



# Mandatory Club Clauses 2019



Hull & Machinery Insurance 2019

## **A.1**

### **FLEET CLAUSE**

2013-10-03

It is understood and agreed that this vessel forms part of the fleet [see Policy] entered in this Association. It is rated as a member of that fleet and the Assured and Co-Assured shall be jointly and severally liable with all the other Assureds and Co-Assureds in the fleet for premiums, calls and other sums whatsoever due in respect of all vessels in the fleet.

Accordingly, any failure by an Assured and Co-Assured of any vessel in this fleet to pay his premiums, calls or any sums whatsoever due from him to the Association shall be deemed to be a failure also of the Assured and Co-Assured of this vessel to pay such premiums, calls or other sums whatsoever and shall entitle the Association to give him notice under the applicable insurance conditions and to offset any amount due to him under this insurance against any such unpaid premiums, calls and other sums, and to decide not to put up security in respect of claims under this insurance.

Notwithstanding the aforesaid, should the receiver of monies for claim(s) or other payments due be the Mortgagee(s) or any other Person(s) or Company(ies), which by a Letter of Undertaking and/or a Loss Payable Clause attached to the Policy are entitled to receive said monies, this clause shall be waived by the Association in respect of the rights of such aforesaid parties, however, the Association will retain its right to decide as to whether or not to put up security in respect of claims under this insurance.

To the extent the terms of this clause are in conflict with any other clause in this policy, the terms of this clause shall take precedence.

## A.2.1

### CLASSIFICATION CLAUSE

2018-10-01

The Assured shall at the request of The Swedish Club (“The Club”) authorize the Club to access all information held by Classification Societies (“Class”) concerning the condition of the vessel before and during the insurance period.

The Club may instruct the Assured to request the Classification Society (“The Society”) to survey the ship should the Club consider that the safety of the ship is endangered.

The vessel shall at all times be classed with a Society being member of International Association of Classification Societies (IACS). The insurance shall terminate automatically if the vessel is transferred to a Society not being member of IACS without the consent of the Club, or if the vessel loses its class. If the vessel loses its class while at sea, the insurance shall not terminate until the vessel has reached the nearest safe port.

The vessel’s class shall be deemed lost if:

1. the Assured or any person on his behalf requests that the vessel’s class be cancelled,
2. the class is suspended, cancelled, interrupted or withdrawn.

If periodic surveys are not carried out within the time limits fixed by Class, the Club shall only be liable if the Assured establishes (to the satisfaction of the Club) that the damage giving rise to the claim against the Club would have occurred even if such surveys had been properly carried out to Class satisfaction.

If Class has expressly extended the time limit for completion of a survey and the Assured has complied with the conditions that may be given for the extension, the class is not deemed lost until the extended time limit has expired.

All recommendations as specified by Class or any extension thereof to be complied with failing which the Club shall be exempted from all liability for any damage or loss whatsoever unless the Assured establishes (to the satisfaction of the Club) that the failure was not material to the damage or loss claimed.

## A.4

### SWEDISH CLUB CLAIMS LEAD CLAUSE

2018-10-01

The Swedish Club ("The Club") shall have claims lead.

The Club has the right on a 100% basis of the claim, in all respects, irrespective of The Club's share of the risk, to decide any matter relating to any claim made under this Policy, including but not limited to any appointments of experts, lawyers, adjusters, decisions, agreements, payments, settlements, claims, surveys, guarantees, towage, salvage, payments on account and claim settlements.

This Claims Lead Clause must be incorporated in all policies, and Co-insurers must follow the Club's decisions in all respects as long as they are in accordance with the Policy conditions.

Further, The Club shall at all times have the right to appoint and employ their choice of experts including but not limited to surveyors, lawyers etc. on behalf of the Assured to deal with any matters involving third parties (including investigating or advising and taking or defending legal actions or other proceedings) that may give rise to a claim by the Assured on the Club.

If The Club provides for security on a 100% basis of a claim covered under the Policy, Co-insurers are required to put up counter security for their respective shares, as per The Club's instructions. The Club has the subsequent discretionary right to request Co-insurers to put up amended securities.

In the event of The Club putting up security on a 100% basis for the liability of the Assured in consequence of a collision, striking and/or salvage, other underwriters on all policies are not allowed to effect settlement of claims in connection with the liability directly with the Assured, and cannot set off against The Club's counterclaims against the Assured.

The Club has the right to set off against any sums due to the Assured, unpaid Co-insurers' or other underwriters' share or shares of sums advanced and any and all sums incurred for provision of both claims and general technical services including entry and condition surveys, if any, to the Assured by the leader. Any and all sums incurred shall be understood to include sums incurred in respect of internal resources involved in technical services and claims handling as well as sums incurred for external resources appointed by The Club. Alternatively, The Club has the right to charge participating Co-insurers directly any and all such sums mentioned in this paragraph, but always limited to such co-insuring Underwriter's proportion hereon.

Should The Club at its own discretion decide to make ex gratia payments to the Assured, The Club may limit such payments to its share of the risk written under this Policy and such payments should in no respect be binding for any other Co-insurers or underwriters participating in this risk.

Notwithstanding any of the above, or any condition in this Policy to the contrary, the liability of all underwriters to the Assured shall remain several and nothing shall affect The Club's right to limit its liability to the Assured to the proportion of the risk which it has written and The Club shall in no way be liable to the Assured for any amounts due or agreed to be due but not recovered or recoverable from other underwriters or Co-insurers.

## A.5.1

### PREMIUM PAYMENT AND CANCELLATION CLAUSE

2012-10-04

The premium payable for this insurance shall be received into the designated bank account of The Swedish Club on the due dates as stated on the Insurance Policy/Slip. Should the Club not receive any payment as aforesaid the Assured has not fulfilled its obligation to pay the premium. In the event premiums are not received by The Club on the due date, interest calculated at 1% percent per month (or at such lower rate as The Club may at its sole discretion otherwise decide) will be levied from the day after the due date on the whole amount due. Any interest accrued will be debited per calendar quarters. The Club may decide, to waive any interest accrued and/or debited at its sole discretion.

If the premium has not been received by the due date, The Club may cancel this insurance. Should The Club exercise its rights of cancellation, immediate written notice shall be given to the Assured or his Broker and Mortgagee(s), if applicable, and take effect 14 days after such written notice has been received by the Assured or his Broker and Mortgagee(s) if applicable.

The Club shall have a lien in the ship for any unpaid premium or sums due irrespective of whether the insurance has been terminated.

In the event of the vessel being deemed an Actual Total Loss and/or Constructive Total Loss and/or Arranged Total Loss and/or Compromised Total Loss covered under the terms and conditions of this policy, the total premium for the policy period will be considered earned and payable to The Club and shall be deducted from the agreed settlement to the Assured.

The expression "Assured" referred to in this clause is deemed to include the Assured, his Agents, Managers or any other company or person(s) who are acting on behalf of the Assured, and/or any Co-assured(s) and/or Mortgagees as agreed by The Club, if and as applicable.

To the extent the terms of this clause are in conflict with any other clause in this policy, the terms of this clause shall take precedence.

## A.6

### TENDER CLAUSE

2013-10-03

Before the Assured arranges for repairs of damage for which the Swedish Club ("Club") is liable, he must, whenever possible, consult with the Club with regard to time and place of the repairs and the methods to be applied.

Once the Assured has submitted the preferred choice of repairyard the Club may request additional tenders to be invited from those repairyards that the Club considers suitable.

If the Club decides to take additional tenders, compensation for time lost as a consequence of taking such additional tenders will be made in accordance with the Hull Insurance Conditions applicable to this Policy.

Non-compliance with the stipulations in this clause entitles the Club to reduce the ascertained recoverable claim by 15 % prior to applying any stipulated deductible(s) or any other deductions as per Policy conditions.

## **A.7**

### **CONDITION SURVEY CLAUSE**

2009-10-01

The Swedish Club ("Club") has the right to carry out any surveys subject to giving prior notice.

The Assured shall notify the Club at least 14 days in advance or at the time of decision, whichever is the later, of any dry-docking, lay-up or yard-visits with a minimum duration of 3 days, whether average repairs claimable under the Policy will be effected or not.

All recommendations as specified by the Club to be complied with failing which the Club shall be exempted from all liability for any damage or loss whatsoever unless the Assured establishes to the satisfaction of the Club that the failure was not material to the damage or loss claimed.

## **A.8**

### **TIME BAR OF CLAIMS CLAUSE**

2009-10-01

The Assured shall immediately inform The Swedish Club ("The Club") of any incident, occurrence or circumstance giving rise to a claim, or a potential claim, under the policy. The Club must be notified in writing within a period of six months from the date on which the Assured first received notification of the incident, occurrence or circumstance, or six months from the date when the Assured ought to have received notification of the incident, occurrence or circumstance, failing which the claim is extinguished and The Club shall have no liability to pay compensation to the Assured.

All claims which the Association has been properly notified of will become time-barred in accordance with the relevant limitation and/or prescription provisions of the chosen system of law governing the policy.

This Clause shall override any other clause(s) in this Policy unless otherwise specifically stated and agreed.



## **A.9**

### **ASSIGNMENT CLAUSE**

1991-01-01

The owner, the Assured or any one acting on their behalf, may not assign any right, title, interest to any amount payable or claim under this policy, known or unknown, without written consent by The Swedish Club.

## **A.11**

### **UNIFORM INTEREST RATE CLAUSE**

2009-10-01

In the event that the Swedish Interest Act of 1975 (SFS 1975:625 as amended) ("Interest Act") or any other national legislation providing for a rate of interest on late payments is applicable to a payment due from the Club to the Assured, it is agreed that, notwithstanding anything to the contrary in the Interest Act or any other national legislation, the relevant interest rate shall be calculated by reference to the ruling LIBOR rate plus 1.5 percentage points for the currency stated in the policy.

## **A.14**

### **CO-INSURANCE CLAUSE**

2017-09-01

Wherever there is co-insurance, this is permitted only on condition that there is no waiver of subrogation and that all rights of recourse are retained in full. Accordingly, where any liability is incurred, or any loss or damage is sustained as a result of any breach of any contract in place, the co-insured responsible for the liability, loss or damage shall, notwithstanding the co-insurance, be obliged to indemnify its co-insured in full, save to the extent that no recovery can be made from any third party. As a result, co-insurance is permitted only if the following clause is inserted in the contract with the co-insured:

A counter-party may be added (subject the Club's approval) as co-insured under any insurances in respect of P&I and Hull & Machinery, provided there is no waiver of subrogation in such insurances and that the parties' rights of recourse against each other under the contract in place, are all retained in full. Accordingly, where a liability is incurred or there is any loss or damage to the Vessel as a result of a breach of the contract by the counter-party, the counter-party shall, notwithstanding any such co-insurance, be obliged to indemnify the other party in full. However, to the extent that the counter-party is unable to make a recovery in respect of such loss, damage or liability from any third party, the other party shall reimburse the counter-party.

To the extent the terms of this clause are in conflict with any other applicable insurance conditions, the terms of this clause shall take precedence.

### **C.1.3**

## **RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS EXCLUSION CLAUSE**

2003-11-01

(Ref LSW Clause 370, 10/11/2003)

This clause shall be paramount and shall override anything contained in this insurance issued by The Swedish Club inconsistent therewith

1. In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from
  - 1.1. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
  - 1.2. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
  - 1.3. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
  - 1.4. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes
  - 1.5. any chemical, biological, bio-chemical, or electromagnetic weapon.

### **C.1.3.1**

#### **CYBER ATTACK EXCLUSION CLAUSE**

2003-11-10

(Ref LSW Clause 380, 10/11/2003)

- 1.1. Subject only to clause 1.2 below, in no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.
- 1.2. Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, Clause 1.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

## **C.9**

### **US TERRORISM RISK INSURANCE ACT CLAUSE (TRIA CLAUSE)**

2003-01-01

By accepting this Policy, the Assured(s), Member(s), Joint-Member(s) and or Co-Assured(s) named herein acknowledge and confirm that:

- (a) cover for “acts of terrorism” as defined in the US Terrorism Risk Insurance Act 2002 was made available to the Assured(s), Member(s), Joint-Member(s) and/or Co-Assured(s) named herein;
- (b) the Assured(s), Member(s), Joint-Member(s) and/or Co-Assured(s) named herein declined to purchase such cover;
- (c) the Assured(s), Member(s), Joint-Member(s) and/or Co-Assured(s) named herein has/have not paid the Association any premium for such cover.

### **W.7.1**

The following Clause is deemed to form part of any Policy in respect of Hull, Interest, War and War Interest covers relating to a Swedish flagged vessel.

#### **THE SWEDISH CLUB OUTBREAK OF WAR CLAUSE (HULLS, etc.)**

1982-01-01

Should normal communications between Sweden and other countries be interrupted subsequent to the outbreak of a war which will greatly affect Swedish trade, commerce and industry, an organisation in the name of Svenska Transportförsäkringspoolen (hereinafter referred to as the Pool), formed by all the Swedish Marine Insurance Companies, will commence operations on a date to be decided upon by the Government War Risks Insurance Office.

Should this occur during the duration of this policy, the liability of the Association according to this policy will be transferred to The Pool as from the date upon which The Pool commences operations. The policy will then remain in force and subject to the same terms until 12 o'clock midnight on the thirtieth day of acceptance of liability by the Pool, unless it has been agreed to terminate the validity of the policy at an earlier date.

In the event of the liability terminating prior to the date indicated in the policy, the Assured is entitled to a refund from the Association of the excess premium paid. If on the other hand, the validity of the policy is to be maintained during a period for which no premium was paid, the Assured shall pay premium pro rata parte for this period.

When the above mentioned contingencies arise, it will be incumbent upon the Insured to notify the Association or The Pool without delay of the position and the voyage of the vessel.

The Association takes over that portion of the ship's hull insurance which is not covered by the Association at the time when the own liability of the Association according to this policy is being transferred to The Pool, after which the risk thus taken over is immediately transferred to The Pool. The Assured will then have to pay premium pro rata parte to the Association at a rate calculated according to the period during which the insurance is valid according to the above; the insurance also applying in other respects to what, in pertinent parts, has been agreed upon through this clause.

## **W.10 Sanction Limitation and Exclusion Clause**

2014-09-30

No Insurer shall be deemed to provide cover and no insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that Insurer or any of its Reinsurers to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the United Kingdom, the United States of America, France, the Russian Federation, the People's Republic of China or any State where the Insurer or any of its Reinsurers has its registered office or permanent place of business.