship's proportion of general average,

Section 21 Special compensation to Salvors,

Section 25 Sue and labour and legal costs,

Section 26 Expenses incurred by direction of the Association.

### **H Exclusion of certain liabilities, costs and expenses of salvage ships, drilling ships, dredgers and others**

Unless and to the extent that special cover shall have been agreed between the Owner and the Managers in accordance with the provisions of Rules 3 or 4, the Association shall not be liable for any claim relating to liabilities, costs and expenses incurred by the Owner of:

- i An entered ship which is a salvage tug or firefighting ship or other ship used or intended to be used for salvage or firefighting operations, when the claim arises out of any salvage or firefighting service or attempted salvage or firefighting service (including for the purpose of this paragraph, wreck removal);
- ii An entered ship which is used for or in connection with drilling or oil or gas production operations, when the claim arises out of or during those operations;
- iii An entered ship which is used for the operations of dredging, blasting, piledriving, well-stimulation, laying, maintaining or removing cables or pipes, core sampling, depositing of spoil, professional oil spill response or professional oil spill response training and tank cleaning (otherwise than on the entered ship), or other specialist operations, when the claim arises out of those operations;
- iv An entered ship which is used for waste disposal or incineration operations, when the claim arises out of those operations;
- v An entered ship which is used for or in connection with the operations of submarines or underwater vessels or equipment, or an entered ship which is used for or in connection with professional or commercial diving operations, when the claim arises out of those operations.
- vi An entered ship which is moored (otherwise than on a temporary basis) and is open to the public as a hotel, restaurant, bar or other place of entertainment, when the claim is in respect of hotel or restaurant guests or other visitors or catering crew of such ship.
- vii An entered ship which is used as an accommodation vessel, when the claim is in respect of personnel (other than marine crew) on board such ship employed otherwise than by the Owner, where there has not been a contractual allocation of risks as between the Owner and the employer of the personnel which has been approved by the Managers.

viii An entered ship which is a semi-submersible heavy lift vessel or which is designed exclusively for the carriage of heavy lift cargo, when the claim is in respect of loss of or damage to or wreck removal of cargo, save where the cargo is carried under a contract on HeavyCon terms or any other terms approved in writing by the Managers.

**I Double insurance**

The Association shall not, unless and to the extent that the Directors in their discretion otherwise decide, be liable for any liabilities, costs or expenses recoverable under any other insurance or which would have been so recoverable:

- i apart from any terms in such other insurance excluding or limiting liability on the ground of double insurance; and
- ii if the ship had not been entered in the Association with cover against the risks set out in these Rules.

**J Contraband, blockade running, unlawful trade, imprudent or hazardous operations**

No claim shall be recoverable from the Association if it arises out of or is consequent upon an entered ship carrying contraband, blockade running or being employed in an unlawful trade or if the Directors, having regard to all the circumstances, shall be of the opinion that the carriage, trade or voyage was imprudent, unsafe, unduly hazardous or improper.

**K Classification and statutory requirements**

Unless otherwise agreed in writing between the Owner and the Managers, the following conditions are terms of the insurance of every entered ship:

- i The ship must be and remain throughout the period of entry classed with a Classification Society approved by the Managers, and
- ii Any incident or condition in respect of which that Classification Society might make recommendations as to repairs or other action to be taken by the Owner must be promptly reported to that Classification Society.
- iii The Owner must comply with all the Rules, recommendations and requirements of the Classification Society relating to the entered ship within the time or times specified by the Society.
- iv The Owner authorises the Managers to inspect any information, relating to the maintenance of class of the entered ship, in the possession of any Classification Society with which that ship is or at any time has been classed, and will where necessary authorise such Classification Society or Societies to disclose and make available that information to the Managers upon request by the Managers and for whatsoever purposes the Managers may consider necessary.
- v The Owner must immediately inform the Managers if, at any time during the period of entry, the Classification Society with which the 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.

## Rule 5 (continued)

- vi The Owner must comply with all statutory requirements of the state of the ship's flag relating to the construction, adaptation, condition, fitment, equipment and manning 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 ship's flag in relation to such requirements and in relation to the International Safety Management (ISM) Code and the International Ship and Port Facility Security (ISPS) Code.

Unless and to the extent that the Directors otherwise decide, an Owner shall not be entitled to any recovery from the Association in respect of any claim arising during a period when that Owner is not fulfilling or has not fulfilled those conditions.

**PROVIDED ALWAYS** that:

where the entry of a ship is solely in the name of or on behalf of a charterer other than a demise or bareboat charterer the rights of recovery of such charterer shall not be dependent on the fulfilment of conditions (ii), (iii), (iv), (v), or (vi) of this paragraph (K).

### **L Rules subject to Marine Insurance Act**

These Rules and all contracts of insurance made by the Association shall be subject to and incorporate the provisions of the Marine Insurance Act, 1906, of the United Kingdom and any statutory modifications thereof except insofar as such Act or modifications may have been excluded by these Rules or by any term of such contracts.

### **M Obligation to sue and labour**

Upon the occurrence of any casualty, event or matter liable to give rise to a claim by an Owner upon the Association, it shall be the duty of the Owner and his agents to take and to continue to take all such steps as may be reasonable for the purpose of averting or minimizing any expense or liability in respect whereof he may be insured by the Association. In the event that an Owner commits any breach of this obligation, the Directors may in their discretion reject any claim by the Owner against the Association arising out of the casualty, event or matter, or reduce the sum payable by the Association in respect thereof by such amount as they may determine.

### **N Obligations with regard to claims**

- i An Owner must promptly notify the Managers of every casualty, event or claim upon him which is liable to give rise to a claim upon the Association, and of every event or matter which is liable to cause the Owner to incur liabilities, costs or expenses for which he may be insured by the Association.
- ii An Owner must promptly notify the Managers of every survey or opportunity for survey in connection with a matter referred to under (i).
- iii An Owner must 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 casualty, event or matter as is referred

- to under (i) and shall further, whenever so requested by the Managers, promptly produce to the Association and/or allow the Association or its agents to inspect, copy or photograph, all relevant documents of whatsoever nature in his or his agents' possession or power and shall further permit the Association or its agents to interview any servant, agent or other person who may have been employed by the Owner at the material time or at any time thereafter or whom the Association 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 Owner in connection therewith.
- iv An Owner shall not settle or admit liability for any claim for which he may be insured by the Association without prior written consent of the Managers.

In the event that an Owner commits any breach of his obligations referred to in (i) to (iv) above, the Directors may in their discretion reject any claim by the Owner against the Association arising out of the casualty, event or matter, or reduce the sum payable by the Association in respect thereof by such amount as they may determine.

### **O Time bar**

In the event that:

- i an Owner fails to notify the Managers of any casualty, event or claim referred to in paragraph (N) (i) of this Rule within one year after he has knowledge thereof; or
- ii an Owner fails to submit a claim to the Managers for reimbursement of any liabilities, costs or expenses within one year after discharging or settling the same;

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

### **P Recoveries and subrogation**

- i Unless otherwise agreed in writing by the Managers, where the Association has paid a claim to or on behalf of an Owner the whole of any recovery from a third party in respect of that claim shall be credited and paid to the Association up to an amount corresponding with the sum paid by the Association together with any interest element on that sum comprised in the recovery, provided however that where, because of a deductible in his terms of entry, the Owner has contributed to settlement of the claim, any such interest element shall be apportioned between the Owner and the Association taking into account the payments made by each and the dates on which those payments were made.
- ii. Unless otherwise agreed in writing by the Managers, where the Association has paid a claim to or on behalf of an Owner, the Association shall be subrogated to the rights of the Owner in respect of the claim to the extent of that payment, including the right to any interest accruing on that amount prior to its recovery and the right to recover any costs incurred in relation to the exercise of such rights.

## Rule 5 (continued)

### Q Surveys of ships

The Managers at any time in their discretion may appoint a surveyor or such other person as they may think fit to inspect an entered ship on behalf of the Association. The Owner

- (i) shall afford such facilities as may be required for such inspection, and
- (ii) shall comply with such recommendations as the Managers may make following such inspection.

Unless and to the extent that the Directors in their discretion otherwise decide, an Owner who commits any breach of his obligations referred to in (i) to (ii) above shall not be entitled, in relation to any casualty, event or matter occurring during the period of the breach, to any recovery from the Association in respect of any claim arising out of such casualty, event or matter.

Notwithstanding the above and in addition thereto, the Directors may, in the light of such inspection or in the event of any breach of the obligations referred to in (i) to (ii) above, terminate the Owner's entry forthwith whereupon the Owner shall cease to be insured in respect of the entered ship.

### R Surveys of ships after lay-up

- i If an entered ship has been laid-up for a period of six months or more, whether the ship has been entered in the Association 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 27, the Owner shall give the Managers notice that the ship is to be recommissioned not less than seven days before the ship leaves the place of lay-up.
- ii Upon receipt of such notice the Managers in their discretion may appoint a surveyor or such other person as they may think fit to inspect the ship on behalf of the Association and the Owner shall afford such facilities as may be required for such inspection.
- iii The Owner shall comply with such recommendations as the Managers may make following such inspection.

Unless and to the extent that the Directors in their discretion otherwise decide, an Owner who commits any breach of his obligations referred to in (i) to (iii) above shall not be entitled, in relation to any casualty, event or matter occurring during the period of the breach, to any recovery from the Association in respect of any claim arising out of such casualty, event or matter.

A breach of the obligation in (i) above shall be deemed to have ended at such time as the Owner has complied with his obligations referred to in (ii) above. Notwithstanding the above and in addition thereto, the Directors may, in the light of such inspection or in the event of any breach of the obligations referred to in (ii) to (iii) above, terminate the Owner's entry forthwith whereupon the Owner shall cease to be insured in respect of the entered ship.

### S Electronic communication

The Association's logs and records of any electronic communication sent



or received by the Association shall, in the absence of manifest error, be conclusive evidence of such communication and of its despatch or receipt.

### **T Interest**

In no case shall interest be paid upon sums due from the Association.

### **U Certificates and undertakings**

Notwithstanding the exclusions in Rule 5(E), 5(F) and 5(V), the Association will discharge on behalf of the Owner liabilities, costs, expenses arising under a demand made pursuant to the issue by the Association on behalf of the Owner of

- a) a guarantee or other undertaking given by the Association to the Federal Maritime Commission under Section 2 of US Public Law 89-777, or
- b) a certificate issued by the Association in compliance with Article VII of the International Conventions on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof, or
- c) an undertaking given by the Association to the International Oil Compensation Fund 1992 in connection with the Small Tanker Oil Pollution Indemnification Agreement (STOPIA), or except where such liabilities, costs or expenses arise from or are caused by an act of terrorism, the Tanker Oil Pollution Indemnification Agreement (TOPIA), or
- d) a certificate issued by the Association in compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
- e) a non-war certificate issued by the Association in compliance with either Article IV bis of the Athens Convention relating to Carriage of Passengers and their Luggage by Sea, 2002 and Guidelines for its implementation or Regulation (EC) No 392/2009 of the European Parliament and of the Council which gives effect thereto.

#### **PROVIDED ALWAYS THAT:**

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

For the purpose of this Rule 5(U), the Directors shall have the sole discretion to determine what constitutes a standard war risk policy.

## Rule 5 (continued)

### V Sanctions risks

- i The Association shall not indemnify an Owner against any liabilities, costs or expenses where the provision of cover, the payment of any claim or the provision of any benefit in respect of those liabilities, costs or expenses may expose the Association to any sanction, prohibition, restriction or adverse action by any competent authority or government.
- ii The Owner shall in no circumstances be entitled to recover from the Association that part of any liabilities, costs or expenses which is not recovered by the Association from any party to the Pooling Agreement and/or from any reinsurer because of a shortfall in recovery from such party or reinsurer by reason of any sanction, prohibition or adverse action by a competent authority or government or the risk thereof if payment were to be made by such party or reinsurer. For the purposes of this paragraph, "shortfall" includes, but is not limited to, any failure or delay in recovery by the Association by reason of the said party or reinsurer delaying payment or making payment into a designated account in compliance with the requirements of any competent authority or government.
- iii Notwithstanding, and without prejudice to, any other provisions of these Rules, the Directors may terminate the insurance of an Owner in respect of any and all ships entered by him where, in the opinion of the Directors, the Owner has exposed or will expose the Association to a material risk of being or becoming subject to a sanction, prohibition, restriction or other adverse action by a competent authority or government, which may materially affect the Association.

## **Owners and Successors Bound by Rules**

- A All contracts of insurance effected by the Association shall, save and insofar as they contain any special terms inconsistent herewith, be deemed to incorporate and shall incorporate all the provisions of these Rules.
  
- B An Owner or other person (including an insurer to be reinsured under Rule 13) by whom or on whose behalf an application is made for insurance or reinsurance by the Association shall be deemed to have agreed not only on his own behalf but also on behalf of his successors and each of them that both he and they will in every respect be subject to and bound by the provisions of these Rules and by any contract of insurance with the Association.

## Rule 7

### Applications for Insurance

- A Any applicant Owner who desires to enter a ship 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.
- B The particulars given by an applicant Owner in any application form together with any other particulars or information given in the course of applying for insurance or negotiating changes in the terms of insurance to the Managers of the Association shall, if the entry of the relevant ship be accepted, be deemed to form the basis of the contract of insurance between the Owner and the Association and it shall be a condition precedent of such insurance that all such particulars and information were true so far as the Owner knew or could with reasonable diligence have ascertained.
- C The Managers shall be entitled, in their discretion and without assigning any reason, to refuse any application for the entry of a ship for insurance in the Association whether or not the applicant Owner of such ship is a Member.

**Premium Rating**

Before an application is accepted for the entry of a ship on the terms (as set out in Rule 1 (6)) that the Owner is to pay Calls (including Mutual Premiums, Supplementary Premiums, or Overspill Calls) to the Association ("Call Entries"), the applicant Owner and the Managers shall agree the premium rating of the ship concerned. In deciding upon the premium rating of any ship the Managers may take into account all matters which they may consider relevant including (without prejudice to the generality of the foregoing) the degree of risk estimated to be involved in the proposed insurance.

## Rule 9

### Fixed Premiums

- A Before an application is accepted for the entry of a ship on the terms (as set out in Rule 1 (7)) that the Owner is liable to pay a fixed premium to the Association ("Fixed Premium Entries"), the applicant Owner and the Managers shall agree the amount of the premium and the time or times at which it is payable.
  
- B Every Owner by whom or on whose behalf an application is made for the entry of a ship as a Fixed Premium Entry shall, if his application is accepted, be bound to pay and shall pay to the Association such sums as shall have been agreed with the Managers and at such time or times as the Managers shall have specified.

## Joint Entries

- A If a ship shall be entered in the names of or on behalf of more persons than one (hereinafter referred to as "Joint Owners") the terms upon which each Joint Owner shall be entitled to recover losses from the Association and upon which the Association shall be entitled to recover Calls or Fixed Premiums from the Joint Owners shall be such as may be agreed in writing between the Joint Owners and the Managers.
- B Unless otherwise agreed in writing by the Managers all Joint Owners shall be jointly and severally liable to pay all contributions or other sums due to the Association in respect of such entry, and the receipt by any one of such persons for any sums payable by the Association in respect of such entry shall be a sufficient discharge of the Association for the same.
- C Failure by any Joint Owner to disclose material information within his knowledge shall be deemed to have been failure of all the Joint Owners.
- D Conduct of any Joint Owner which would have entitled the Association to decline to indemnify him shall be deemed the conduct of all the Joint Owners.
- E Unless the Managers have otherwise agreed in writing, the contents of any communication from or on behalf of the Association to any Joint Owner shall be deemed to be within the knowledge of all the Joint Owners, and any communication from any Joint Owner to the Association, the Managers or their agents shall be deemed to have been made with the full approval and authority of all the Joint Owners
- F The cover afforded under this Rule shall extend only to risks, liabilities and expenses arising out of operations and/or activities customarily carried on by or at the risk and responsibility of Owners and which are within the scope of the cover afforded by the Rules and any special terms set out in the Certificate of Entry.

## Rule 11

### Group Affiliate Cover

- A The Managers may accept the entry of any ship upon terms that within the limits and upon the conditions set out in paragraphs (B) and (C) of this Rule, the benefit of the cover afforded by the Association to the Owner in respect of that ship shall be extended to persons or companies affiliated or associated with that Owner. The rights and obligations as between the Association and any such persons or companies (both referred to hereafter in this Rule as Group Affiliates) shall, subject always to paragraphs (B) and (C) of this Rule, be such as may be agreed between the Owner and the Managers.
- B The benefit of the cover extended to Group Affiliates in accordance with paragraph (A) of this Rule shall be limited to reimbursement of claims relating to liabilities, costs or expenses incurred by them to the extent that the Owner (i) would have incurred the same liabilities, costs and expenses if the same claims had been pursued against him and (ii) would thereafter have been entitled to obtain reimbursement from the Association in accordance with the terms of entry of the ship in the Association.
- C The total liability of the Association in respect of any one event to the Owner and to all Group Affiliates to whom the benefit of that Owner's cover has been extended in accordance with this Rule shall not exceed such sum as would have been recoverable from the Association in respect of such event by that Owner, and the receipt by any one of the Owner and any such Group Affiliates of that sum or of separate payments by the Association amounting in aggregate to that sum shall be a full and sufficient discharge of the Association's liability.
- D Conduct of any one of the parties insured under this Rule which would have entitled the Association to decline to indemnify him shall be deemed the conduct of all insureds under the same entry.



## Certificate of Entry and Endorsement Slip

- A As soon as reasonably practical after accepting an application for the entry of a ship for insurance in the Association and at the commencement of each subsequent policy year during which such entry continues, the Managers shall issue to the Owner of such ship a Certificate of Entry in such form as may from time to time be prescribed by the Managers but so that such Certificate of Entry shall state the date of the commencement of the period of insurance or the policy year as the case may be and the terms and conditions on which the vessel has been accepted for insurance.
- B If at any other time or from time to time the Managers and the Owner of any ship entered for insurance shall agree to vary the terms relating to the entered ship, the Managers shall, as soon as reasonably practical thereafter, issue to the Owner of such ship an Endorsement Slip stating the terms of such variation and the date from which such variation is to be effective.
- C Every Certificate of Entry and every Endorsement Slip issued as aforesaid shall be conclusive evidence and binding for all purposes as to the commencement of the period of insurance, as to the terms and conditions on which the ship has been entered for insurance, and as to the terms of any variation and the date from which such variation is to be effective; provided that in the event that any Certificate of Entry or any Endorsement Slip shall in the opinion of the Managers contain any error or omission the Managers may in their discretion issue a new Certificate of Entry or a new Endorsement Slip which shall be conclusive evidence and binding as aforesaid.

## Rule 13

### Reinsurance

- A Subject to the Act, and save insofar as expressly prohibited by these Rules, the Managers may enter into contracts of reinsurance on behalf of the Association whereby the Association agrees to reinsure the risks arising in connection with any one or more ships insured by another Association or insurer or else agrees to reinsure the whole or any part or proportion of the insurance business of any other Association or insurer. The consideration payable to the Association and the terms and conditions on which the reinsurance is accepted by the Association shall be such as are agreed between the Managers and such other Association or insurer. Save where otherwise agreed in writing the other Association or insurer shall be in every respect subject to and bound by the provisions of these Rules and his contract with the Association shall for all purposes take effect as though he were the Owner of any ship or ships in connection with which the relevant risks may arise and had as Owner entered the ship or ships in the Association for insurance.
- B The Association may continue to be a party to the Pooling Agreement or to any other agreement of a similar nature or purpose.
- C The Managers shall have the right in their discretion to effect on behalf of the Association the reinsurance or ceding of any risks insured by the Association (including any risk which may fall on the Association by reason of a reinsurance or pooling agreement referred to in paragraphs (A) or (B) of this Rule) with such reinsurers and on such terms as the Managers shall consider appropriate.

**Membership**

- A If the Association accepts an application from an Owner who is not already a Member for a ship to be entered on terms that Calls are payable to the Association (“Call Entries”), then such Owner shall, as from the date of the acceptance of such entry, be and become a Member and his name shall be entered in the register of Members.
- B If the Association accepts an application from an Owner for a ship to be entered on terms that a fixed premium is payable to the Association (“Fixed Premium Entries”), the Managers may in their discretion decide either that the Owner is to be or that he is not to be a Member and they may accept the application on either basis.
- C Whenever the Association agrees to accept the reinsurance of any risks in accordance with Rule 13 (A) the Managers may in their discretion decide that the insurer reinsured by the Association and/or the Owner insured by such insurer is to be a Member or that neither of them is to be a Member and they may accept the application on any such basis.
- D An Owner shall cease to be a Member if for any reason whatsoever the period of insurance shall have terminated in respect of all ships entered in the Associations in his name. Whenever the period of any reinsurance shall have terminated the insurer reinsured by the Association and the Owner insured by such insurer, if previously a Member, shall cease to be one.
- E Any Owner who is or becomes a Member shall be and remain a member of The United Kingdom Mutual Steam Ship Assurance Association (Isle of Man) Limited (“the IOM Company”) (or its successors or assigns) subject always to the provisions of the memorandum and articles (or equivalent) of the IOM Company (or the constitutional documentation of any successor or assign) from time to time in force. It is a condition of membership of the Association and of acceptance of any application for membership of the Association that the aforesaid terms apply.
- F In the event that the Directors determine, in their discretion, that for the protection and security of the Association’s undertaking and property and the interests of the Members against loss, damage or injury, the Association transfers its funds and business to the IOM Company, of which the Owner is also a member under Rule 14E, then any certificate of entry present and in force, issued to each Owner shall be transferred, assigned and conveyed to the IOM Company immediately whereupon the IOM Company shall provide the same coverage afforded under the applicable certificate of entry on the same terms and conditions as the certificate of entry present and in force issued by the Association. Entry of the ship with the IOM Company shall be on the same terms and conditions as entry with the Association.

## Rule 15

### Assignment

- A No insurance given by the Association and no interest under these Rules or under any contract between the Association and any Owner may be assigned without the written consent of the Managers who shall have the right in their discretion to give or refuse such consent without stating any reason or to give such consent upon any such terms or conditions as they may think fit. Any purported assignment made without such consent or without there being due compliance with any such terms and conditions as the Managers may impose shall, unless the Managers in their discretion otherwise decide, be void and of no effect.
  
- B Whether or not the Managers shall expressly so stipulate as a condition for giving their consent to any assignment, the Association shall be entitled in settling any claim presented by the assignee to deduct or retain such amount as the Managers may then estimate to be sufficient to discharge any liabilities of the assignor to the Association, whether existing at the time of the assignment or having accrued or being likely to accrue thereafter.

## **Period of Insurance**

- A Subject as otherwise provided in these Rules the insurance by the Association of a ship entered in the Association otherwise than for a fixed period shall commence at the time and date specified in the Certificate of Entry and shall continue until noon of the 20th February next ensuing and thereafter, unless terminated in accordance with these Rules, from policy year to policy year.
  
- B The insurance by the Association of each ship entered for insurance for a fixed period shall, subject as otherwise provided in these Rules, cease at the expiry of such fixed period.

## Rule 17

### Variation of Contract

- A The Directors may decide during the course of any policy year that for the next ensuing policy year the premium ratings of the ships entered in the Association shall generally be increased by a single fixed percentage. If before the 20th December in any year the Managers shall have given notice to an Owner of such a decision, then the period of insurance shall continue for the next policy year upon the terms that the premium rating of the entered ship has been varied by the percentage fixed by the Directors, and the terms of entry of the entered ship shall be deemed for all purposes to have been varied accordingly, unless:
- i. a further notice of variation is given pursuant to paragraph (C) of this Rule; or
  - ii. a notice of termination is given pursuant to Rule 18; or
  - iii. the period of insurance has previously terminated for some other reason.

A notice of the Directors' decision shall constitute an Endorsement Slip for the purposes of Rule 12.

- B i If before the end of any policy year these Rules shall have been altered in any respect which affects the terms and conditions of the contract of insurance between the Owner and the Association, then such alteration shall be binding upon the Owner and for all purposes take effect as from the commencement of the next ensuing policy year.
- ii Notwithstanding the provisions of sub-paragraph (i) above, where, in the opinion of the Directors, there occurs or may occur a material change in the risks to the Association or the cover provided by it, either as a result of the implementation of new legislation or for any other reason whatsoever, the Association may alter the Rules in accordance with Bye-Law 15 and decide that such alteration shall take effect during the policy year on no less than 30 days notice.
- C If the Managers shall give a notice not later than noon on the 20th January in any policy year that for the next ensuing policy year they require the premium rating of an entered ship to be altered (otherwise than in accordance with paragraph (A) of this Rule) or that they require some other change to be made in the terms or conditions of entry, then the insurance for the entered ship for the next ensuing policy year shall continue upon such premium rating, terms or conditions as may be agreed between the Owner and the Managers before noon on the 20th February immediately following such notice and if by then no such agreement shall have been made the period of insurance shall thereupon terminate.

## **Notice of Termination**

- A The period of insurance of any ship entered in the Association (otherwise than for a fixed period) may be terminated in the following manner:
- i The Directors in their discretion and without giving any reason may give a written notice of termination to any Owner not later than noon on the 20th January in any policy year.
  - ii An Owner in his discretion and without giving any reason may give a written notice of termination to the Association not later than noon on the 20th January in any policy year.
- B If a notice shall have been given pursuant to paragraph (A) of this Rule the period of insurance shall terminate at noon on 20th February immediately following such notice. Save with the agreement of the Managers a ship may not be withdrawn from the Association nor may any notice of termination be given at any other time.

## Rule 19

### Calls

- A The Owners who have entered ships for insurance in the Association in respect of any policy year (not being a policy year closed in accordance with Rule 25) otherwise than on terms that a fixed premium shall be payable in respect of such ship, shall provide by way of Calls to be levied from such Owners all funds which in the opinion of the Directors are required:
- i To meet such of the general expenses of the Associations (or any of them) as the Directors may from time to time think fit to charge against the insurance business of the Associations in respect of such policy year;
  - ii To meet the claims, expenses and outgoings (whether incurred, accrued or anticipated) of the insurance and/or reinsurance business of the Associations (or any of them) in respect of such policy year (including, without prejudice to the generality of the foregoing, any such excess of the claims and other outgoings in respect of fixed premium entries over the premiums payable to the Associations (or any of them) in respect thereof as the Directors may charge to such policy year, and any proportion of any claims, expenses or outgoings of any insurer other than the Associations which has fallen or which may be thought likely to fall upon the Associations (or any of them) by virtue of any reinsurance or pooling agreement concluded between the Associations (or any of them) and such other insurer);
  - iii For such transfers to the contingency account, catastrophe or other reserves of the Associations (or any of them) (as referred to in Rule 24) and for subsequent application for the purposes of such reserves or otherwise as the Directors may think expedient;
  - iv For such transfers as the Directors may think proper to meet any deficiency which has occurred or may be thought likely to occur in any closed policy year or years of the Associations (or any of them).
- B The said Calls shall be levied by means of Mutual Premium, Supplementary Premium and Overspill Calls in accordance with the provisions of Rules 20 to 22.



## Mutual Premium

- A Before each policy year commences the Directors shall decide the percentage which is to be applied to the premium ratings of all ships entered for that year (other than Fixed Premium Entries) in ascertaining the Mutual Premium payable in respect of that policy year. This decision may be made at the same time as a decision to increase the premium ratings of entered ships pursuant to Rule 17(A).
- B An Owner of a ship (other than a Fixed Premium Entry) which is entered for any policy year shall be bound to pay by way of Mutual Premium in respect of such policy year a sum ascertained by multiplying the percentage ordered by the Directors pursuant to paragraph (A) of this Rule by the premium rating of the ship (as agreed between the Owner and the Managers and/or as increased pursuant to Rule 17(A), as the case may be) by the entered tonnage of the ship in the Association.
- C If at any time before the final instalment of Mutual Premium in respect of a policy year has become payable it shall appear to the Directors unlikely that the whole of such Mutual Premium (together with any transfers from reserves and provisions made for the credit of or in respect of such policy year) is required for the purposes set out in Rule 19;
- i the Directors may resolve to reduce the amount of Mutual Premium payable in respect of that policy year by declaring a Mutual Premium Discount, expressed as a percentage of the Mutual Premium or of any instalment thereof, and
  - ii the liability of the Owners under paragraph (B) of this Rule to pay Mutual Premium shall be reduced accordingly.

## Rule 21

### Supplementary Premium

- A At any time or times during or after the end of each policy year (but not after such policy year has been closed) the Directors may decide to levy from the Owners of ships entered in respect of that year (other than Fixed Premium Entries) one or more Supplementary Premiums. The Directors may levy such a Premium either (i) by deciding upon a percentage of the net Mutual Premium or (ii) by deciding upon a percentage of the premium ratings of all ships entered for that year.
- B An Owner of a ship (other than a Fixed Premium Entry) entered for any policy year shall be bound to pay by way of Supplementary Premium a sum ascertained, in the case of (i) by multiplying the percentage ordered by the Directors by the net Mutual Premium paid or payable by him in respect of such policy year and, in the case of (ii) by multiplying the percentage ordered by the Directors by the premium rating of the entered ship by the entered tonnage of the ship in the Association.
- C The Directors, the Managers or their servants or agents may at any time seek to enable Owners to become aware of their financial commitment for the relevant policy year by indicating an estimate of the percentage at which it is hoped that any Supplementary Premium will be levied. If any such estimate shall be given to any Owner it shall be without prejudice to the right of the Directors to levy Supplementary Premiums and Overspill Calls for the relevant policy year in accordance with these Rules at a greater or lesser percentage than so indicated and neither the Association, the Directors, the Managers nor any of their servants or agents shall under any circumstances be under any liability in respect of any estimate so given or in respect of any error, omission or inaccuracy contained therein.

## Overspill Claims, Calls and Guarantees

### Section 1

#### Introductory

- A All claims (other than claims arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement under the entry of any one ship arising from any one event including any claim in respect of liability for the removal or non-removal of any wreck shall for the purpose of the definitions in these Rules of "Overspill Claim" and "Group Reinsurance Limit" be treated as if they were one claim.
- B Any reference to a claim incurred by the Association or by any other party to the Pooling Agreement shall be deemed to include the costs and expenses associated therewith.
- C That part (if any) of a claim (other than a claim in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement under the terms of entry of a ship which exceeds or may exceed the Group Reinsurance Limit is referred to herein as an "Overspill Claim".

### Section 2

#### Recoverability of overspill claims

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

## Rule 22 (continued)

- C In evidencing the matters referred to in sub-paragraph (B)(ii) above the Association shall be required to show that:
- i it has levied Overspill Calls in respect of the Overspill Claim referred to in paragraph (A) of this Section on all Owners entered in the Association on the Overspill Claim Date in accordance with and in the maximum amounts permitted under Section 5 of this Rule 22; and
  - ii it has levied those Overspill Calls in a timely manner, has not released or otherwise waived an Owner's obligation to pay those calls and has taken all reasonable steps to recover those calls.

### Section 3 Payment of overspill claims

- A The funds required to pay any Overspill Claim incurred by the Association shall be provided:
- i from such sums as the Association is able to recover from the other parties to the Pooling Agreement as their contributions to the Overspill Claim, and
  - ii from such sums as the Association is able to recover from any special insurance which may, in the discretion of the Association, have been effected to protect the Association against the risk of payments of Overspill Claims, and
  - iii from such proportion of any sums standing to the credit of the Catastrophe Reserve (as defined in Rule 24) of the Associations (or any of them) as the Directors in their discretion decide, and
  - iv by levying one or more Overspill Calls in accordance with Section 5 of this Rule, irrespective of whether the Association has sought to recover or has recovered all or any of the sums referred to in sub-paragraph (ii) above but provided the Association shall first have made a determination in accordance with sub-paragraph (iii) above, and
  - v from any interest accruing to the Association on any funds provided as aforesaid.
- B The funds required to pay such proportion of any Overspill Claim incurred by any other party to the Pooling Agreement which the Association is liable to contribute under the terms of the Pooling Agreement shall be provided in the manner specified in sub-paragraphs (A)(ii) – (v) of this Section.
- C To the extent that the Association intends to provide funds required to pay any Overspill Claim incurred by it in the manner specified in sub-paragraph (A)(iv) of this Section, the Association shall only be required to pay such Overspill Claim as and when such funds are received by it, provided that it can show from time to time that, in seeking to collect such funds, it has taken the steps referred to in paragraph (C) of Section 2 of this Rule 22.

## Section 4

### Overspill claims - expert determinations

- A Any issue, arising from the application to an Overspill Claim (the “relevant Overspill Claim”) of paragraphs (B) or (C) of Section 2 of this Rule or paragraph (C) of Section 3 of this Rule, of whether
- i costs have been properly incurred in collecting or seeking to collect funds to pay Overspill Claims, or
  - ii any Overspill Call or part thereof is economically recoverable, or
  - iii in seeking to collect the funds referred to in Section 3(C), the Association has taken the steps referred to in that Section,
- on which the Association and the Owner cannot agree shall, notwithstanding Rule 40, be referred to a panel (the “Panel”) constituted in accordance with arrangements established in the Pooling Agreement which, acting as a body of experts and not as an arbitration tribunal, shall determine the issue.
- B If the Panel has not been constituted at a time when the Owner wishes to refer an issue to it, the Association shall, on request by the Owner, give a direction for the constitution of the Panel as required under the Pooling Agreement.
- C The Association may (and, on the direction of the Owner, shall) give such direction as is required under the Pooling Agreement for the formal instruction of the Panel to investigate any issue and to give its determination as soon as reasonably practicable.
- D The Panel shall in its discretion decide what information, documents, evidence and submission it requires in order to determine an issue and how to obtain these, and the Association and the Owner shall co-operate fully with the Panel.
- E In determining any issue referred to it under this Section 4 the Panel shall endeavour to follow the same procedures as it follows in determining issues arising in respect of the relevant Overspill Claim which are referred to it under the Pooling Agreement.
- F In determining an issue the members of the Panel
- i shall rely on their own knowledge and expertise, and
  - ii may rely on any information documents evidence or submission provided to it by the Association or the Owner as the Panel sees fit.
- G If the three members of the Panel cannot agree on any matter, the view of the majority shall prevail.
- H The Panel shall not be required to give reasons for any determination.
- I The Panel's determination shall be final and binding upon the Association and the Owner (subject only to Paragraph J below) and there shall be no right of appeal from such determination.

## Rule 22 (continued)

- J If the Panel makes a determination on an issue referred to in sub-paragraphs (A)(ii) or (iii) of this Section 4 the Association or the Owner may refer the issue back to the Panel, notwithstanding paragraph (I) above, if it considers that the position has materially changed since the Panel made its determination.
- K The costs of the Panel shall be paid by the Association.
- L Costs, indemnities and other sums payable to the Panel by the Association in relation to any Overspill Claim, whether the reference to the Panel has been made under Section 4 of this Rule 22 or under the Pooling Agreement, shall be deemed to be costs properly incurred by the Association in respect of that Overspill Claim for the purposes specified in sub-paragraph (B)(i) of Section 2 of this Rule.

### Section 5 Levying of overspill calls

- A If
  - i the Directors shall at any time determine that funds are or may in future be required to pay part of an Overspill Claim (whether incurred by the Association or by any other party to the Pooling Agreement); and
  - ii the Directors shall have made a declaration under Rule 25(C)(i) or 25(C)(iii) that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls in respect of that Overspill Claim, the Directors in their discretion, at any time or times after such declaration has been made, may levy one or more Overspill Calls in respect of that Overspill Claim in accordance with paragraph (B) below.
- B The Directors shall levy any such Overspill Call
  - i on all Owners entered in the Association on the Overspill Claim Date in respect of ships entered by them at that time, notwithstanding the fact that, if the Overspill Claim Date shall be in a Policy Year in respect of which the Directors have made a declaration under Rule 25(C)(iii), any such ship may not have been entered in the Association at the time the relevant event occurred, and
  - ii at such percentage of the Convention Limit of each such ship as the Directors in their discretion shall decide.
- C An Overspill Call shall not be levied in respect of any ship entered on the Overspill Claim Date with an overall limit of cover equal to or less than the Group Reinsurance Limit.
- D The Directors shall not levy on any Owner in respect of the entry of any one ship an Overspill Call or Calls in respect of any one Overspill Claim exceeding in the aggregate two and a half per cent (2.5%) of the Convention Limit of that ship.

**Section 6**

**Security for overspill calls on termination or cesser**

- A If
- i the Directors make a declaration in accordance with Rule 25 (C) (i) or 25 (C) (iii) that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls, and
  - ii an Owner who is liable to pay any such Overspill Call or Calls as may be levied by the Directors in accordance with Section 5 of this Rule ceases or has ceased to be insured by the Association for any reason, or the Association determines that the insurance of any such Owner may cease the Managers may require such Owner to provide to the Association a guarantee or other security in respect of the Owner's estimated future liability for such Overspill Call or Calls, such guarantee or other security to be provided in such form and amount (the "guarantee amount") and by such date (the "due date") and upon such terms as the Managers in their discretion may deem to be appropriate in the circumstances.
- B Unless and until such guarantee or other security as is required by the Managers has been provided by the Owner, the Owner shall not be entitled to recovery from the Association of any claims whatsoever and whensoever arising in respect of any and all vessels entered in the Association by him or on his behalf for any Policy Year.
- C If such guarantee or other security is not provided by the Owner to the Association by the due date, a sum equal to the guarantee amount shall be due and payable by the Owner to the Association on the due date, and shall be retained by the Association as a security deposit on such terms as the Managers in their discretion may deem to be appropriate in the circumstances.
- D The provision of a guarantee or other security as required by the Association (including a payment in accordance with paragraph (C) above) shall in no way restrict or limit the Owner's liability to pay such Overspill Call or Calls as may be levied by the Directors in accordance with Section 5 of this Rule.

## Rule 23

### Payment

- A Every Call (Mutual Premium, Supplementary Premium or Overspill Call) shall be payable at such rate and, save as otherwise agreed in writing by the Managers, in such instalments and on such dates as the Directors may specify.
- B As soon as reasonably practical after the rate of any Call (Mutual Premium, Supplementary Premium or Overspill Call) shall have been so fixed the Managers shall notify each Owner concerned:
- i Of such rate;
  - ii Of the date on which the Call concerned is payable or, if such Call is payable by instalments, of the amounts of such instalments and the respective dates on which they are payable;
  - iii Of the amount payable by such Owner in respect of each ship entered by him;
  - iv If such Call is payable by such Owner in any currency other than U.S. Dollars, of such fact.
- C The Managers may require any Owner to pay all or any part of any Call payable by him in such currency or currencies as the Managers may specify.
- D No claim of any kind whatsoever by an Owner against any of the Associations shall constitute any set-off against the Calls, fixed premiums or other sums of whatsoever nature due to the Associations or shall entitle an Owner to withhold or delay payment of any such sum.
- E Without prejudice to the rights and remedies of the Association under these Rules and in particular Rules 29 to 33 inclusive, if any Call or instalment or part thereof or any other sum of whatsoever nature (including, without prejudice to the generality of the foregoing, any fixed premium and any amount due pursuant to Rules 30 or 33 and any part thereof) due from any Owner is not paid by such Owner on or before the date specified for payment thereof, such Owner shall pay interest on the amount not so paid from and including the date so specified down to the date of payment at such rate as the Directors may from time to time determine, but the Directors may waive payment of such interest in whole or in part.
- F The Association shall have a lien or other right of action against any ship entered by the Owner in respect of any sum of whatsoever nature owed by him to any of the Associations, notwithstanding that the cover of the Owner or in respect of any ship entered by him may have ceased or been terminated or cancelled.
- G If any Call or other payment due from an Owner to any of the Associations is not paid and if the Directors decide that payment cannot be obtained, the sums required to make good any resulting shortfall or deficiency in the funds of the Associations shall be deemed to be expenses of the Associations



## Rule 23 (continued)

for which, as the Directors may decide, Calls may be levied in accordance with Rule 19 (or, if the shortfall or deficiency is in respect of an Overspill Call under Rule 22, Section 5, a further Overspill Call under that Rule), or the reserves may be applied in accordance with Rules 24 and 25.

- H An Owner shall pay on demand to the Association or its order the amount of any premium tax or other tax levied on or in connection with the insurance or reinsurance provided by the Association to the Owner which the Association determines it or the Owner has or may become liable, and shall indemnify the Association and hold it harmless in respect of any loss, damage, liability, cost or expense which the Association may incur in respect of such premium tax or other similar tax.

## Rule 24

### Reserves

- A The Directors may establish and maintain such reserve funds or other accounts for such contingencies or purposes as they think fit.
- B Without prejudice to the generality of paragraph (A) of this Rule the Directors may establish and maintain reserves or other accounts for one or more of the following specific purposes:
- i A reserve (herein called the "Catastrophe Reserve") to provide a source of funds which may be applied towards meeting any Overspill Claim or Claims of the Associations whether occurring in the same or in any other policy year;
  - ii A reserve (herein called the "Contingency Account") to provide a source of funds which may be applied for any general purposes of the Association including the following; to stabilize the level of Mutual or Supplementary Premiums and to eliminate or reduce the need to levy such Premiums or any part thereof in respect of any policy year, past present or future; to eliminate or reduce a deficiency which has occurred or may be thought likely to occur in respect of any closed policy year; to protect the Associations against any actual or potential losses on exchange, or in connection with its investments, realised or unrealised.
- C 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 policy year or years from that from which the funds originated. The Directors may also apply the sums standing to the credit of any reserve for any other or different purposes whenever the Directors consider this to be in the interests of the Members or the Associations. The Directors may also at any time transfer sums from one reserve to another including between the reserves of the Associations.
- D The funds required to establish such reserves or accounts may be raised in either or both of the following ways:
- i The Directors, when deciding on the rate of any Mutual or Supplementary Premium for any policy year, may resolve that any specified amount or proportion of such Premium shall be transferred to and applied for the purposes of any such reserve or account;
  - ii The Directors may on the closing of any policy year or at any time or times thereafter resolve that any specified amount or proportion of the funds standing to the credit of that policy year shall be transferred to and applied for the purposes of any such reserve or account.
- E If the Directors shall resolve as set out in paragraph (D) (i) of this Rule, then the Managers shall inform the Owners entered for such policy year on or before the time that payment is demanded.

## Closing of Policy Years

- A The Directors shall with effect from such date after the end of each policy year as they think fit declare that such policy year shall be closed or that such policy year shall be closed save for the purpose of levying one or more Overspill Calls as provided in paragraph (C) of this Rule.
- B After any policy year shall have been closed no further Supplementary Premiums or Overspill Calls may be levied in respect of that policy year, save as provided in paragraph (C) of this Rule and under Rule 22.
- C
- i If at any time prior to the expiry of a period of thirty-six months from the commencement of a Policy Year (the “relevant Policy Year”), any of the parties to the Pooling Agreement sends a notice (an “Overspill Notice”) in accordance with the Pooling Agreement that an event has occurred in the relevant Policy Year which has given or at any time may give rise to an Overspill Claim, the Directors shall as soon as practicable declare that the relevant Policy Year shall remain open for the purpose of levying an Overspill Call or Calls in respect of that claim and the relevant Policy Year shall not be closed for the purpose of making an Overspill Call or Calls in respect of that claim until such date as the Directors shall determine.
  - ii If at the expiry of the period of thirty-six months provided for in sub-paragraph (i) above, no Overspill Notice as therein provided for has been sent, the relevant Policy Year shall be closed automatically for the purpose of levying Overspill Calls only, whether or not closed for any other purposes, such closure to have effect from the date falling thirty-six months after the commencement of the relevant Policy Year.
  - iii If at any time after a Policy Year has been closed in accordance with the provisions of sub-paragraphs (i) or (ii) above, it appears to the Directors that an event which occurred during such closed Policy Year may then or at any time in the future give rise to an Overspill Claim, the Directors shall as soon as practicable declare that the earliest subsequent open Policy Year (not being a Policy Year in respect of which the Directors have already made a declaration in accordance with sub-paragraphs (C) (i) or (C) (iii) of this Rule) shall remain open for the purpose of levying an Overspill Call or Calls in respect of that claim and such open Policy Year shall not be closed for the purpose of making an Overspill Call or Calls in respect of that claim until such date as the Directors shall determine.
  - iv If the Directors shall make a declaration as provided for in sub-paragraphs (C) (i) or (C) (iii) of this Rule, the Managers shall inform the Owners entered for the Policy Year in respect of which such declaration is made.
  - v If at any time after the levying of an Overspill Call upon the Owners entered in the Association in any Policy Year, it shall appear to the Directors that the whole of such Overspill Call is unlikely to be required to meet the

## Rule 25 (continued)

Overspill Claim in respect of which such Overspill Call was levied, the Directors may decide to dispose of any excess which in their opinion is not so required in one or both of the following ways:

- a) by transferring the excess or any part thereof to the Catastrophe Reserve in accordance with Rule 24; or
  - b) by returning the excess or any part thereof to those Owners who have paid that Overspill Call in proportion to the payments made by them.
- vi A Policy Year shall not be closed for the purpose of levying Overspill Calls save in accordance with this Rule 25.

D Save as provided in paragraph (C) of this Rule, the Directors may declare that any policy year is closed notwithstanding that it is known or anticipated that there are in existence or may in the future arise claims, expenses or outgoings in respect of such policy year which have not yet accrued or whose validity, extent or amount have yet to be established.

E If upon the closing of any policy year it shall appear to the Directors that the whole of the Calls and other receipts in respect of such policy year (and of all transfers from reserves and provisions made for the credit of or in respect of such policy year) are unlikely to be required to meet the claims, expenses and outgoings arising in respect of that policy year (as referred to in Rule 19(A) (i) and (ii)), then the Directors may decide to dispose of any excess which in their opinion is not so required in one or both of the following ways:

- i By transferring the excess or any part thereof to the reserves of the Associations in accordance with Rule 24.
- ii By returning the excess or any part thereof to the Owners entered for such policy year in accordance with paragraph (H) of this Rule.

F If at any time or times after a policy year shall have been closed it shall appear to the Directors that the claims, expenses and outgoings arising in respect of that policy year (as referred to in Rule 19(A)(i) and (ii)) exceed or are likely to exceed the totality of the Calls and other receipts in respect of such policy year (and of all transfers from reserves and provisions made for the credit of or in respect of such policy year) then the Directors may decide to provide for such deficiency in any one or more of the following ways:

- i By transferring funds from the reserves of the Association;
- ii By transferring funds between the Associations;
- iii By transferring funds standing to the credit of any different closed policy year;
- iv By charging a Mutual Premium or Supplementary Premium in respect of an open policy year with the intention (as permitted by Rule 19 (A) (iv)) of applying a part thereof to meet any such deficiency.

If the Directors shall resolve as set out in sub-paragraph (iii) above, then the Managers shall inform the Owners entered for such policy year on or before the time that payment is demanded.

- G At any time after any policy year shall have been closed the Directors may resolve to amalgamate the accounts of any two or more closed policy years and to pool the amounts standing to the credit of the same. If the Directors shall so resolve then the two or more closed policy years concerned shall for all purposes be treated as though they constituted a single closed policy year.
- H Any amount which the Directors may decide to return to the Owners in accordance with paragraph (E)(ii) of this Rule shall be returned to the Owners entered in respect of such policy year in proportion to the Calls paid by them in respect of such policy year (after taking into account any returns or rebates applicable thereto under their terms of entry or under any other provision of these Rules).

PROVIDED ALWAYS that:

- a) No return shall be made to any Owner whose liability for Calls has been assessed in accordance with the provisions of Rules 30 or 33, and
- b) Where the insurance of an Owner has been cancelled in accordance with the provisions of Rule 31 any amounts due for any reason whatsoever (whether by way of Calls or otherwise and whether in respect of the policy year for which the return has been decided or in respect of any other policy year or years) from the Owner to the Association shall be deducted from the return and only the balance (if any) refunded to the Owner.

## Rule 26

### Investment

- A The funds of the Association may be invested as the Directors (or the Managers subject to the supervision of the Directors) may think fit.
- B Unless the Directors otherwise decide, all the funds standing to the credit of any policy year or of any reserve or account shall be pooled and invested as one fund.
- C When funds are pooled as provided in paragraph (B) above, the investment income arising on the pooled funds shall be apportioned among and between the different policy years, reserves and accounts as the Directors may think fit.

## **Laid-up Returns**

Subject to any terms and conditions which may have been agreed, if an entered ship shall be laid-up without cargo on board in any safe port or place for a period of thirty or more consecutive days after finally mooring there, (such period being computed from the day of arrival to the day of departure, one only being excluded) the Owner shall be allowed a return of Calls payable in respect of such ship for the period of lay-up, calculated at such rate and after deduction of such allowance for reinsurance, administrative expenses and other outgoings as the Managers may from time to time determine, save that there shall be no laid-up returns in respect of Overspill Calls.

For the purposes of this Rule,

- a) the Managers shall have sole discretion in deciding whether the port or place involved is a safe port or place within the meaning of this Rule, and
- b) no claim for laid-up returns relating to any policy year shall be recoverable from the Association unless written notice thereof has been given to the Association within six months of the end of the policy year concerned.

## Rule 28

### Termination and its Effects

- A Upon an Owner ceasing to be insured by the Association in respect of any ship by virtue of a notice given (whether by the Owner or the Directors) in accordance with Rule 17 or Rule 18 and without prejudice to the effects of cancellation of insurance pursuant to Rule 31, then:
- i Unless and to the extent that in the case of Call Entries the Owner's liability may have been otherwise agreed or assessed under Rule 30 (Release Calls upon Cesser), such Owner and his successors shall be and remain liable for all contributions, premiums and other sums payable in respect of the whole of the policy year in which such notice was given, and in respect of previous policy years, and
  - ii Subject to the other provisions of these Rules and to the terms of entry the Association shall remain liable in respect of such entered ship for all claims under these Rules arising by reason of any event which had occurred prior to noon on 20th February immediately following the giving of such notice, but shall not otherwise be under any liability whatsoever by reason of anything occurring at or after that date and time.
- B Upon an Owner ceasing to be insured by the Association in respect of any ship pursuant to paragraph Q, R or V of Rule 5 or otherwise than in accordance with Rule 17, Rule 18, Rule 29 (A), (B) or (C), or Rule 31 (A), then:
- i Unless and to the extent that in the case of Call Entries the Owner's liability may have been agreed or assessed under Rule 30 (Release Calls upon Cesser), such Owner and his successors shall be and remain liable in relation to any Overspill Calls for the whole amount payable by him in accordance with Rule 22, and in relation to all other contributions, premiums and other sums payable:
    - a in respect of the policy year in which such cessation occurs, on a pro rata basis, namely for the proportion of such sums applicable to the period beginning at the commencement of that policy year (or, in the case of a ship entered during that policy year, the date of entry) and ending at noon on the date of such cessation, and
    - b in respect of previous policy years, for the whole of those policy years, and
  - ii Subject to the other provisions of these Rules and to the terms of entry the Association shall remain liable in respect of such entered ship for all claims under these Rules arising by reason of any event which had occurred prior to noon on the day of such cessation, but shall not otherwise be under any liability whatsoever by reason of anything occurring at or after that date and time,

PROVIDED ALWAYS that:

nothing in paragraph (B) of this Rule shall be taken to confer validity on any notice purporting to terminate the entry of any ship given otherwise than in accordance with Rule 17, Rule 18 or Rule 31 (A).



## Cesser of Insurance and its Effects

- A An Owner shall forthwith cease to be insured by the Association in respect of any and all ships entered by him or on his behalf upon the happening of any of the following events:
- i Where the Owner is an individual,
    - a) upon his death,
    - b) if a receiving order is made against him,
    - c) if he becomes bankrupt,
    - d) if he makes any composition or arrangement with his creditors generally,
    - e) if he becomes incapable by reason of mental disorder of managing or administering his property and affairs;
  - ii Where the Owner is a corporation,
    - a) upon the passing of any resolution for its voluntary winding up (other than voluntary winding up for the purposes of company or group reorganisation),
    - b) upon an order being made for its compulsory winding up,
    - c) upon its dissolution,
    - d) upon a receiver or manager being appointed of all or part of its business or undertaking,
    - e) upon its commencing proceedings under any bankruptcy or insolvency laws to seek protection from its creditors or to reorganise its affairs.
- B Unless otherwise agreed in writing by the Managers, an Owner shall forthwith cease to be insured by the Association in respect of any ship entered by him or on his behalf upon the happening of any of the following events in relation to such ship:
- i upon the Owner parting with or assigning the whole or any part of his interest in the ship whether by bill of sale or other formal document or agreement or in any other way whatsoever;
  - ii upon the mortgaging or hypothecation of the ship or of any part of the Owner's interest in that ship;
  - iii upon the managers of the ship being changed by the appointment of new managers;
  - iv upon undisputed possession being taken of the ship by or on behalf of a secured party.
  - v upon the Owner, as at noon on 20th February in any policy year, failing to pay in respect of the ship any amounts due from him to the Association.
  - vi upon the Owner, as at noon on 20th February in any policy year, being in breach of, or otherwise failing to fulfil, his obligations in respect of the ship under Rules 5 (K), 5 (Q) or 5 (R).
- C Unless otherwise agreed in writing by the Managers, an Owner shall forthwith cease to be insured by the Association in respect of any ship entered by him or on his behalf upon the happening of whichever shall be the earliest of the following events:

## Rule 29 (continued)

- i upon the ship being missing for ten days from the date when she was last heard of;
- ii upon the ship being posted at Lloyd's as missing;
- iii upon the ship becoming an actual total loss;
- iv upon acceptance by hull underwriters (whether of marine or war risks) that the ship is a constructive total loss;
- v upon agreement by hull underwriters (whether of marine or war risks) to pay to the Owner of the ship an unrepaired damage claim which exceeds the market value of the ship without commitment immediately prior to the casualty which gave rise to such claim;
- vi upon a compromise or settlement with hull underwriters (whether of marine or war risks) on the basis of which the ship is considered or deemed to be an actual or constructive total loss;
- vii upon a decision by the Managers that the ship is to be considered or deemed to be an actual or constructive total loss or otherwise commercially lost.

PROVIDED ALWAYS that:

- a) Notwithstanding the cesser of the insurance under Rule 29 (C) the Association shall, subject always to the Rules and to the terms and conditions of the entry of the ship in the Association, remain liable as regards liabilities flowing directly from the casualty which has given rise to the actual or constructive loss of the ship.
- b) If the Managers agree that the insurance of the ship shall continue after the happening of any of the events listed in paragraph (B) and (C) of this Rule they may in their discretion impose such terms and conditions as they think fit for the continuation of the insurance.

D On the occurrence of any of the events specified in paragraphs (A) to (C) inclusive of this Rule in respect of an entered ship, the Owner shall give notice in writing of such event to the Managers within one month after the date thereof.

- E Upon an Owner ceasing to be insured by virtue of paragraph (A) of this Rule, and upon an Owner ceasing to be insured in respect of any ship by virtue of paragraphs (B) or (C) of this Rule, and without prejudice to the effects of cancellation of insurance pursuant to Rule 31 (A) then:
- i Unless and to the extent that in the case of Call Entries the Owner's liability may have been agreed or assessed under Rule 30 (Release Calls upon Cesser), such Owner and his successors shall be and remain liable in relation to any Overspill Calls for the whole amount payable by him in accordance with Rule 22, and in relation to all other contributions, premiums and other sums payable:
    - a) in respect of the policy year in which such cessation occurs, on a pro rata basis, namely for the proportion of such sums applicable to the period beginning at the commencement of that policy year (or, in the case of a ship entered during that policy year, the date of entry) and ending at noon on the date of such cessation; provided that, if

## Rule 29 (continued)

- the Owner fails to give notice of the event in accordance with paragraph (D) of this Rule, such period shall end at noon on such later date as the Managers in their discretion shall decide, and
- b) in respect of previous policy years, for the whole of those policy years, and
  - ii Subject to the other provisions of these Rules and to the terms of entry the Association shall remain liable in respect of any ship entered by such Owner or in respect of such entered ship (as the case may be) for all claims under these Rules arising by reason of any event which had occurred prior to the date of such cessation, but shall not otherwise be under any liability whatsoever by reason of anything occurring after that date.

## Rule 30

### Release Calls upon Cesser of Insurance

Upon an entered ship ceasing to be insured by the Association for any reason, whether or not the circumstances giving rise to such cesser of insurance shall be any of those specified in Rules 17 and 18 or in paragraphs (A), (B) and (C) of Rule 29, the Managers may:

- A Release the Owner from liability to pay Supplementary Premiums in respect of such ship, wholly or partly or upon such terms as the Managers in their discretion may deem to be appropriate in the circumstances.
- B Whether or not negotiations may have taken place with the view to the application of paragraph (A) hereof, assess as at the date of the cesser of insurance the amount which seems to the Managers in their discretion to represent the likely liability of the Owner for Supplementary Premiums and for Mutual Premiums falling due after such date in respect of such ship.

If the Managers shall exercise their powers under paragraph (A) or paragraph (B) of this Rule, then:

- i Any terms imposed by the Managers or agreed between the Managers and the Owner pursuant to paragraph (A) hereof shall be performed at such time or times as the Managers shall have specified;
- ii The amount of any assessment made under paragraph (B) hereof shall be payable by the Owner without deduction on demand; and
- iii The Owner shall be under no liability for any Supplementary Premiums which the Directors may decide to levy after the date of a release given under paragraph (A) hereof or after the date of an assessment made under paragraph (B) hereof, as the case may be, or for any Mutual Premiums becoming due after such date, and the Owner shall have no right to share in any return of contributions or other receipts, or any Mutual Premium Discount, which the Directors may thereafter decide to declare or make in accordance with Rule 20 or 25 (E) respectively.

## Cancellation of Insurance and its Effects

- A Where an Owner has failed to pay, either in whole or in part, any amount due from him to the Association, the Managers may give him notice in writing requiring him to pay such amount by any date specified in such notice, not being less than seven days from the date on which such notice is given. If the Owner fails to make such a payment in full on or before the date so specified, the insurance of the Owner (whether the insurance is current on such date or has ceased by virtue of paragraphs (A), (B), or (C) of Rule 29 or in accordance with any other provisions of these Rules) in respect of any and all ships referred to in such notice and entered in the Association by him or on his behalf shall be cancelled forthwith without further notice or other formality.
- B When the insurance of an Owner is cancelled in accordance with paragraph (A) of this Rule (which time is hereinafter in this Rule 31 referred to as “the date of cancellation”) then:
- i Unless and to the extent that in the case of Call Entries the Owner's liability may have been otherwise assessed under Rule 33 (Release Calls upon Cancellation), such Owner and his successors shall be and remain liable in relation to any Overspill Calls for the whole amount payable by him in accordance with Rule 22, and in relation to all other contributions, premiums and other sums payable:
    - a) in respect of the policy year in which the date of cancellation falls, on a pro rata basis, namely for the proportion of such sums applicable to the period beginning at the commencement of that policy year (or, in the case of a ship entered during that policy year, the date of entry) and ending on the date of cancellation or such earlier date as the Managers in their discretion decide and agree in writing, and
    - b) in respect of previous policy years, for the whole of those policy years, and
  - ii The Association shall with effect from the date of cancellation cease to be liable for any claims of whatsoever kind under these Rules in respect of any and all ships in relation to which the insurance of the Owner has been cancelled.
    - a) irrespective whether such claims have occurred or arisen or may arise by reason of any event which has occurred at any time prior to the date of cancellation, including during previous years;
    - b) irrespective whether such claims arise by reason of any event occurring after the date of cancellation;
    - c) irrespective whether the Association may have admitted liability for or appointed lawyers, surveyors or any other person to deal with such claims;
    - d) irrespective whether the Association at the date of or prior to the date of cancellation knew that such claims might or would arise, and as from the date of cancellation any liability of the Association for such claims shall terminate retrospectively and the Association

## Rule 31 (continued)

shall be under no liability to such Owner for any such claims or on any account whatsoever;

PROVIDED ALWAYS that:

The Directors may in their discretion and upon such terms as they think fit, including but not restricted to terms as to payment of contributions, premiums or other sums, admit either in whole or in part any claim in respect of any ship entered by an Owner for which the Association is under no liability by virtue of paragraph (A) or (B) of this Rule, whether such claim has arisen before or arises after the date of cessation or the date of cancellation as the case may be, or remit wholly or partly any payment of contribution, premiums or other sums due to the Association.

## **Sums Due to the Association for the Purpose of Application of the Rules on Cancellation**

- A For the purpose of determining whether any (and, if so, what) sum is due for the purposes of Rule 31 (A) or otherwise under these Rules no account shall be taken of any amount due or alleged to be due by the Associations to the Owner on any ground whatever, and no set-off of any kind (including set-off which might otherwise have arisen by reason of the bankruptcy or winding up of the Owner) shall be allowed against such sum (whether or not any set-off against contributions has been allowed at any time in the past), except to the extent (if any) to which any sum demanded by the Managers as due, and required to be paid in a notice served under the said sub-paragraph, may (in the Managers' discretion) in itself have already allowed for a set-off or credit in favour of the Owner.
- B Without prejudice to the generality of Rule 39 no act, omission, course of dealing, forbearance, delay or indulgence of any kind by or on behalf of the Association nor the granting of time, nor the acceptance by the Association (whether express or implied) of liability for, or the recognition of, any claim, and whether occurring before or after any date of cessation or date of cancellation as hereinbefore referred to shall derogate from the effect of Rules 28 to 33 inclusive or be treated as any waiver of any of the Association's rights thereunder.

## Rule 33

### Release Calls upon Cancellation

- A Upon the cancellation of an Owner's insurance in accordance with paragraph (A) of Rule 31, notwithstanding that, if there has been a cesser of insurance prior to such cancellation, the Managers at the time of such prior cesser may not have exercised or may have agreed not to exercise the powers described in paragraphs (A) and (B) of Rule 30, the Managers may assess as at the date of the cancellation of insurance the amount which seems to the Managers in their discretion to represent the likely liability of the Owner for Supplementary Premiums and for Mutual Premiums falling due after such date in respect of such ship.
- B If the Managers shall exercise their powers under paragraph (A) of this Rule 33, then:
- i The amount of any such assessment made under paragraph (A) hereof shall be payable by the Owner without deduction on demand, and
  - ii The Owner shall be under no liability for any Supplementary Premiums which the Directors may decide to levy after the date of such assessment made under paragraph (A) hereof, or for any Mutual Premiums becoming due after such date, and the Owner shall have no right to share in any return of contributions or other receipts or any Mutual Premium Discount, which the Directors may thereafter decide to declare or make in accordance with Rule 20 or 25 (E) respectively.



## Regulations and Recommendations by Directors

- A The Directors shall have power from time to time to make regulations prescribing the conditions or forms of contracts of carriage either generally or for use in any particular trade or at any particular port or place. Upon the passing of any such regulation it shall be deemed to be incorporated in these Rules so as to take effect as from the beginning of the policy year next following the time and date of the making of such regulation, and as from such taking effect every Owner shall conform thereto in so far as the same may apply to the ships entered by him or on his behalf in the Association or to the trades in which they may be engaged. If any Owner shall commit a breach of any regulation, the Directors may reject or reduce any claim made by the Owner to the extent to which it would not have arisen if he had complied with the regulation and may further impose such terms upon him as they may think fit as a condition of the continuance of the entry of the Owner's ship or ships in the Association.
- B The Directors may also from time to time recommend the use of any particular form of contract of carriage in any particular trade. Owners whose ships are engaged in such trades shall endeavour to use the appropriate form of contract of carriage when the circumstances of the fixture or engagement of such ships permit.
- C Notice giving particulars of every regulation made (and the policy year at the beginning of which it takes effect) and every recommendation made pursuant to this Rule shall forthwith be sent to every Owner, and a copy thereof shall be included in or with every copy of the Rules issued by the Association after such regulation or recommendation comes into force.

## **Rule 35**

### **Managers' Remuneration**

The Managers shall be remunerated by the Association on such basis as may be approved by the Directors.

## Claims

- A Without prejudice to any other provision of these Rules and without waiving any of the Association's rights hereunder, the Managers may at any and all times appoint and employ on behalf of the Owner upon such terms as the Managers may think fit lawyers, surveyors or other persons for the purpose of dealing with any matter liable to give rise to a claim by an Owner upon the Association, including investigating or advising upon any such matter and taking or defending legal or other proceedings in connection therewith. The Managers may also at any time discontinue such employment if they think fit.
  
- B All lawyers, surveyors and other persons appointed by the Managers on behalf of the Owner or appointed by the Owner with the prior consent of the Managers shall at all times be and be deemed to be appointed and employed on the terms that they have been instructed by the Owner at all times (both while so acting and after having retired from the matter) to give advice and to report to the Association in connection with the matter without prior reference to the Owner and to produce to the Association without prior reference to the Owner any documents or information in their possession or power relating to such matter, all as if such person had been appointed to act and had at all times been acting on behalf of the Association.

## Rule 37

### **Powers of the Managers relating to the Handling and Settlement of Claims**

- A The Managers shall have the right if they so decide to control or direct the conduct of any claim or legal or other proceedings relating to any liability, loss or damage in respect whereof the Owner is or may be insured in whole or in part, and to require the Owner to settle, compromise or otherwise dispose of such claim or proceedings in such manner and upon such terms as the Managers see fit.
  
- B If the Owner does not settle, compromise or dispose of a claim or of proceedings after being required to do so by the Managers in accordance with paragraph (A) of this section, any eventual recovery by the Owner from the Association in respect of such claim or proceedings shall be limited to the amount he would have recovered if he had acted as required by the Managers.
  
- C The Association is under no obligation to provide bail or other security on behalf of any Owner, but where the same is provided it shall be on such terms as the Managers may consider appropriate and shall not constitute any admission of liability by the Association for the claim in respect of which the bail or other security is given. It shall be a condition of the provision of bail or other security that the Owner shall indemnify the Association for any costs or liability arising therefrom or associated therewith, save to the extent that such costs or liability would have been recoverable from the Association if the Owner had incurred them directly.

**Meetings of the Directors**

The Directors shall meet as often as they may consider necessary for the settlement of claims which shall be paid by the Association as the Directors may determine in accordance with these Rules and the Directors shall have power from time to time to authorise the Managers, without prior reference to the Directors, to effect payment of claims of such types and up to such sums as the Directors may determine. No Director shall act as such in the settlement of any claim in which he is interested.

## Rule 39

### Forbearance and Reimbursement

- A No act, omission, course of dealing, forbearance, delay or indulgence by the Association in enforcing any of these Rules or any of the terms or conditions of its contracts with Owners nor any granting of time by the Association shall prejudice or affect the rights and remedies of the Association under these Rules or under such contracts, and no such matter shall be treated as any evidence of waiver of the Association's rights thereunder, nor shall any waiver of a breach by an Owner of such Rules or contracts operate as a waiver of any subsequent breach thereof. The Association shall at all times and without notice be entitled to insist on the strict application of these Rules and on the strict enforcement of its contracts with Owners.
  
- B The Owner shall reimburse to the Association on demand the amount of any payment made to any third party by the Association on behalf of or as guarantor for such Owner to the extent that such payment is in respect of any amount which in the opinion of the Managers is not recoverable from the Association.

## Disputes

- A The Owner hereby submits to the jurisdiction of the High Court of Justice of England in respect of any action brought by the Association to recover sums which the Association may consider to be due to it from the Owner. Without prejudice to the foregoing the Association shall be entitled to commence and maintain in any jurisdiction any action to recover sums which the Association may consider to be due to it from the Owner.
- B Save as provided in Section 4 of Rule 22, if any other difference or dispute shall arise between an Owner or any other person and the Association out of or in connection with these Rules or any contract between the Owner and the Association or as to the rights or obligations of the Association or the Owner or any other person thereunder or in connection therewith, such difference or dispute shall in the first instance be referred to and adjudicated upon by the Directors, unless the Directors elect to waive such adjudication, whereupon the Owner or such other person concerned shall be entitled to refer the difference or dispute to arbitration in accordance with the provisions of paragraph C of this Rule. Such reference and adjudication shall be on written submissions only.
- C If the Owner or such other person concerned in such difference or dispute does not accept the decision of the Directors it shall be referred to the arbitration in London of two Arbitrators (one to be appointed by the Association and the other by such Owner or such other person) and an Umpire to be appointed by the Arbitrators, and the submission to arbitration and all the proceedings therein shall be subject to the provisions of the English Arbitration Act, 1996, and any statutory modification or re-enactment thereof.
- D No Owner nor such other person shall be entitled to maintain any action, suit or other legal proceedings against the Association upon any such difference or dispute
- i unless and until the same has been so referred to the Directors for adjudication under paragraph (B) of this Rule and the Directors shall have given their decision thereon or the reference to such adjudication shall have been waived in accordance with the proviso to paragraph (B) of this Rule, and
  - ii if such decision is not accepted by such Owner or such other person or if the reference to such adjudication shall have been waived, unless and until such difference or dispute shall have been referred to arbitration as provided in paragraph (C) of this Rule and the Award in such reference shall have been published, and
  - iii then only for such sum (if any) as the Award may direct to be paid by the Association, and
  - iv the sole obligation of the Association to such Owner or such other person under these Rules and any contract between the Association and the Owner or otherwise howsoever in respect of any such dispute or difference shall be to pay such sum as may be directed by such an Award.

## Rule 40 (continued)

- E If any difference or dispute shall arise between an Owner or any other person and the Managers or their servants or agents (collectively the Managers' Group), out of or in connection with these Rules or any contract between the Owner and the Association or as to the rights or obligations of anyone of the Manager's Group or the Owner in any other way in connection therewith, such difference or dispute shall be referred to arbitration in London of two Arbitrators (one to be appointed by the Manager's Group and the other by such Owner or other person) and an Umpire to be appointed by the Arbitrators, and the submission to arbitration and all the proceedings therein shall be subject to the provisions of the English Arbitration Act, 1996, and any statutory modification or re-enactment thereof.



## Notices

- A A notice or other document required under these Rules to be served on the Association may be served by sending it by courier or through the post in a prepaid letter or by sending it by telegram, cable, radio telegraph, telex or facsimile transmission (fax) addressed to the Association at the Association's registered office for the time being.
- B A notice or other document required under these Rules to be served on an Owner may be served by sending it by courier or through the post in a prepaid letter or by sending it by telegram, cable, radio telegraph, telex, facsimile transmission (fax) or electronic transmission (e-mail) addressed to such Owner:
- i at the address which shall have been expressly furnished by him to the Association as the address at which notices from the Association may be served upon him, or,
  - ii if no such address shall have been furnished, at his address as appearing in the Register of Members, or,
  - iii if such Owner is not and was not a Member at the address which is his last known address to the knowledge of the Managers.

In the case of Joint Owners all such notices or other documents shall be served upon the Joint Owner whose address has been furnished in accordance with sub-paragraph (i) above, or, if no such address has been furnished, upon the senior of the Joint Owners and such service shall be sufficient service on all the Joint Owners. For this purpose seniority as between Joint Owners shall be determined by the order in which the names stand as Joint Owners in the Register of Members.

- C Any such notice or other document if served by courier or by post shall be deemed to have been served on the day following the day on which the letter containing the same was handed to the courier or put into the post, and in proving such service it shall be sufficient to prove that the letter containing the notice or document was properly addressed and handed to the courier or put into the post as a prepaid letter. Any such notice or other document if served by telegram, cable, radio telegraph, telex, facsimile transmission (fax) or electronic transmission (e-mail) shall be deemed to have been served on the day on which it was handed in to the telegraph, cable or radio telegraph office or, in the case of telex, facsimile transmission (fax) or electronic transmission (e-mail), despatched, and in proving such service it shall be sufficient to prove that such telegram, cable or radio telegraph was duly handed in or, in the case of telex, facsimile transmission (fax) or electronic transmission (e-mail) that the notice or other document was duly despatched.
- D The successors of anyone who is or was at any time an Owner of an entered ship shall be bound by a notice or other document served as aforesaid if sent to the last such address of such Owner notwithstanding that the Association may have notice of the Owner's death, disability, lunacy, bankruptcy or liquidation.

## **Rule 42**

### **Law of Contract**

Any contract of insurance howsoever made between the Association and an Owner shall be deemed to have been concluded in Bermuda unless otherwise stated in such contract, and both these Rules and any such contract shall be governed by and construed in accordance with English law.

## Delegation

- A Whenever any power, duty or discretion is conferred or imposed upon the Managers by virtue of these Rules, such power, duty or discretion may, subject to any terms, conditions or restrictions contained in these Rules, be exercised by any one or more of the Managers or by any servant or agent of the Managers to whom the same shall have been delegated or sub-delegated.
  
- B Whenever any power, duty or discretion is stated in these Rules to be vested in the Directors, such power, duty or discretion shall be exercisable by the Directors unless the same shall have been delegated to any Committee of the Directors or to the Managers in accordance with the provisions as regards delegation contained in the Bye-Laws, in which event the power, duty or discretion may be exercised by any person to whom the same shall have been so delegated.

## Rule 44

### Definitions

In these Rules the words standing in the first column of the table next hereinafter contained shall bear the meanings set opposite to them respectively in the second column thereof, if not inconsistent with the subject or context:

<b>Act</b>	The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited Consolidation and Amendment Act 1993 and every modification thereof for the time being in force.
<b>Applicant Owner</b>	In relation to a ship which is desired or intended to be entered for insurance in the Association, means owner, owners in partnership, owners holding separate shares in severalty, part owner, mortgagee, trustee, charterer, operator, manager or builder of such ship and any other person (not being an insurer seeking reinsurance), by or on whose behalf an application has been, is being or is to be made for the entry of the same in the Association for insurance whether he be or is to be a Member of the Association or not.
<b>Association</b>	The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited.
<b>Associations</b>	The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited and The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited
<b>Bye-Laws</b>	The Bye-Laws for the time being of the Association.
<b>Call entry</b>	An insurance on terms that the Owner is bound to pay calls to the Association.
<b>Calls</b>	Sum or sums payable to the Association in respect of an entered ship pursuant to Rules 19 to 23, including Mutual Premiums, Supplementary Premiums and Overspill Calls.
<b>Cargo</b>	Goods, including anything used or intended to be used to pack or secure goods, in respect of which an Owner enters into a contract of carriage, but excluding containers or other equipment owned or leased by the Owner.
<b>Catastrophe Reserve</b>	Any reserve maintained by the Association pursuant to Rule 24(B)(i).
<b>Closed policy year</b>	A policy year of the Association which has been closed in accordance with the provisions of Rule 25.

<b>Convention Limit</b>	In respect of a ship, the limit of liability of the owner of that ship for claims (other than claims for loss of life or personal injury) at the Overspill Claim Date, calculated in accordance with Article 6 paragraph 1(b) of the International Convention on Limitation of Liability for Maritime Claims 1976 (the "Convention") and converted from Special Drawing Rights into United States Dollars at the rate of exchange conclusively certified by the Association as being the rate prevailing on the Overspill Claim Date, provided that, (a) where a ship is entered for a proportion (the "relevant proportion") of its tonnage only, the Convention Limit shall be the relevant proportion of the limit of liability calculated and converted as aforesaid and (b) each ship shall be deemed to be a seagoing ship to which the Convention applies, notwithstanding any provision in the Convention to the contrary.
<b>Directors</b>	The Board of Directors for the time being of the Association.
<b>Entered ship</b>	A ship which has been entered in the Association for insurance.
<b>Entered tonnage</b>	The tonnage figure recorded as entered tonnage in the Certificate of Entry of an entered ship and used for the purposes of calculation of calls whether (a) the tonnage of the ship or (b) a proportion of the tonnage of the ship or (c) a figure exceeding the tonnage of the ship.
<b>Fines</b>	Includes penalties and other impositions similar in nature to fines.
<b>Fixed premium</b>	A fixed premium payable to the Association in respect of an entered ship pursuant to Rule 9.
<b>Fixed premium entry</b>	An insurance on terms that the Owner is bound to pay a fixed premium to the Association.
<b>Group Excess Reinsurance Policies</b>	The excess of loss reinsurance policies effected by the parties to the Pooling Agreement.
<b>Group Reinsurance Limit</b>	The amount of the smallest claim (other than any claim arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement which would exhaust the largest limit for any type of claim (other than a claim arising in respect of oil pollution) from time to time imposed in the Group Excess Reinsurance Policies.
<b>Hull policy</b>	A policy effected on the hull and machinery of a ship including an Excess Liability Policy.

## Rule 44 (continued)

<b>Insurance</b>	Any insurance or reinsurance.
<b>In writing</b>	Written, printed or lithographed, or visibly expressed in all or any of those or any other modes of representing or reproducing words.
<b>Managers</b>	The Managers for the time being of the Association.
<b>Member</b>	A Member for the time being of the Association.
<b>Overspill Call</b>	A call levied by the Association pursuant to Rule 22 for the purpose of providing funds to pay all or part of an Overspill Claim.
<b>Overspill Claim</b>	That part (if any) of a claim (other than a claim in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement under the terms of entry of a ship which exceeds or may exceed the Group Reinsurance Limit.
<b>Overspill Claim Date</b>	In relation to any Overspill Call, the time and date on which there occurred the event giving rise to the Overspill Claim in respect of which the Overspill Call is made or, if the Policy Year in which such event occurred has been closed in accordance with the provisions of Rules 25(C)(i) and 25(C)(ii), noon GMT on 20th August of the Policy Year in respect of which the Association makes a declaration under Rule 25(C)(iii).
<b>Owner</b>	In relation to an entered ship means owner, owners in partnership, owners holding separate shares in severalty, part owner, mortgagee, trustee, charterer, operator, manager or builder of such ship and any other person (not being an insurer reinsured under Rule 13) named in the certificate of entry or endorsement slip, by or on whose behalf the same has been entered in the Association whether he be a Member or not.
<b>Policy year</b>	A year from noon G.M.T. on any 20th February to noon G.M.T. on the next following 20th February.
<b>Pooling Agreement</b>	The agreement dated 17th November 1992 between certain members of the group known as the International Group of Protection and Indemnity Associations and any addendum, variation, or replacement of the said agreement, or any other agreement of a similar nature or purpose.
<b>Premium rating</b>	The agreed rating per ton entered for insurance upon which Calls are payable to the Association according to the terms of such ship's entry for insurance in the Association.

<b>Rules</b>	These Rules as originally framed or as from time to time altered, abrogated or added to and for the time being in force.
<b>Seaman</b>	Any person (including the Master and apprentices) employed as part of a ship's complement under the terms of a crew agreement or other contract of service or employment to serve on board an entered ship, whether or not on board that ship, including a seafarer as defined in the Maritime Labour Convention 2006.
<b>Ship</b>	Ship (in the context of a ship entered or proposed to be entered in the Association) shall mean ship, boat, hovercraft or other description of vessel or structure (including any ship, boat, hovercraft or other vessel or structure under construction) used or intended to be used for any purpose whatsoever in navigation or otherwise on, under, over or in water or any part thereof or any proportion of the tonnage thereof or any share therein.
<b>Standard terms of contracts of carriage</b>	The terms of contracts of carriage referred to in Proviso (a) to Rule 2 Section 17.
<b>Statutory obligation</b>	Any obligation, liability or direction imposed by any legislative enactment, decree order or regulation having the force of law in any country.
<b>Successors</b>	In relation to all the persons hereinbefore specified in connection with "Owner" and "Applicant Owner" and in relation to any other person whatsoever by whom or on whose behalf a ship shall have been entered for insurance or reinsurance in the Association, shall include their heirs, executors, administrators, personal representatives, assigns (when permitted under these Rules), receiver, curator or other person authorised to act on behalf of one who becomes incapable by reason of mental disorder of managing his property or affairs, trustee in bankruptcy, liquidator and other successors whatsoever.
<b>Ton</b>	The unit of tonnage.
<b>Tonnage</b>	The register tonnage of a ship as certified in the Certificate of Registry of such ship or in any other official document relating to the registration of such ship.

*Words importing the singular number only shall include the plural number and vice versa. Words importing the masculine gender only shall include the feminine gender. Words importing persons shall include corporations.*

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# Bye-laws

**The United Kingdom  
Mutual Steam Ship  
Assurance Association  
(Bermuda) Limited**

**Managers**  
**Thomas Miller (Bermuda) Ltd.**  
Canon's Court  
22 Victoria Street  
Hamilton HM 1179  
Bermuda

# Bye-laws

## Interpretation

1 In these Bye-Laws the following expressions shall where the context so admits have the following respective meanings:—

**“The Acts”** means every Bermuda statute from time to time in force concerning companies insofar as the same applies to the Company, and includes The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited Consolidation and Amendment Act 1993.

**“The Company”** means The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited.

**“The Companies”** means The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited and The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited

**“Register of Members”** means the Register of Members for the time being maintained by the Company.

**“The Rules”** means the Rules from time to time in force governing the conduct of the whole or any part of as relevant and/or applicable the business of the Company and/or the business of UK Europe.

**“Board”** means the Board of Directors of the Company.

**“The Directors”** means the members of the Board for the time being.

**“Chairman”** means the Chairman of the Board.

**“President” “Vice-President” “Secretary” and “Treasurer”** mean, respectively, only the officers of the Company having such titles.

**“The Managers”** means the Managers for the time being of the Company.

**“Ship”** (in the context of a ship entered or proposed to be entered in either of the Companies) means ship, boat or hovercraft or any other description of vessel or structure (including any ship, boat, hovercraft or other vessel or structure under construction) used or intended to be used for any purpose whatsoever in navigation or otherwise on, under, over or in water or any part thereof or any proportion of the tonnage thereof or any share therein.

**“Tonnage”** means the gross tonnage of a ship as certified in the Certificate of Registry of such ship or in any other official document relating to the registration of such ship.

**“Entered Tonnage”** means the tonnage figure recorded as entered tonnage in the certificate of entry of an entered ship

**“Ton”** means the unit of tonnage.

**“Insurance”** means any insurance or reinsurance.

**“Owner”** in relation to an entered ship means owners, owners in partnership, owners holding separate shares in severalty, part owner, mortgagee, trustee, charterer, operator or builder of such ship and any other person (not being an insurer reinsured under Rule 13) named in the certificate of entry or endorsement slip, by or on whose behalf the same has been entered in either of the Companies whether he be a member of the Company or not.

**“Reserves”** means the Reserve Fund established and maintained in accordance with the provisions of the Acts and such other reserves as the Directors may from time to time decide to establish and maintain.

**“The Seal”** means the Common Seal of the Company.

**“Year”** means calendar year unless otherwise specifically stated.

**“Month”** means calendar month.

**“Notice”** means written notice unless otherwise specifically stated.

**“May”** shall be construed as permissive.

**“Shall”** shall be construed as imperative.

**“UK Europe”** means The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited.

Words importing only the singular number shall also include the plural number and vice versa. Words importing only the masculine gender shall also include the feminine and neuter genders. Words importing persons shall also include companies or associations or bodies of persons whether corporate or unincorporated .

**“Electronic communication”** means the same as in the Electronic Transactions Act 1999 (and includes for the avoidance of doubt e-mail.)

**“In writing”** and **“written”** means visibly expressed in any mode of permanently representing or reproducing words, including telegram, facsimile transmission (fax) and other electronic communication.

**“These Islands”** means the Islands of Bermuda.

Words and expressions shall (a) bear the same meaning as in The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited Consolidation and Amendment Act 1993 or any statutory modification thereof in force for the time being and (b) to the extent consistent with that Act and any modification thereof in force for the time being bear the same meaning as in the Rules.

# Bye-laws

## Membership

- 2 The Company shall consist of an unlimited number of members.
- 3 A Every Owner who has a ship entered for insurance in either of the Companies, whether in the name of the Owner or by way of reinsurance, and every insurer reinsured by either of the Companies, shall, provided the name of such Owner (or as the case may be such insurer) is entered in the Register of Members and subject to the proviso to paragraph (B) of this Bye-Law, be a member of the Company.
  - B Subject to the proviso to this paragraph, any owner who desires to enter a ship for insurance in either of the Companies, and any Owner whose ship is the subject or part of the subject of an application by an insurer for reinsurance by either of the Companies and any insurer who applies for reinsurance by either of the Companies shall, if he is not already a member of the Company, be deemed in applying for such entry or reinsurance to have agreed that if such entry or reinsurance is accepted he will thereupon become and be a member of the Company in accordance with these Bye-Laws;  
PROVIDED ALWAYS that subject to the Rules
    - a) The Managers shall have the right to require that acceptance of an application from an Owner shall be upon terms that such Owner shall not be or become a member of the Company, and
    - b) Unless otherwise agreed in writing by the Managers no insurer who applies for reinsurance by either of the Companies and no Owner whose ship is the subject or part of the subject of such application for reinsurance shall be or become a member of the Company, but in any event the insurance of every Owner and the reinsurance of every insurer shall be subject to the Acts, to these Bye-Laws and to the Rules whether or not such Owner or insurer be a member of the Company.
  - C Every Director of the Company whilst holding that office shall be a member of the Company and his name shall be entered in the Register of Members.
  - D Membership shall not be transferable or transmissible.
  - E The Register of Members shall be open to inspection by any officer of a member in person on payment of any expenses incurred. A member is not entitled to make copies of any entry in the Register.
  - F Every member shall in respect of any period during which it is a member pay to the Company such membership fee as the Directors may determine from time to time.

## **Cesser of membership**

- 4 A A member shall *ipso facto* cease to be a member:-
- i If being a member in his capacity as a Director and not otherwise, he shall cease to be a Director;
  - ii If, being an individual, he shall die or a receiving order shall be made against him or he shall make any arrangement or composition with his creditors generally;
  - iii If, being an individual, he become incapable by reason of mental disorder of managing and administering his property and affairs;
  - iv If, being a corporation, it be wound up or dissolved;
  - v If, not being a member in his capacity as a Director, he shall cease to have any ship entered for insurance in either of the Companies, whether the entry be in his name or by way of reinsurance.
  - vi If, being an insurer reinsured by the Company, he shall cease to be reinsured by either of the Companies.
- B A member who ceases to be a member and his estate, personal representatives, trustees in bankruptcy, receiver or other person authorised to act on behalf of a member who becomes incapable by reason of mental disorder of managing his property and affairs or liquidator as the case may require shall, notwithstanding such cesser, be and remain liable to pay to the Company all moneys which under these Bye-Laws or the Rules such member would, had he not ceased to be a member, have been liable to pay to the Company and/or UK Europe in respect of the period down to and including the 20th February next after the date of such cesser.

## **Meeting of members**

- 5 A general meeting of the members of the Company shall be held at least once in every year either in these Islands or elsewhere at a time and place to be fixed from time to time by the Board.
- 6 Notice of each annual general meeting of the Company shall be given by an officer of the Company in writing to each member entitled to receive notice and to attend and vote at general meetings. All such notices shall be sent not less than five business days before the meeting convenes, stating the date, time, place and objects and that the election of Directors will take place thereat.
- PROVIDED ALWAYS that only members:-
- a) who are members by reason of their position as Directors of the Company; or
  - b) who are entered in the Register of Members at least sixty days prior to the date of any general meeting of the Company shall be entitled to receive notice of and attend and vote (either in person or by proxy) at such meeting and all references in these Bye-Laws to the rights and obligations of members in respect of general meetings shall be construed accordingly.

## Bye-laws

- 7 The Board or any two members thereof or the President may convene a special general meeting of the members upon at least five business days' notice in writing to each member. Such notice shall state the date, time, place and objects of such meeting, which may be held either in these Islands or elsewhere.
- 8 The chairman of a general meeting of the members or of a meeting of the Board or of a meeting of a committee of the Directors may, provided that a quorum is present, with the consent of a majority of those present and if so directed by the meeting, adjourn the same from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than business left unfinished at the meeting from which the adjournment took place.

## Votings at meetings of members

- 9 Five members of the Company present in person or by proxy shall constitute a quorum at any general meeting of the members.
- 10 A Where an appointment is made in writing (but not by electronic communication) the instrument appointing the proxy shall be signed under the hand of the appointor or his attorney or, if such appointor is a corporation, the proxy shall be executed on behalf of the corporation by one of its officers.
  - B Where an appointment is made by electronic communication it shall be subject to such procedure for verifying appointments made in this manner as the Board shall from time to time specify; provided however, that if the Board has not specified any such procedure for verifying appointments made in this manner, no appointment may be made by electronic communication.
  - C The instrument appointing a proxy shall, subject always to Bye-Law 52 hereof, be in the form in the schedule annexed hereto. A person appointed a proxy need not be a member.
- 11 A Where an appointment is made by an instrument in writing (but not by an electronic communication) the instrument appointing a proxy shall be left with the Secretary not less than twelve hours before the holding of the meeting or adjourned meeting, as the case may be, at which the person named in such instrument proposes to vote.
  - B Where an appointment is contained in an electronic communication and an address has been specified for the purpose of receiving electronic communications
    - i in the notice convening the meeting, or
    - ii in any instrument of proxy sent out by the Company in relation to the meeting, or

- iii in any invitation contained in an electronic communication to appoint a proxy issued by the Company in relation to the meeting, the electronic communication shall be received at such address not less than twelve hours before the commencement of the meeting or adjourned meeting at which the person named in such appointment proposes to vote. In relation to electronic communications 'address' includes any number or address used for the purpose of such communications.
- 12 A All questions proposed for consideration by the members at any general meeting of the Company shall be determined by a majority of votes of those present or represented by proxy. All such questions shall be decided by a show of hands, unless a poll is demanded by the chairman of the meeting or by at least five of the members present or represented by proxy. At any general meeting, unless the matter is determined by a poll, a declaration by the chairman of that meeting that a resolution has been carried and an entry made to that effect in the minutes of the meeting shall be sufficient evidence of the fact. In the case of an equality of votes, the chairman shall have a second or casting vote.
- B Any ballot for the election of Directors pursuant to Bye-Law 14(C)(iii) shall be conducted in such manner and at such time as the Directors may from time to time decide and may be by means of a postal ballot or otherwise provided that on such ballot a member shall not vote for more candidates than there are vacancies and in respect of each candidate for whom he votes he shall be entitled to the same number of votes which he would have had on a poll. The result of such ballot shall be announced and be deemed to be an integral part of a general meeting of the Company.
- C
- i Every member shall, on a show of hands, have one vote.
  - ii On a poll members shall have the vote or votes specified in sub-paragraphs (a) to (c) below, and shall be entitled to cast votes under more than one of those sub-paragraphs if qualified to do so:
    - a) A Director who is a member by virtue of Bye-Law 3(C), in his capacity as member – one vote.
    - b) A member in whose name a ship or ships is or are entered for insurance in either of the Companies on terms that such member is liable to pay a fixed premium to either of the Companies in respect of such ship or ships – one vote.
    - c) A member in whose name a ship or ships is or are entered for insurance in either of the Companies on terms that such member is liable to pay calls (as defined in the Rules) to either of the Companies
      - i For each ship whose entered tonnage is 1500 tons or more – one vote;
      - ii For other such ships each of whose entered tonnage is less than 1500 tons—one vote only, irrespective of the number of those other ships.

## Bye-laws

PROVIDED ALWAYS that:

An insurer reinsured by either of the Companies shall not in any event be entitled to a vote under any of the sub-sections of this paragraph.

- D Where a number of persons are members of the Companies by virtue of their having jointly entered the same ship for insurance in either of the Companies, then only one member shall be entitled to receive notice of and to attend and vote (by reason of the ownership of that ship) either in person or by proxy at any general meeting of the Company and, in the absence of agreement between those members, the member first named in the relevant certificate of entry shall be the one entitled to notice and to attend and vote either in person or by proxy.

## Directors

13 The number of Directors shall be not less than ten nor more than thirty-five as the members may from time to time determine.

14 A Any person who has not attained the age of seventy shall be eligible to be appointed, elected or re-elected a Director if he is either (a) ordinarily resident in these Islands or (b) the owner or agent or a director of, or employed in an executive capacity by, a corporation which is the owner or agent of a ship or ships entered for insurance in either of the Companies to the extent of not less than 10,000 entered tons.

B No Manager and no employee of any Manager shall be eligible to be appointed or elected as a Director.

C i At each annual general meeting those Directors who have been in office for three years since their last election or re-election shall retire from office. For the purpose of this Bye-Law, "year" means a period from one annual general meeting of the Company to the next annual general meeting.

ii A Director retiring in accordance with Bye-Law 14(C)(i) and qualified to hold office under Bye-Law 14(A) shall be eligible for re-election.

iii The Company at the meeting at which a Director retires in manner aforesaid may fill the vacated office by electing a qualified person thereto, and in default the retiring Director shall if offering himself for re-election be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution for the re-election of such Director shall have been put to the meeting and lost. If there shall be more candidates than vacancies for any office(s) of Director, then the persons to be elected shall be selected by ballot conducted in accordance with the provisions of Bye-Law 12(B).

iv No person other than a Director retiring at the meeting shall be eligible for election to the office of Director at any general meeting unless not later than 30th June in the year in which such general



meeting is held there shall have been delivered to the registered office of the Company:

- a) notice in writing signed by at least five members none of whom has any commercial, proprietary or business interests in any ship entered for insurance in either of the Companies by or on behalf of any of the other members whose names appear in the said notice, and each of whom is duly qualified to attend and vote at such meeting, of their intention to propose such person for election; and
  - b) notice in writing signed by that person of his willingness to be elected.
- v The Directors shall have power from time to time and at any time to appoint any qualified person to fill a casual vacancy in the Board of Directors, and the continuing Directors may act, notwithstanding any vacancy in their number provided that in the event that the number of continuing Directors has been reduced below the number of ten the continuing Directors must immediately appoint a sufficient number of persons to restore the number of continuing Directors to a minimum of ten. Any Director so appointed shall hold office only until the next following annual general meeting, and, provided always that he is qualified to hold office under Bye-Law 14(A), shall then be eligible for re-election.

15 A The business of the Company shall be managed by the Directors who may pay all expenses incurred in promoting and incorporating the Company, and who, in addition to the powers and authorities by these Bye-Laws or the Rules or otherwise expressly conferred upon them, may exercise all such powers and do all such acts and things as may be exercised or done by the Company and as are not hereby or by statute expressly directed to be exercised or done by the Company in general meeting, subject nevertheless to the provisions of any statute and of these Bye-Laws and the Rules. Subject to the provisions of these Bye-Laws the business of the Company shall be conducted in accordance with Rules from time to time adopted by the Company in general meeting which may at any time be altered, abrogated or added to by the Company in general meeting.

B Without prejudice to the generality of the foregoing the Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking and property or any part thereof or to issue debentures or other securities.

16 The Directors shall exercise a general supervision over the affairs of the Company and without limitation of the foregoing they shall be responsible for the correct keeping of the books and for the safekeeping of all moneys and securities of the Company and shall submit their books, accounts and vouchers to the auditor whenever required so to do and shall furnish such information and explanations to the auditor as may be necessary for the performance of his duties.

## Bye-laws

- 17 The Directors may delegate any of their powers to committees consisting of two or more of the Directors, and such other persons (not being Directors) as the Directors may think appropriate, but every such committee, shall conform to such directions as the Directors shall impose on it.
- 18 The Directors may from time to time delegate to the Managers such of the powers, duties or discretions hereby or by the Rules vested in the Directors as they may think fit and such powers, duties or discretions may be made exercisable for such period and upon such terms and conditions and subject to such restrictions as the Directors may determine and the Directors may at any time revoke such delegation: Provided that nothing hereinbefore in this Bye-Law contained shall entitle the Directors to delegate to the Managers any of the powers, duties or discretions of the Directors:-
- A Which are required by law to be exercised by the Directors personally, or
  - B Which relate to general meetings of the proceedings thereat, or
  - C Which are conferred by Bye-Laws 15(B) or 20, or
  - D Which relate to meetings of the Directors or committees of the Directors or the proceedings thereat, or
  - E Which relate to the appointment of Managers or the Secretary, or
  - F Which relate to the Seal, Reserves, accounts or notices of general meetings; And so that:-
    - i The Directors may at any time and from time to time by notice in writing to the Managers revoke or vary any such delegation, term, condition or restriction as aforesaid, and
    - ii Nothing hereinbefore in this Bye-Law contained and no such delegation as aforesaid shall constitute the Managers directors of the Company.
- 19 A A Director may hold any other office or position of profit with the Company or any body corporate in which the Company is interested (except that of auditor) in conjunction with his office of Director for such period and upon such terms as the Board may determine, and may be paid such extra remuneration therefor (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Bye-Law.
- B A Director may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.

- C Subject to the provisions of the Acts and the Rules, a Director may notwithstanding his office be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested; and be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is interested. The Board may also cause the voting power conferred by the shares (or otherwise conferred) in any other company held or owned by the Company to be exercised in such manner in all respects as it thinks fit, including the exercise thereof in favour of any resolution appointing the Directors or any of them to be directors or officers of such other company, or voting or providing for the payment of remuneration to the directors or officers of such other company.
- D So long as, where it is necessary, he declares the nature of his interest at the first opportunity at a meeting of the Board or by writing to the Directors as required by the Acts, a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from any office or employment to which these Bye-Laws allow him to be appointed or from any transaction or arrangement in which these Bye-Laws allow him to be interested, and no such transaction or arrangement shall be liable to be avoided on the ground of any interest or benefit.
- E Subject to the Acts and the Rules and any further disclosure required thereby, a general notice to the Directors by a Director or officer declaring that he is a director or officer or has an interest in a person and is to be regarded as interested in any transaction or arrangement made with that person, shall be a sufficient declaration of interest in relation to any transaction or arrangement so made.
- F Subject to the provisions of the Rules, a Director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract, transaction or arrangement with the Company and has complied with the provisions of the Acts and these Bye-Laws with regard to disclosure of his interest shall be entitled to vote in respect of any contract, transaction or arrangement in which he is so interested and if he shall do so his vote shall be counted, and he shall be taken into account in ascertaining whether a quorum is present.
- 20 The remuneration of the Directors shall be such sum (if any) as shall from time to time be voted to them by the Company in general meeting, and any such sum (unless otherwise determined by the resolution by which it is voted) shall be divided amongst the Directors as they shall resolve or, failing such resolution, equally. The Directors' remuneration shall be deemed to accrue *de die in diem*.

## Bye-laws

- 21 The Directors shall also be entitled to be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or of committees of the Directors or of general meetings of the Company or otherwise in connection with the business of the Company.
- 22 The quorum necessary for the transaction of the business of the Board shall be two. Any Director or member of a committee of Directors may participate in a meeting of the Directors or of such committee by means of a conference telephone or any communication equipment which allows all persons participating in the meeting to communicate with and hear each other. A person so participating shall be deemed to be present at the meeting and shall be entitled to vote and be counted in the quorum accordingly. Such a meeting shall, unless otherwise agreed by the participants, be deemed to take place where the largest group of those participating is assembled or, if there is no such group, at the place where the chairman of the meeting is participating.
- 23 Questions arising at any meeting of the Directors shall be decided by a majority of those present and entitled to vote. In the case of an equality of votes the chairman shall have a second or casting vote.
- 24 The Secretary on the requisition of any Director shall and a Director may, at any time summon a meeting of the Directors. Notice of meetings of the Directors may be by telephone or otherwise.
- 25 A resolution in writing signed or otherwise approved by three-quarters of the Directors shall be as valid and effectual as if it had been passed by a meeting of the Board duly called and constituted.
- 26 A The office of Director shall immediately be vacated if the Director:-
- i Ceases to be eligible for appointment, election or re-election as provided in Bye-Law 14 or
  - ii Resigns his office by notice in writing to the Company.
- B Subject to any provisions to the contrary contained in the Acts the members may at any special or annual general meeting convened and held in accordance with the Bye-Laws remove a Director. The notice of any such meeting shall contain a statement of the intention so to do and at any such meeting such Director shall be entitled to be heard on the matter of his removal. Nothing in this Bye-Law shall have the effect of depriving any person of any compensation or damages which may be payable to him in respect to the termination of his appointment as a Director of the Company or of any other appointment with the Company. A vacancy upon the Board created by the removal of a Director under the provisions of this Bye-Law may be filled by election of the members at the meeting at which such Director is removed and, in the absence of such election, there shall be deemed to be a vacancy which may be filled in accordance with the provisions of Bye-Law 14(C)(v).

## **Minutes**

- 27 The Directors shall cause minutes to be duly entered in books provided for the purpose:-
- A Of all elections and appointments of officers;
  - B Of the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
  - C Of all orders made by the Directors and committees of the Directors; and
  - D Of all resolutions and proceedings of each general meeting of the members and of each meeting of the Directors or any committee of the Directors.

## **Officers other than Directors**

- 28 The officers of the Company may consist of a President, one or more Vice-Presidents, a Secretary and such other officers, including a Chairman of the Board, as the Directors may from time to time determine.
- 29 The Directors shall as soon as conveniently may be after each annual election of Directors, choose or elect one of their number to be the President and one or more of their number to be Vice-Presidents and, if the Board desires to have a Chairman of the Board, the Directors shall choose or elect such officer from their number. Other officers may be appointed as the Directors may from time to time determine.
- 30 The Secretary shall be appointed by the Directors and shall hold office during the pleasure of the Directors. The Secretary need not be a Director.
- 31 A Treasurer may be appointed by the Directors and shall hold office during the pleasure of the Directors. The Treasurer need not be a Director.
- 32 Other officers, such as Assistant Secretaries and Assistant Treasurers, may be appointed by the Directors and shall hold office during the pleasure of the Directors.
- 33 The same person may hold the offices of Chairman of the Board, President, Secretary and Treasurer. Any of the Vice-Presidents may also hold the offices of Secretary or Treasurer.
- 34 The Chairman of the Board, if any, shall act as chairman at all meetings of the members and at all meetings of the Board at which he is present. In his absence, the President, if present, shall act as chairman and, in the absence of both of them, one of the Vice-Presidents shall act as chairman. If none of them is present, a chairman shall be appointed or elected by those present at the meeting.

## **Bye-laws**

35 The Secretary or an Assistant Secretary if there be one shall attend all meetings of the members, of the Board and of committees of the Directors, keep correct minutes of such meetings and enter the same in proper books provided for the purpose. They shall perform such other duties as are prescribed by the Acts or Bye-Laws, or as shall be prescribed by the Directors from time to time.

## **Managers**

36 Thomas Miller (Bermuda) Ltd shall be the Managers of the Company.

37 The Managers shall be entitled to attend all meetings of the Directors and of committees of the Directors and all annual or special general meetings of the Company.

38 In addition and without prejudice to any powers, duties and discretions for the time being delegated to the Managers pursuant to these Bye-Laws, the Managers may exercise and discharge all such powers, duties and discretions as may be conferred or imposed upon the Managers by the Rules.

39 Whenever any power, duty or discretion is delegated to the Managers pursuant to these Bye-Laws or is conferred or imposed upon the Managers by the Rules, such power, duty or discretion may, subject to any terms, conditions or restrictions imposed upon the Managers in relation thereto either pursuant to these Bye-Laws or (as the case may be) by the Rules, be exercised by any one or more of the Managers or by any servant or agent of the Managers to whom the same shall have been delegated or sub delegated.

## **Accounts**

40 Any moneys for the time being in the hands of the Company and not immediately required to meet any claims, expenses and outgoings to which under these Bye-Laws or the Rules the same are applicable and the Reserves may be invested in such investments as the Directors think fit.

41 The Directors shall cause true accounts to be kept of all transactions of the Company in such manner as to show the assets and liabilities of the Company for the time being and the books of account shall at all times be kept at the registered office of the Company or at such other place as the Directors may from time to time determine and shall always be open to the inspection of the Directors.

42 The Board of Directors shall cause the accounts of the Company to be audited once at least in every fiscal year by the auditor appointed in conformity with Bye-Law 43 and such audited accounts shall be laid before the members at the annual general meeting in each year and shall be open to inspection by any member.

## **Audit**

- 43 At the annual general meeting or at a subsequent special general meeting, an independent representative of the members shall be appointed as auditor of the accounts of the Company and such auditor shall hold office until the members shall appoint another auditor. Such auditor shall not be a Director or officer of the Company during his continuance in office.
- 44 The remuneration of the auditor shall be fixed by the members at the time of their appointment or subsequently and they may delegate this duty to the Directors.
- 45 If the office of auditor becomes vacant or the auditor is incapable of performing his duties, the Directors shall as early as practicable convene a special general meeting of the members to appoint an auditor to fill the vacancy or an acting auditor to act during the incapacity of the auditor.
- 46 A The auditor shall examine such books, accounts and vouchers as may be necessary for the performance of his duties.
- B The auditor shall make a report to the members of the accounts examined by him at the annual general meeting in each year.
- C The auditor shall be furnished with a list of all books kept by the Company and shall at all times have the right of access to the books, accounts and vouchers of the Company and shall be entitled to require from the Directors such information and explanation as may be necessary for the performance of his duties.
- D The auditor shall be entitled to attend any general meeting of the Company at which any accounts which have been examined or reported on by him are to be laid before the Company and to make any statements or explanations he may desire with respect to the accounts and notice of every such meeting shall be given to the auditor in the manner prescribed for members.

## Bye-laws

### Notices

47 Except as otherwise prescribed in the Acts, these Bye-Laws or the Rules, a notice or other document may be served by the Company on any member either by sending it by courier or through the post in a prepaid letter or by sending it by telegram, cable, radio telegraph, facsimile transmission (fax), or electronic communication, addressed to such member:

- i at the address which shall have been expressly furnished by him to the Company as the address at which notices from the Company may be served upon him (including, for electronic communication, any address furnished for that purpose); or
- ii if no such address shall have been furnished, at his address as appearing in the Register of Members.

48 A Any notice or other document if sent by courier or by post shall be deemed to have been served on the day following the day on which it was handed to the courier or put into the post, and in proving such service it shall be sufficient to prove that the notice or document was properly addressed and handed to the courier or stamped and put into the post.

B Any notice or other document if sent by telegram, cable, radio telegraph, facsimile transmission (fax) or electronic communication shall be deemed to have been served on the day on which it was transmitted.

49 Nothing in these Bye-Laws shall require the Company to accept any electronic communication (including any proxy):

- i other than at the address supplied by the Company for the purpose;
- ii found or suspected to contain a computer virus or to be otherwise contaminated;
- iii other than in compliance with any verification procedure applied by the Company from time to time, and, for the avoidance of doubt, if no verification procedure has been adopted by the Company, the Company shall not be required to accept any electronic communication for any purpose under these Bye-Laws.

### Seal

50 The Directors shall provide for the safe custody of the Seal, which shall only be used by authority of the Board or of any committee of the Directors authorised by the Board in that behalf and every instrument to which the Seal shall be affixed shall be signed by a Director or the Secretary or by some other person appointed by the Board for the purpose. Any document required to be executed as a deed on behalf of the Company may be signed or executed by any person authorised by the Board for that purpose, without the use of the Seal.



### Alteration of Bye-Laws

51 The Board may from time to time revoke, alter, amend or add to the Bye-Laws. However, no such revocation, alteration, amendment or addition shall be operative unless or until it is confirmed at a special general meeting or at the next annual general meeting.

### Form of proxy

52 The form of proxy in the schedule which is part of the Bye-Laws shall be used subject to such variations or alterations to meet the circumstances of particular cases as may be necessary and as the Directors may approve.

### Indemnity

53 A Every Director and other officer of the Company, any member of a committee duly constituted under these Bye-Laws and the Managers (as defined in paragraph (C) of this Bye-Law) shall be indemnified by the Company against, and it shall be the duty of the Directors out of the funds of the Company to pay, all costs, liabilities, losses, damages and expenses (including but not limited to liabilities under contract, tort and statute or any applicable foreign law or regulation and all reasonable legal and other costs and expenses properly payable) incurred or suffered by him as such Director, officer of the Company, or the Managers (as the case may be), and the indemnity contained in this Bye-Law shall extend to any person acting as a Director, officer of the Company, or the Managers in the reasonable belief that he has been so appointed or elected notwithstanding any defect in such appointment or election.

PROVIDED ALWAYS that:

The indemnity contained in this paragraph (A) shall not extend to any matter which would render it void at law.

B Every person specified in paragraph (A) shall be indemnified out of the funds of the Company against all liabilities incurred by him as such Director, officer of the Company or the Managers in defending any proceedings, whether civil or criminal, in which judgement is given in his favour, or in which he is acquitted, or in connection with any application under the Companies Acts in which relief from liability is granted to him by the court.

C For the purposes of this Bye-Law “the Managers” means the Managers and any and all servants and agents of the Managers to whom duties of the Managers have been entrusted.

## Bye-laws

D The indemnity provided in paragraphs (A) and (B) of this Bye-Law shall be extended to the directors, other officers, committee members and managers of any subsidiary companies wholly owned or controlled by the Company.

54 No person specified in Bye-Law 53 shall be liable for the acts, receipts, neglects or defaults of any other such person, or for joining in any receipt or other act for conformity, or for any loss or expense happening to or incurred by the Company through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Company, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Company may be or have been invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, securities or effects are or have been deposited, or for any loss occasioned by any error of judgement, omission, default or oversight on his part, or for any other loss, damage or misfortune whatever which happens in relation to the Company or any subsidiary thereof.

PROVIDED ALWAYS that:

The exemption of liability contained in this Bye-Law shall not extend to any matter which would render it void at law.

55 The indemnification and exemption of liability provided by, or granted pursuant to, these Bye-Laws shall, unless otherwise provided when authorised or ratified, continue as to a person who has ceased to hold the position for which he is entitled to be indemnified or exempted from liability and shall inure to the benefit of the heirs, executors and administrators of such a person.

**Form of proxy**

The undersigned, a Member of The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited, hereby appoints .....

.....

or .....Or.....

to be the undersigned's proxy in the order named to vote on behalf of the undersigned at the (Annual or Special, as the case may be) General Meeting of the Company to be held on

.....20.....

and at any adjournment thereof.

Please indicate with a tick in the space below how you wish your vote to be cast:

For                      Against

Resolution (1)

Resolution (2)

etc.

Unless otherwise instructed, the proxy will vote as he thinks fit.

As witness the hand of the undersigned this day

of.....20.....

By:.....

# Bye-laws

