



Rules for P&I Insurance  
Rules for FD&D Insurance  
Articles of Association

2019/2020



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## Changes to P&I Rules for the 2019/2020 policy year

### **Rule 2**

Following the entry into force of the EU General Data Protection Regulation on 25 May 2018 the relationship between the Club and the member regarding handling of personal data is codified.

### **Rule 3 Section 5**

Following an amendment to the Pooling Agreement it is clarified that there is no P&I cover for contractual passenger liabilities if the liability arises solely under a separate contract for an excursion. Notably, any contractual liability in relation to an excursion that arises under a passenger ticket is covered.

### **Rule 7 Section 6**

It is clarified that P&I cover for fines includes fines due to smuggling not only by the crew but also due to smuggling by third parties, which is in line with the position under the Pooling Agreement.

### **Rule 30**

The change will bring the provision in line with the language of the Pooling Agreement, making it clear that the cover for co-assureds is only a "mis-directed arrow" cover. This is cover for a liability that for some reason is directed towards the co assured but properly is the responsibility of the assured. For instance, a crew manager who is co-assured and assume liabilities solely due to his role as crew manager has no cover.

### **Appendix I Rule 1**

The change is prompted by a change in the Pooling Agreement that overspill claims for vessels below 500 GT shall be calculated on the basis of the vessel's actual tonnage, instead on the basis of a flat rate.



# Rules for Protection & Indemnity Insurance 2019/2020

Valid as from 20 February 1985  
Amended as from 20 February 2019

## **Chapter I    Introductory**

Rule 1        Definitions of rules and language

Rule 2        Nature of cover

## **Rule 1 Definitions of rules and language**

The Swedish wording of these Rules, of which this is an English translation, shall prevail in case of a dispute.

Headings and List of Contents form part of these Rules whereas Index to the Rules and Explanatory Notes are for guidance only.

In these Rules the following words or expressions shall mean

### **Crew**

Any person, including the Master, contractually obliged to serve on board the entered ship.

### **Ship**

A ship or other floating structure used or intended to be used in navigation on water or any part thereof or share therein in respect of which the Association has issued a policy of insurance under these Rules.

### **Association**

Sveriges Ångfartygs Assurans Förening (The Swedish Club).

### **Member**

An owner, operator or charterer, whether an individual or a corporation, in favour of whom the Association has issued a policy of insurance under these Rules and any Joint Member mentioned therein.

### **Approval**

"Approval in writing"/"written approval".

### **Hull Insurance**

The insurance effected on the hull and machinery of the entered ship, including hull excess liability insurance, hull interest insurance, freight interest insurance and other total loss insurances.

### **Consent**

"Consent in writing"/"written consent".

### **Agree/Agreement**

"Agree in writing"/"written agreement".

### **Pooling Agreement**

The agreement to which the Association is a party between certain protection and indemnity associations dated 20 February 1998 and any addendum to or variation or replacement of such agreement.

### **Group Excess Loss Policies**

The excess of loss reinsurance policy or policies effected by parties to the Pooling Agreement.

## **Rule 2 Nature of cover**

The cover afforded by the Association is set out in these Rules subject to any special terms which may be agreed. The Member shall have the burden of proving that any claim against the Association results from a risk covered by the Rules.

The Member is covered in respect of liabilities, costs or expenses incurred by him in his capacity as owner, operator or bareboat charterer of the entered ship and arising out of an event during the period of insurance as a direct consequence of the operation of that ship.

Unless the Association otherwise decides the Member is only covered in respect of such sums as he has paid to discharge liabilities, costs or expenses referred to in Chapter II.

The cover afforded by the Association shall not include the deductible fixed by the Association or otherwise agreed with the Member.

The cover afforded by the Association shall not exceed the sum to which the Member would be entitled to limit his liability under applicable law on limitation of liability.

These Rules are subject to the Articles of the Association. Furthermore, the General Swedish Marine Insurance Plan of 2006 (SPL 2006) and Swedish Law in relevant parts to apply in matters not provided for in these Rules.

The Association may amend these Rules at any time during the period of insurance in order to avoid the Association becoming subject to any sanction, prohibition or adverse action by any State or International organisation.

The Association will process the Member's employees' and representatives' personal data in accordance with applicable data protection legislation and the Association's integrity policy. The Member undertakes to inform its employees and representatives of the Association's processing of their personal data and that the Member will transfer personal data to the Association.

## Chapter II Risks covered

Rule 3	Liabilities in respect of persons
Rule 4	Liabilities in respect of cargo
Rule 5	Liabilities in respect of delay
Rule 6	Liabilities in respect of pollution
Rule 7	Other liabilities
Rule 8	Liabilities for costs
<i>Rule 9</i>	<i>Vacant</i>

## **Rule 3 Liabilities in respect of persons**

### **Section 1 Injury, illness, repatriation and death - crew**

- (a) Liability under the terms of a crew agreement or other contract of service or employment to pay damages or compensation for personal injury, illness or death of any member of the crew of the entered ship who is on board or proceeding to or from that ship.
- (b) Hospital, medical, repatriation, funeral or other expenses necessarily incurred in relation to any member of the crew who is on board or proceeding to or from that ship.
- (c) Travelling expenses in providing a substitute as a consequence of injury, illness or death of any member of the crew who is on board or proceeding to or from that ship.
- (d) Costs or expenses as specified under (b) above incurred for injury, illness or death of relatives of any member of the crew while on board the entered ship.
- (e) Costs for repatriation of the crew necessarily incurred in consequence of the actual or constructive total loss of the entered ship or a major casualty rendering the ship unseaworthy and necessitating the signing off of the crew.
- (f) Liability arising on grounds other than under (a) above to pay damages or compensation for personal injury, illness or death of any member of the crew of the entered ship who is on board or proceeding to or from that ship.

### **Section 2 Wages - crew**

Sick wages and wages as a consequence of death of a member of the crew of the entered ship.

Wages payable to a member of the crew in consequence of the actual or constructive total loss of the entered ship or a major casualty rendering the ship unseaworthy and necessitating the signing off of the crew.

### **Section 3 Loss of or damage to effects - crew**

Liability to pay compensation for loss of or damage to personal effects belonging to a member of the crew of the entered ship as well as liability based on such crew agreement and contracts as mentioned in Rule 10 Section 2 (c), excluding valuables, cash, negotiable instruments and objects of a rare or precious nature.

### **Section 4 Payment of crew claims**

- (a) Notwithstanding the provisions of Rules 2 and 26, where a Member has failed to discharge a legal liability to pay damages or compensation for personal injury, illness or death of a seaman provided always that the seaman or dependent has no enforceable right of recovery against any other party and

would otherwise be uncompensated, the Association shall discharge or pay such claim on the Member's behalf directly to such seaman or dependent thereof.

- (b) Subject to (c) below, the amount payable by the Association shall under no circumstances exceed the amount which the Member would have been able to recover from the Association under the Rules and the Member's terms of entry,
- (c) Where the Association is under no liability to the Member in respect of such claim in accordance with Rule 26 by reason of termination 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 Member, and the Member shall be liable to reimburse the Association for the full amount of such claim.

### Section 5 Passenger liabilities

Liabilities to pay damages or compensation for personal injury, illness or death of any passenger on board the entered ship.

Liability costs or expenses for loss, shortage, damage or other responsibility relating to luggage or personal belongings of any passenger on board the entered ship.

Liability to pay damages or compensation to passengers on board an entered ship where such liability arises in consequence of a casualty, including the costs of forwarding such passengers and their luggage to their port of destination or returning them to their port of embarkation and of their maintenance ashore.

For the purpose of this rule the word "casualty" shall be defined as follows.

An incident involving either

- (a) collision, stranding, explosion, fire or any other cause affecting the physical condition of the vessel so as to render it incapable of safe navigation to its intended destination; or
- (b) a threat to the life, health or safety of passengers.

The cover provided by the Association shall also include liability for injury, illness or death during carriage to or from the entered ship in its own boats or by means of other boats.

Notwithstanding the terms of the preceding paragraph of this section the Association shall not be liable for any liability in respect of personal injury, illness, death, loss of or damage to property, delay or any consequential loss sustained by any passenger by reason of carriage by air or while they are in the care of any other carrier before or after the carriage on the entered ship. The Association shall not be liable in respect



of the contractual liability of a Member for death, injury and loss of or damage to property during an excursion from the entered ship

- (a) under a separate contract which has been entered into by the passenger for the excursion, whether or not with the Member, or
- (b) if the Member has waived any or all his rights of recourse against any sub-contractor or other third party in respect of the excursion.

#### **Section 6 Limitation of cover for passengers and seamen**

The Association's liability for any and all claims in respect of passengers or seamen arising out of any one event shall be limited to such sum or sums and be subject to such terms and conditions as set out in Appendix II, Rule 1.

#### **Section 7 Injury, illness and death - others**

Liability to pay compensation for personal injury, illness and death of any persons on board or in relation to the entered ship other than crew and passengers.

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

Expenses incurred as a result of the entered ship having stowaways, persons saved at sea or refugees on board to the extent that the Member is legally liable for such expenses or they are incurred with the approval of the Association.

#### **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 the entered ship, but only if, and to the extent that such payments are not recoverable under the Hull insurance of the ship or from cargo owners or cargo underwriters.

#### **Section 10 Deportation**

Expenses incurred in respect of persons from the entered ship for whom an order for deportation or detention on board the ship has been issued.

#### **Section 11 Diversion expenses**

Costs and expenses for fuel, insurance, wages, stores, provisions and port charges attributable to a diversion, in excess of those which would have been incurred but for the diversion, reasonably undertaken for the purpose of saving persons at sea or securing treatment of any injured or sick person on board the entered ship, or while awaiting a substitute for such person or for the purpose of landing stowaways, refugees or persons saved at sea, provided that such costs and expenses are incurred with the approval of the Association.

## **Rule 4 Liabilities in respect of cargo**

### **Section 1 Cargo liabilities**

Liabilities, costs or expenses for loss, shortage, damage or other responsibility relating to cargo before, during or after the contracted transport by the entered ship.

The cover afforded by the Association is limited to a period starting fourteen days before the commencement of the transport and ending fourteen days after its completion.

For cargo which is the property of the Member, cover is provided by the Association to the same extent as if the cargo had been the property of a third party.

For deck cargo, cover is afforded by the Association provided that the vessel, cargo and containers and similar articles of transport are suitable for deck carriage in all the circumstances and that the bill of lading, waybill or other document containing or evidencing the contract of carriage contains a valid liberty clause to carry such cargo on deck and either

- (a) states that the cargo is being so carried and excludes all liability for loss or damage to such cargo or;
- (b) makes the carriage subject to the Hague Rules or the Hague-Visby Rules.

Where the value of any cargo is declared to be more than USD 2,500 by reference to a unit, piece, package or otherwise in the bill of lading, waybill or other document containing or evidencing the contract of carriage, and where the effect of such declaration is to deprive the Member of any right of limitation to which he would otherwise have been entitled then liabilities exceeding USD 2,500 in respect of any such unit, piece, or package are excluded from cover.

### **Section 2 Cargo liabilities during through transports and lighterage**

Liabilities, costs or expenses in respect of damage to cargo during through transports while the cargo is in the care of another carrier provided that the transport is performed under a through or transshipment bill of lading or other document of carriage approved by the Association providing for carriage partly to be performed by the entered ship. Damage caused by cargo is covered only if the claim is brought under the document of carriage.

Liabilities, costs or expenses in respect of cargo during contractual and customary lighterage.

### **Section 3 Liabilities for bill of lading particulars**

Liability for incorrect or incomplete description of the cargo or other incorrect statements in a bill of lading, waybill or other document containing or evidencing the contract of carriage, except that there shall be no recovery in respect of liabilities, costs or expenses arising out of

- (a) the issuance of an ante dated or post dated bill of lading, waybill or other document containing or evidencing the contract of carriage, which records the loading, 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,
- (b) the issuance of a bill of lading, waybill or other document containing or evidencing the contract of carriage with a description of cargo, its quantity or condition, or of its port of loading or discharge which the Member or the Master of the entered ship knew to be incorrect.

#### **Section 4 Liabilities for delivery of cargo**

Liability for misdelivery of cargo except

- (a) as regards a negotiable bill of lading or similar document of title when delivery has been made without the production of that Bill of Lading or document by the person to whom delivery is made,
- (b) as regards a non-negotiable bill of lading, waybill or similar document when delivery has been made to a person who is neither named in the document as the person to whom delivery should be made nor, as regards waybill, is lawfully nominated by the shipper as the person to whom delivery should be made,
- (c) as regards a non-negotiable bill of lading, waybill or similar document when delivery has been made without production of that bill of lading, waybill or document by the person to whom delivery is made, where such production is required by the express terms of such bill of lading, waybill or document or by operation of law.

#### **Section 5 Paperless trading**

Unless the Association otherwise decides there shall be no recovery from the Association in respect of liabilities, losses, costs and expenses arising from the use of any electronic trading system, other than a system approved by the Association, to the extent that such liabilities, losses, costs and expenses would not (save insofar as the Association in its sole discretion otherwise determines) have arisen under a paper trading system.

An electronic trading system is any system which replaces or is intended to replace paper documents used for the sale of goods and/or their carriage by sea or partly by sea and other means of transport and which:

- (a) are documents of title, or
- (b) entitle the holder to delivery or possession of the goods referred to in such documents, or
- (c) evidence a contract of carriage under which the rights and obligations of either of the contracting parties may be transferred to a third party.

A “document” shall mean anything in which information of any description is recorded including, but not limited to, computer or other electronically generated information”.

### **Section 6 Extraordinary handling costs**

Costs or expenses in excess of those which would normally have been incurred in respect of

- (a) discharging or disposing of damaged, rejected or worthless cargo,
- (b) discharging, handling, storing and reloading cargo where the ship has sustained damage recoverable under the Hull insurance of the entered ship.

Extraordinary costs under a-b above are recoverable only if and to the extent that compensation is not afforded in General Average or recoverable from any other party and provided such costs are not caused by the nature of the cargo which was known or should have been known by the Member.

### **Section 7 General Average**

#### **Unrecoverable General Average contributions**

The proportion of General Average expenditure, special charges or salvage which the Member is or would 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 the Member obtained adequate General Average security. Without such security recovery from the Association can be obtained only if the Member can prove that, at the time of delivery of the cargo, he neither knew nor ought to have known that there had been an occurrence of General Average nature during the voyage.

#### **Ship's proportion of General Average**

The entered ship's proportion of General Average, special charges or salvage not recoverable under the Hull insurance 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 insurance.

### **Section 8 Deviation**

The Association shall not be liable to compensate the Member for liabilities, costs or expenses for which the Member has become liable as a consequence of a deviation whether geographical or other forms of deviation such as by delay or by non-performance.

Where the Member has reported the deviation to the Association as soon as he became aware of it, the Association may at its discretion agree to cover the Member fully, partly or against special conditions or an additional premium. Where the Association finds it necessary for the Member to arrange a special insurance to cover

the deviation, the Association may agree to arrange such a cover on the Member's behalf and at his expense.

## **Rule 5      Liabilities in respect of delay**

Liability pursuant to mandatory rules of law for loss caused by delay in the carriage by the entered ship of passengers, luggage and cargo.

## **Rule 6      Liabilities in respect of pollution**

### **Section 1    Pollution liabilities**

Liabilities, costs or expenses incurred as a result of the discharge or escape from the entered ship of oil or any other substance or the threat of such discharge or escape unless such liabilities, costs or expenses form part or could form part of General Average under the York/Antwerp Rules 1994 or 2016.

Unless the Association shall otherwise decide, there is no cover in respect of any liability for loss, damage, costs and expenses arising as a consequence of the discharge or escape, or the threat of discharge or escape, of any hazardous waste previously carried on the vessel from any landbased dump, storage or disposal facility.

### **Section 2    Oil pollution limitation of cover**

Subject to (a) and (b) below the Association's liability for any and all claims in respect of oil pollution shall be limited to such sum or sums and be subject to such terms and conditions as the Association may from time to time determine.

- (a) If the Association shall determine that claims on the Association shall be limited to a specified sum in respect of any one entered ship each accident or occurrence, then, unless the Association shall otherwise decide, the limit shall apply irrespective of whether the accident or occurrence involves the escape of oil from one ship or more than one ship and to all claims brought by the Owner or Joint Owners of the ship in respect of such accident or occurrence whether under one Rule or more than one Rule. If the aggregate of such claims exceeds that limit, the liability of the Association for each claim shall be such proportion of the sum determined by the Association as such claim bears to the aggregate of all such claims.
- (b) Unless the Association shall otherwise decide, where the ship provides salvage or other assistance to another ship following a casualty, a claim by the Member in respect of oil pollution arising out of the salvage, the assistance or the casualty shall be aggregated with any liabilities or costs incurred in respect of oil pollution by any other ships similarly engaged in connection with the same casualty when such other ships are either
  - (i) insured by the Association in respect of oil pollution or

- (ii) covered for those risks with any other Association which participates in the Pooling Agreement and the Group Excess Reinsurance Policies.

In these circumstances the limit of the liability of the Association shall be such proportion of the sum determined by the Association as the claim by the owner of the ship bears to the aggregate of all the said claims.

If the total amount of any oil pollution claim against the Member under Rule 6 Section 1 exceeds a sum to which the Association has determined to limit its liability according to Rule 6 Section 2, the Association will not be liable to make any payment in respect of any amount by which the claim exceeds the sum to which the Association has determined to limit its liability.

## **Rule 7 Other liabilities**

### **Section 1 Liabilities for other property**

Liabilities, costs or expenses for loss of or damage caused to property not owned by the Member whether on board or outside the entered ship to the extent such risks are not specified in other Rules.

However, the Member shall not be entitled to be reimbursed by the Association in respect of loss of or damage to objects or property which he has borrowed, leased or bought under reservation of title.

### **Section 2 Collision with other ships**

Liabilities, costs or expenses incurred as a result of a collision with another ship if and to the extent such liabilities, costs or expenses are not covered under the Hull insurance of the entered ship and limited to

- (a) one fourth of the liability arising out of the collision,
- (b) that part of the Member's liability, arising out of the collision, which exceeds the sum recoverable under the Hull insurance of the entered ship solely by reason of the fact that the liability exceeds the Hull insurance value.

The limitations under a-b above do not apply should the liability, cost or expense relate to the raising, removal, destruction, lighting or marking of the wreck from another ship, or the removal or the destruction of the cargo on board another ship.

### **Section 3 Damage to fixed and floating objects**

Liabilities, costs or expenses incurred as a result of a contact with fixed and floating objects if and to the extent such liabilities, costs or expenses are not covered under the Hull insurance of the entered ship.

Furthermore, that part of the Member's liability, arising out of the contact, which exceeds the sum recoverable under the Hull insurance of the entered ship solely by reason of the fact that the liability exceeds the Hull insurance value.

#### **Section 4 Special compensation to salvors**

Liability to pay special compensation to a salvor of an entered ship in respect of work done or measures taken to prevent and minimise damage to the environment provided

- (a) that such liability is imposed on the Member pursuant to Article 14 of the International Convention on Salvage (1989) or is assumed by the Member under the terms of a standard form of salvage agreement approved by the Association,
- (b) that such liability is not payable by those interested in the salvaged property.

#### **Section 5 Obstruction to navigation and wreck liabilities**

Liabilities, costs or expenses incurred where the entered ship as a result of a casualty has caused an obstruction to navigation.

Liabilities, costs or expenses relating to the raising, removal, destruction, lighting or marking of the wreck of the entered ship, its cargo or equipment which relates to the ship or wreck, when such acts are compulsory by law or the costs thereof are legally recoverable from the Member except to the extent they are covered by the Hull insurance of the entered ship. The value of the wreck and other property saved shall be credited to the Association.

Liabilities, costs or expenses incurred as a result of the presence or involuntary shifting of the wreck of the entered ship or its cargo. However, where the Hull Underwriters have not acquired title to the wreck, the cover afforded by the Association is limited to a period of three years from the day the insurance ceased.

#### **Section 6 Liabilities in respect of fines**

- 1. Fines (dues, penalties or charges) as set out under a-d whether judicially imposed upon the Member, a member of the crew or a representative of the Member whom the Member may be liable to reimburse or reasonably reimburses with approval of the Association
  - (a) fines imposed for short or overdelivery of cargo, or failure to comply with regulations concerning the declaration of goods, or documentation of cargo provided that the Member is insured by the Association for liability in respect of such cargo and subject to the terms of the entry in respect of such cargo cover,
  - (b) fines imposed for breach of any immigration law or regulation,
  - (c) fines imposed in respect of the accidental escape or discharge of oil or any other substance, provided that the Member is insured for pollution liability by the Association, and subject to the applicable limit of liability under Association entry,

- (d) fines imposed for smuggling by the Master or a member of the crew or third parties provided that such activity is unknown to the Member.
- 2. Other fines judicially imposed may be recoverable provided that
  - (a) the Member has satisfied the Association that he took such steps as appeared to be reasonable to avoid the event giving rise to the fine or penalty.  
Any amount claimed in respect of such fines shall be recoverable to such extent only as the Association in its absolute discretion may determine without having to give any reason for its decision.
- 3. Irrespective of points 1 and 2 above, the Association shall have no liability in respect of fines for
  - (i) overloading of the ship,
  - (ii) carriage of more passengers than permitted,
  - (iii) illegal fishing,
  - (iv) insufficient upkeep on the ship's lifesaving and navigational equipment,
  - (v) lack of valid or prescribed certificates,
  - (vi) infringement of MARPOL regulations where the ship's oil water separator or similar pollution prevention device has been bypassed or rendered inoperable.

### **Section 7 Quarantine expenses**

Additional costs or expenses incurred by the Member in connection with quarantine and disinfection of the entered ship, its crew or passengers as a consequence of an infectious disease, except that there shall be no recovery from the Association for the ship's running expenses during the delay or indirect consequences thereof.

### **Section 8 Towage liabilities**

Where the entered ship is towed,

- (a) liability arising from the towage for the purpose of entering or leaving port or manoeuvring within the port during the ordinary course of trading or from towage of such ships which are habitually towed in the ordinary course of trading from place to place,
- (b) liability arising from other towage, however where such liability arises under the terms of a towage contract cover is afforded only where such contract has been approved by the Association.



Where the entered ship is towing,

- (c) liability arising from towage during a voyage with the purpose of saving life or property in distress,
- (d) liability arising from other towage but only when the Association has agreed in advance to afford cover for such towage.

### **Section 9 Confiscation of ship**

Notwithstanding the terms of Rule 11 Section 2 (l) the Association shall have the discretion to compensate, in whole or in part, the Member's claim for loss of the entered ship following confiscation of the ship by any legally empowered authority by reason of the infringement of any customs law or customs regulation.

The compensation from the Association shall not exceed the market value of the ship without commitment at the time of confiscation.

The claim will be considered by the Association only

- (a) if the Member has been deprived of his interest in the entered ship for a time of not less than six months,
- (b) if the Member shall have satisfied the Association that he took such steps which in the opinion of the Association were reasonable to prevent the infringement of the customs law or regulation giving rise to the confiscation.

The Association shall be under no obligation to give reasons for its decision.

### **Section 10 Consortium claims**

The Association's liability for consortium claims shall be limited to such sums and be subject to such terms and conditions as set out in Appendix II, Rule 3.

## **Rule 8 Liabilities for costs**

### **Section 1 Sue and labour and legal costs**

Legal costs and other expenses incurred by the Member to defend or protect himself against liability which is falling or is likely to fall under these Rules and for which insurance has been effected provided the cost or expense has been approved in advance by the Association or determined by the Association in its absolute discretion to have been reasonably incurred.

Costs incurred after instructions from the Association.

### **Section 2 Preventive costs and amounts saved**

Costs by the Member incurred in order to prevent or limit liability covered by the Association under these Rules provided the cost has been approved in advance by the Association or determined by the Association in its absolute discretion to have

been reasonably incurred. If such costs have been incurred jointly for the interest insured and for other interest, only such portion is compensated that falls on the interest insured.

Where the Member, as a result of a casualty or event for which he is covered under these Rules, has obtained extra revenue, saved expenses or avoided liability, which would otherwise have been incurred and which would not have been covered by the Association, the Association may deduct from the compensation an amount corresponding to the benefit obtained.

## **Rule 9      Vacant**

## Chapter III Conditions for cover

Rule 10 Conditions

## Rule 10 Conditions

### Section 1 Member's obligations with regard to classification and requirements by Classification Society, flag State or otherwise

Unless otherwise agreed the following conditions are terms of the insurance of the entered ship.

1. With regard to the classification of ships
  - (a) The ship must be and remain throughout the period of insurance classed with a Classification Society approved by the Association.
  - (b) The Member must promptly call to the attention of that Classification Society or the Society's surveyors any incident or condition which has given or might have given rise to damage in respect of which the Classification Society might make recommendations as to repairs or other action to be taken by the Member.
  - (c) The Member must comply with all the Rules, recommendations and requirements of that Classification Society relating to the entered ship within the time or times specified by the Society.
  - (d) The Member must authorise the Association, for whatever purpose it may consider necessary, to receive information and to inspect and obtain documents relating to the class of the entered ship from a Classification Society with which the ship is or has been classed.
  - (e) Where the Member is in breach of Section 1 (a) above of this Rule, the Member shall cease to be insured by the Association in accordance with Rule 27 (f). Where the Member is in breach of Section 1 (b)-(d) above of this Rule, the Association may reject any claim or reduce any sum payable under these Rules.
2. With regard to statutory requirements

The Member must comply with the flag State's or other competent authorities' requirements relating to the entered ship's design, construction, adaptation, fitment, condition, equipment, manning, safe operation, management and maritime security.

Valid certificates covering such requirements, including ISM Code certificates and ISPS Code certificates, must at all times be maintained. If the Member fails to fulfil his obligations under this point, the Association may reject to compensate liabilities, costs or expenses caused by such failure.

### Section 2 Standard terms of contracts

The following applies to standard terms of contracts or agreements entered into by or on behalf of the Member.

- (a) Contracts for carriage of goods  
Such contracts shall not impose upon the Member a higher liability than would follow from the Hague Rules or the Hague-Visby Rules.
- (b) Contracts for through transport of goods  
Such contracts shall not impose upon the Member a higher liability than would follow from any mandatory provisions applicable to any separate part of such through transport.
- (c) Crew agreements and contracts of service and employment  
Such contracts or amendments thereto must be submitted to and approved by the Association.
- (d) Contracts for carriage of passengers  
Such contracts must be submitted to and approved by the Association.
- (e) Other contracts  
Such contracts must be submitted to and approved by the Association.

There shall be no recovery from the Association for liabilities, costs or expenses which would not have arisen had the Member complied with the conditions set out above.

Upon application by the Member the Association may agree to provide insurance cover for contracts containing terms less favourable than required under a-b above.

Notwithstanding what has been said above, the Association may reject to compensate the Member for liabilities, costs or expenses arising from the Member having entered contracts or agreements on unusually burdensome terms without the approval of the Association.

### **Section 3 Regulations**

The Association may issue general or particular regulations in writing or by electronic means.

The Association may reject any claim or reduce any sum payable in respect of claims arising as a consequence of the Member not complying with such regulations.

### **Section 4 Obligations with regard to casualties and claims**

The Member must take all reasonable steps to avert or minimise liabilities, costs or expenses in respect of any casualty or event which may give rise to a claim upon the Association.

The Member must promptly notify the Association of any such casualty or event and of any related formal enquiry or legal proceedings involving the entered ship. The Member must also promptly notify the Association when a claim has been made against the Member which may give rise to a claim upon the Association.

The Member must promptly provide the Association with all documents and evidence which may be relevant to the case and must produce any person for interview or to give evidence.

The Member shall not settle or admit liability for any claim for which he may be insured by the Association without the prior consent of the Association.

Where the Member commits any breach of these obligations, the Association may reject any claim by the Member against the Association or reduce any sum payable by the Association arising out of the casualty.

Where the Member does not accept a settlement of a claim recommended by the Association, the Association's liability in respect of such claim shall be limited to the amount so recommended.

### **Section 5 Survey**

The Association must at any time be allowed admittance to the ship to conduct any surveys and investigations which the Association considers necessary.

### **Section 6 Disclosure and increase of risk**

The Member shall make full disclosure to the Association before the contract of insurance is concluded of every circumstance which would influence the Association in deciding whether and on what terms to provide cover.

The Member shall promptly disclose to the Association every change in circumstance which may increase the insured risk.

Where the Member commits any breach of these obligations, the Association may reject any claim against the Association if the Association would not have concluded the contract of insurance had the Association known about the circumstance, or reduce any sum payable to the extent the circumstance has had relevance for the claim.

## Chapter IV Exclusions from cover

Rule 11 Exclusions

## Rule 11 Exclusions

### Section 1 Member's intent or gross negligence

The Association shall not be liable for liabilities, costs or expenses caused by the intentional or grossly negligent acts or omissions of the Member nor for such acts or omissions which the Member knew or ought to have known would cause liabilities, costs or expenses.

### Section 2 General exclusions

The Association shall not be liable for

- (a) costs or expenses incurred for the normal fulfilment of a transport obligation,
- (b) costs or expenses incurred to make the ship fit to receive cargo,
- (c) costs or expenses incurred to discharge, reload, restow, store or tranship cargo or other similar measures caused by overloading, bad trim or incorrect stowage of the ship,
- (d) liability in relation to specie, bullion and precious metals or stones, plate or other objects of a rare or precious nature, cash, bank notes or other forms of currency, bonds or other negotiable instruments unless the carriage thereof has been approved by the Association,
- (e) liabilities, costs and expenses arising out of salvage or wreck removal operations conducted by the entered ship except for the purpose of saving or attempting to save life at sea,
- (f) *vacant*,
- (g) loss of or damage to containers or similar articles of transportation owned, borrowed, leased or bought under reservation of title by the Member,
- (h) liabilities, costs or expenses arising out of the failure to arrive or late arrival of the entered ship at the port or place of loading or the failure to load any particular cargo in the entered ship,
- (i) liabilities, costs or expenses arising out of intentional discharge of cargo at a port or place other than that stipulated in the contract of carriage,
- (j) the Member's loss of time, freight or other revenue or Member's liability towards a charterer to pay such loss, extra fuel consumption, port charges or other similar expenses which would have been his own operational costs save for the Charter,
- (k) liabilities, costs or expenses arising out of the entered ship carrying contraband or being employed in blockade running or in an unlawful trade or in a trade which under the circumstances is imprudent, unsafe, unduly hazardous or improper,



- (l) loss of or damage to the entered ship or any part thereof, its equipment, accessories, spare parts, stores or supplies whether owned by the Member or not, save for liabilities in respect of bunkers belonging to a charterer,
- (m) loss arising out of irrecoverable debts or out of the insolvency of any person.

### **Section 3 Special exclusions**

The cover afforded by the Association shall exclude liabilities, costs or expenses arising

- (a) for salvage ships or other ships intended to be used for salvage operations when the liability arises as a result of any salvage service or attempted salvage service unless the Association has agreed in advance to afford cover for such operation,
- (b) for ships constructed or adapted for the purpose of carrying out drilling operations in connection with oil or gas exploration or production, including any accommodation unit moored or positioned on site as an integral part of any such operations,
- (c) for dredgers when the liability arises as a result of dredging operations,
- (d) for ships used in the operation of pile-driving, pipe or cable laying or blasting when the liability arises as a result of such operations,
- (e) for semi-submersible heavy lift ships or any other ships designed exclusively for the carriage of heavy lift cargo when the liability arises for loss of, damage to, or wreck removal of, or destruction of cargo carried on board, save to the extent that such cargo is being carried under the terms of a contract approved in advance by the Association,
- (f) for ships used for special operations when the liability arises as a result of such operations save for loss of life, injury or illness of crew and other personnel onboard the entered ship, the wreck removal of the entered ship, and oil pollution from the entered ship, or the threat thereof, to the extent the liability is covered by these Rules.

### **Section 4 Sanctions**

The Association shall not be liable for liabilities, costs or expenses

- (a) where the reimbursement or any payment in respect thereof would expose the Association to the risk of being or becoming subject to any sanction, prohibition or adverse action under United Nations Resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America,
- (b) in respect of that part of any liabilities, costs and expenses which is not recovered by the Association under the Pooling Agreement, Group Excess Loss Policies or any other reinsurance arranged by the Association because of a

shortfall in recovery from such parties or reinsurers thereunder by reason of a sanction, prohibition or adverse action against them under United Nations Resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America or the risk thereof if payment were to be made by such parties or reinsurers. For the purposes of this Rule "shortfall" includes any failure or delay in recovery by the Association by reason of such parties or reinsurers making payment into a designated account in compliance with the requirements of United Nations Resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America. The provisions of this Rule shall cease to apply in respect of any shortfall to the extent the same is subsequently recovered by the Association under the Pooling Agreement, Group Excess Loss Policies or any other reinsurance arranged by the Association.

### Section 5 War risks

There shall be no recovery from the Association for liabilities, costs or expenses arising from loss, damage, injury, illness, death or other accidents caused by

- (a) war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, or any act of terrorism (provided that, in the event of any dispute as to whether or not, for the purpose of this paragraph (a) an act constitutes an act of terrorism, the Association shall in its absolute discretion determine that dispute and the Association's decision shall be final),
- (b) capture, seizure, arrest, restraint or detainment - barratry and piracy excepted - and the consequences thereof or any attempt thereat,
- (c) mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war 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, whether as a result either of government order or with the agreement of the Association where the reason for such use is avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the cover given by the Association.

The above conditions shall apply irrespective of whether a contributory cause of the liability arising or the costs or expenses being incurred, is any negligence on the part of the Member, his servants or agents.

### Section 6 Other insurance

The Association shall not be liable for liabilities, costs or expenses which would have been covered under the Hull insurance if the entered ship had been fully insured under Hull insurance conditions approved by the Association for a sum which at any time should be the market value without commitment.

The Association shall not be liable for liabilities, costs or expenses in respect of the entered ship, its cargo, passengers carried, members of the crew or other persons performing work in the service of the ship which are recoverable under any other insurance.

The Association shall not be liable for any franchise, deductible or deductions of a similar nature borne by the Member under any other insurance.

### **Section 7 Nuclear risks**

The cover afforded by the Association shall exclude liabilities, costs or expenses directly or indirectly caused by or contributed to by or arising from

- (a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel,
- (b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof,
- (c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
- (d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter.

However, the Association may cover liabilities, costs or expenses arising out of the carriage of "excepted matter" as defined in Section 26 (1) of the Nuclear Installations Act 1965 of the United Kingdom, provided that it is carried as cargo and that the carriage has been approved by the Association. "Excepted matter" consists of radioisotopes which are used or intended to be used for industrial, commercial, agricultural, medical or scientific purpose, natural uranium and depleted uranium.

This clause shall override anything contained in these Rules inconsistent therewith.

## Chapter V Other provisions

Rule 12	Security for claims and certificates
Rule 13	Set-off
Rule 14	Right of recourse
Rule 15	Time bar
Rule 16	Payment by the Association
Rule 17	Forbearance
Rule 18	Disputes
Rule 19	Omnibus clause
Rule 20	Period of insurance
Rule 21	Insurance premium tax
Rule 22	Premiums and deductibles
Rule 23	Additional premiums
Rule 24	Overspill calls
Rule 25	Right of lien for amounts due to the Association
Rule 26	Termination
Rule 27	Cesser
Rule 28	Effect of termination and cesser
Rule 29	Laid-up returns
Rule 30	Joint members and co-assureds
Rule 31	Fleet entry
Rule 32	Affiliated companies
Rule 33	Membership of ITOPF
Rule 34	TOPIA and STOPIA
Rule 35	Mortgaged ships
Rule 36	Surplus

## **Rule 12 Security for claims and certificates**

In no circumstances shall the Association be obliged to provide security to obtain the release of or to prevent the arrest or attachment of the entered ship or of any property or assets of the Member.

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

Notwithstanding the exclusions in Rule 11 Sections 5 and 7, the Association will discharge on behalf of the Member liabilities, costs, expenses arising under a demand made pursuant to the issue by the Association on behalf of the Member of

- (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 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 certificate issued by the Association pursuant to Article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007.
- (f) a certificate in compliance with Regulation 2.5.2, Standard A2.5.2 and Regulation 4.2, Standard A4.2.1(b) of the Maritime Labour Convention 2006, as amended (MLC 2006) or domestic legislation by a state party implementing MLC 2006.

Provided always that

- (i) The Member shall indemnify the Association to the extent that any payment under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses is or would have been recoverable in whole or in part under a standard P&I war risk policy had the Member complied with the terms and conditions thereof, and
- (ii) the Member agrees that
  - (a) any payment by the Association under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses shall,

- to the extent of any amount recovered under any 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 Member under any other insurance and against any third party.

### **Rule 13 Set-off**

The Association shall be entitled to set off any amount due from the Member under these Rules or under any other policy against any amount due to the Member from the Association.

### **Rule 14 Right of recourse**

For any amount paid by the Association to the Member or to a claimant, the Member's right of recovery from third parties is transferred to the Association, which is entitled to collect any amount recovered.

The Association has a right of recourse against the Member for any amount which the Association has paid on behalf of the Member and for which the Member is not entitled to compensation under these Rules.

### **Rule 15 Time bar**

The Member's claim against the Association shall be extinguished if he

- (a) fails to notify the Association of any casualty or event or claim referred to in Rule 10, Section 4 within six months after he has knowledge thereof,
- (b) fails to claim compensation from the Association within three years after having discharged liability or having paid costs or expenses.

Where the Member's claim against the Association has not been extinguished earlier, his right to claim compensation shall be extinguished after ten years from the time of the casualty or other event. However, where final judgement or adjustment has to be awaited before a claim for compensation from the Association can be made, the claim shall not be extinguished until one year after such judgement or adjustment having acquired legal force.

Where the Association has requested the Member in writing to submit his claim against the Association for decision in accordance with Rule 18 within a specific time which shall not be shorter than six months, the Member's rights to compensation shall be extinguished if he fails to comply with the request.

### **Rule 16 Payment by the Association**

Payment to the Member of any sums due shall fully discharge the Association of its liabilities under these Rules unless otherwise agreed.

### **Rule 17 Forbearance**

No act, omission, course of dealing, forbearance, delay or indulgence by the Association shall constitute a waiver of the Association's rights under these Rules.

### **Rule 18 Disputes**

The contract of insurance shall be governed by Swedish law subject to the right of the Association under Rule 25 to enforce its right of lien. Disputes arising out of the contract of insurance shall be decided by a Swedish Average Adjuster or at the request of either party be referred to arbitration in Göteborg in accordance with Swedish law.

### **Rule 19 Omnibus clause**

The Association shall have the absolute discretion to compensate the Member for liabilities, costs or expenses as referred to in the second paragraph of Rule 2 even where such compensation would not have followed under these Rules.

### **Rule 20 Period of insurance**

The cover afforded by the Association as set out in these Rules is for liabilities arising out of an event during the period of insurance.

The period of insurance shall commence at the time and date stated in the policy of insurance issued by the Association and shall continue until 1200 hours UTC (Universal Time, Co-ordinated) on 20 February and thereafter from policy year to policy year unless it has been terminated or has ceased in accordance with these Rules.

The policy year begins at 1200 hours UTC on any 20 February and continues until the same time on the next following 20 February.

### **Rule 21 Insurance premium tax**

The Member shall be liable to pay any tax or other fiscal demand relating to premiums or other sums due under the insurance policy. In the event that the Association has become liable for any such tax or fiscal demand, the Member shall reimburse the Association on demand.

### **Rule 22 Premiums and deductibles**

Premiums for the policy year to come are decided annually by the Association.

The premium is due for payment in four equal instalments on 20 February, 20 May, 20 August and 20 November.

Should the period of insurance commence during the current policy year, a pro rata premium shall be paid at the time when the period of insurance begins, for the period until the next due date. Thereafter the premium shall be paid as stated in the second paragraph.

Deductibles for the policy year to come are decided annually by the Association. There shall be one deductible per event unless different type of liabilities are involved in which case each type of liability shall carry one deductible.

### **Rule 23 Additional premiums**

During or after the end of a policy year which has not been declared closed, the Association may levy one or more additional premiums to be paid by each Member in respect of ships entered for that policy year. Such additional premiums shall be calculated pro rata on the net premium debited for the policy year.

The Association may decide in its sole discretion that any premium paid in advance or charged as an additional premium or otherwise, shall be used for transfers to any reserves or provisions including reserves or provisions in respect of any deficiency which has occurred or which may be thought likely to occur in respect of any closed policy year.

Unpaid additional premiums may be levied on other Members pro rata on the net premium debited for the policy year.

Should the insurance cease or be terminated, the Association may levy an estimated additional premium on the Member.

Additional premiums are due for payment on demand.

### **Rule 24 Overspill calls**

The cover afforded by the Association is limited as defined in Appendix I to these Rules.

The Association may at any time decide at its discretion to levy one or more overspill calls in the event that funds are or may be required to pay any part of a claim incurred by the Association or by any other party to the Pooling Agreement in excess of the reinsurances cover limit arranged by the parties to the Pooling Agreement.

The part of any claim incurred by the Association under these Rules which exceeds the reinsurances cover limit shall not be recoverable from the Association in excess of the amounts specified in Appendix I.

The provisions of Appendix I shall be incorporated in and shall form part of these Rules. In the event of any conflict between the provisions of the English wording of



Appendix I and the Swedish and English wording of these Rules the provisions and wording of the English text, including those provisions concerning jurisdiction and choice of law, of Appendix I shall prevail.

### **Rule 25 Right of lien for amounts due to the Association**

The Association shall be entitled to a lien on the insured vessel, and any other insured vessels, which are part of a fleet in accordance with Rule 31, for all premiums and any other amounts due to it under these rules. Such lien shall be in addition to and in no way be construed as a waiver or amendment to, any other contractual or maritime lien which the Association may expressly or impliedly possess in respect of the said vessel or vessels. In order to exercise this right and notwithstanding Rule 18 the Association may take action and/or commence proceedings to enforce its right of lien in any jurisdiction in accordance with local law in such jurisdiction.

### **Rule 26 Termination**

The period of insurance may be terminated by a written notice of termination from the Member to the Association or from the Association to the Member not later than 1200 hours UTC (Universal Time, Co-ordinated) on the 20 January. Where such notice of termination has been given the period of insurance shall terminate at noon on the next 20 February.

It shall be a condition precedent of the Members' right to recover from the Association in respect of any liabilities, costs or expenses that all premiums and other amounts due by the Member to the Association shall have been paid in full. Where the premium is not paid timeously, the Association shall not be liable and shall have the right to terminate the period of insurance on three days' written notice. Where the premium is paid before such termination, the Association shall be liable from the date of payment only.

Where the premium for an ensuing period, an additional premium or an overspill call is not paid without delay, the Association shall have a right either to serve a written reminder regarding the date of payment, whereupon the Association shall be relieved from liability after seven days, or to terminate the period of insurance on three days' written notice.

Where the period of insurance and/or the entry of a ship is terminated or has become terminated due to the non payment of premiums at a time when premiums or any other sums due to the Association are outstanding, it is agreed that the Association is entitled to a lien over the previously entered ship.

The Association may further terminate the period of insurance

- (a) with immediate effect upon notification, at an event referred to in Rule 11 Section 1,

- (b) on three days' notice, where the Member has failed to pay, when due and demanded, any sums other than premiums,
- (c) on seven days' notice, where the Member has failed to comply with regulations issued by the Association,
- (d) on fourteen days' notice, where the Member becomes bankrupt or otherwise insolvent,
- (e) on thirty days' notice, without giving any reason.

### **Rule 27 Cesser**

The Member shall cease to be insured by the Association

- (a) where the entered ship is posted at Lloyd's as missing or is missing for thirty days since last heard of, whichever is the earlier,
- (b) where the entered ship becomes a total loss or is accepted by the Hull insurance as being a constructive, compromised or arranged total loss, in which case the insurance shall cease at the time when the Member is entitled to total loss compensation from the Hull insurance,
- (c) where the entered ship is transferred to a new owner by sale or otherwise, in which case the insurance shall cease at the time of such transfer. Should the operation of the entered ship be transferred to another company or manager, the Association is entitled to decide that the insurance shall cease,
- (d) where the entered ship is requisitioned, in which case the insurance shall cease at the time of such requisition,
- (e) where the entered ship, with the knowledge of the Member, is being used to carry contraband or employed in blockade running or in an unlawful trade,
- (f) where the Member is in breach of Rule 10, Section 1 (a).

### **Rule 28 Effect of termination and cesser**

Termination or cesser of the insurance shall have the following effect.

The Member shall remain liable for all premiums due for the current or previous policy years up to the date of termination or cessation but shall be entitled to a refund of premiums paid which refer to a period after that date.

The Association shall remain liable for all claims under these Rules arising out of events which occurred prior to the date of termination or cessation provided that premiums due shall have been paid.

### **Rule 29 Laid-up returns**

The Member shall be entitled to a return of premiums if the entered ship shall be laid-up in a safe port in compliance with any applicable requirements or regulations for a

consecutive period not less than thirty full days, provided the ship has no cargo and has no more crewmembers on board than necessary for maintenance or security.

No claim for laid-up returns shall be recoverable from the Association unless written notice thereof has been given within twelve months after the expiry of the policy year concerned.

## **Rule 30 Joint members and co-assureds**

### **Joint Members**

The Association may allow several Members to be covered jointly (Joint Members) by the same insurance on the following conditions unless otherwise agreed.

The Joint Members shall be jointly and severally liable for all sums due to the Association.

The Association may fully discharge its obligations with regard to payment under these Rules by payment to any one of the Joint Members.

Any communication by the Association to any one of the Joint Members shall be deemed to be communicated to all. Failure by any one of the Joint Members to disclose material information shall be deemed to be the failure of all.

Act or omission of any one of the Joint Members which causes the insurance to cease or which entitles the Association to terminate the insurance or to reject or reduce any compensation shall be deemed an act or omission of all.

The liability of the Association to the Joint Members shall not exceed the limitation under the fifth paragraph of Rule 2 had the registered Owner of the entered ship been the sole Member, except where the Joint member is

- (a) any person interested in the operation, management or manning of the entered ship,
- (b) the holding company or the beneficial owner of the Member or of any Joint Member falling within category (a) above

and provided that the liability arises out of operations and/or activities customarily carried on by or at the risk and responsibility of shipowners and which is within the scope of the cover afforded by these Rules and any special terms set out in the Certificate of Entry.

### **Co-assureds**

The Association may allow other parties to become co-assureds under a Member's insurance on the following conditions unless otherwise agreed.

The liability of the association to co-assureds shall be limited to liabilities, costs or expenses which the co-assured is found liable to pay for loss or damage which is properly the responsibility of the Member and which the Member would have incurred if the claim had been pursued against him and which would have been reimbursed by the Association under these Rules.

The Association may fully discharge its obligations with regard to payment under these Rules by payment to any one of the co-assureds.

Any communication by the Association to any one of the co-assureds shall be deemed to be communicated to all. Failure by any one of the co-assureds to disclose material information shall be deemed to be the failure of all.

Act or omission of any one of the co-assureds which causes the insurance to cease or which entitles the Association to terminate the insurance or to reject or reduce any compensation shall be deemed an act or omission of all.

The liability of the Association to the co-assureds shall not exceed the limitation under the fifth paragraph of Rule 2 had the claim been pursued against the registered Owner of the entered ship.

### **Rule 31 Fleet entry**

When the entered ship forms part of a fleet of ships insured by the Association, the Members of the fleet shall be jointly and severally liable for premiums or any other sums due to the Association in respect of any ship in the fleet.

Failure of any Member to pay premiums or other sums shall be deemed to be a failure of all the Members of the fleet and the Association shall be entitled to give notice of termination under Rule 26 and to set-off under Rule 13.

### **Rule 32 Affiliated companies**

The Association may agree to extend the cover afforded by the Association to affiliated companies of the Member on such terms as may be agreed.

The liability of the Association to the Member and to affiliated companies to whom cover is extended shall be limited to liabilities, costs or expenses which the Member would have incurred if the claim had been pursued against him and which would have been reimbursed by the Association under these Rules.

The liability of the Association to the Member and to affiliated companies shall not exceed the limitation under the fifth paragraph of Rule 2 had the registered Owner of the entered ship been the sole Member.

### **Rule 33      Membership of ITOPF**

The Member of the Association shall become

- (a) in respect of a tank ship, member of the International Tanker Owners Pollution Federation Limited (ITOPF)
- (b) in respect of a non-tank ship, an associate of the ITOPF.

The Association shall arrange for such membership or associated status and pay the fees of ITOPF.

### **Rule 34      TOPIA and STOPIA**

A Member insured in respect of a ship which is a "Relevant Ship" as defined in the Tanker Oil Pollution Indemnification Agreement (TOPIA) or Small Tanker Oil Pollution Indemnification Agreement (STOPIA) as amended, shall, by virtue of entry with the Association, and unless the Association otherwise agrees in writing, become a party to TOPIA or, if applicable, STOPIA, for the period of entry of that ship in the Association. In the event that the Member exercises his rights under TOPIA or, if applicable, STOPIA, to withdraw from that agreement, and unless the Association has agreed in writing, there shall be no cover under Rule 6 in respect of such ship so long as the Member is not a party to TOPIA or, if applicable, STOPIA.

### **Rule 35      Mortgaged ships**

Where the entered ship is mortgaged to a third party, the cover afforded by the Association shall be extended to the mortgagee but shall not provide better rights than those of the Assured.

Where the mortgagee has notified the Association in writing of his interest in the entered ship, the Association may not without the written consent of the mortgagee

- (a) allow the Member to terminate the insurance,
- (b) allow a substantial reduction of the cover afforded by the Association.

The Association may not terminate the insurance without at the same time giving notice thereof to the mortgagee.

### **Rule 36      Surplus**

The Association may decide partly or fully to refund surplus arising in a policy year. Such refund shall be distributed proportionally amongst Members on net premiums paid for that year.

## Appendix I

Appendix I, Rule 1	Interpretation
Appendix I, Rule 2	Recoverability of overspill claims
Appendix I, Rule 3	Payment of overspill claims
Appendix I, Rule 4	Overspill claims – expert determinations
Appendix I, Rule 5	Levying of overspill calls
Appendix I, Rule 6	Closing of policy years for overspill calls
Appendix I, Rule 7	Security for overspill calls on termination of cesser

## Appendix I, Rule 1

### Interpretation

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

#### **Convention Limit**

In respect of a vessel, the limit of liability of that vessel 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) (but applying 334 Units of Account to each ton up to 500 tons) 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 vessel 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 vessel shall be deemed to be a seagoing ship to which the Convention applies, notwithstanding any provision in the Convention to the contrary.

#### **Group Reinsurance Limit**

The amount of the smallest claim (other than any claim arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement which would exhaust the largest limit for any type of claim (other than a claim arising in respect of oil pollution) from time to time imposed in the Group General Excess Loss Contract.

#### **Overspill Call**

A call levied by the Association pursuant to Rule 5 for the purpose of providing funds to pay part of an Overspill Claim.

#### **Overspill Claim**

That part (if any) of a claim (other than a claim arising in respect of oil pollution) incurred by the Association or by any other party to the Pooling Agreement under the terms of entry of a vessel which exceeds or may exceed the Group Reinsurance Limit.

#### **Overspill Claim Date**

In relation to any Overspill Call, the time and date on which there occurred the incident or occurrence giving rise to the Overspill Claim in respect of which the Overspill Call is made or, if the Policy Year in which such incident or occurrence occurred has been closed in accordance with the provisions of Rules 6.1 and 6.2, noon UTC (Universal Time, Co-ordinated) on 20 August of the Policy Year in respect of which the Association makes a declaration under Rule 6.3.

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

## Appendix I, Rule 2

### Recoverability of overspill claims

- 2.1 Without prejudice to any other applicable limit, any Overspill Claim incurred by the Association shall not be recoverable from the Association in excess of the aggregate of
  - (a) that part of the Overspill Claim which is eligible for pooling under the Pooling Agreement but which, under the terms of the Pooling Agreement, is to be borne by the Association; and
  - (b) the maximum amount that the Association is able to recover from the other parties to the Pooling Agreement as their contributions to the Overspill Claim.
- 2.2 The aggregate amount referred to in Rule 2.1 shall be reduced to the extent that the Association can evidence
  - (a) that costs have been properly incurred by it in collecting or seeking to collect
    - (i) Overspill Calls levied to provide funds to pay that part of the Overspill Claim referred to in Rule 2.1 paragraph (a), or
    - (ii) the amount referred to in Rule 2.1 paragraph (b); or



- (b) that it is unable to collect an amount equal to that part of the Overspill Claim referred to in Rule 2.1 paragraph (a) which it had intended to pay out of the levy of Overspill Calls because any Overspill Calls so levied, or parts thereof, are not economically recoverable, provided that if, due to a change in circumstances, such amounts subsequently become economically recoverable, the aggregate amount referred to in Rule 2.1 shall be reinstated to that extent.
- 2.3 In evidencing the matters referred to in Rule 2.2 paragraph (b) the Association shall be required to show that
- (a) it has levied Overspill Calls in respect of the Overspill Claim referred to in Rule 2.1 on all Members entered in the Association on the Overspill Claim Date in accordance with and in the maximum amounts permitted under Rule 5; and
  - (b) it has levied those Overspill Calls in a timely manner, has not released or otherwise waived a Member's obligation to pay those calls and has taken all reasonable steps to recover those calls.

### **Appendix I, Rule 3**

#### **Payment of overspill claims**

- 3.1 The funds required to pay any Overspill Claim incurred by the Association shall be provided
- (a) from such sums as the Association is able to recover from the other parties to the Pooling Agreement as their contributions to the Overspill Claim, and
  - (b) from such sums as the Association is able to recover from any special insurance which may, in the discretion of the Association, have been effected to protect the Association against the risk of payments of Overspill Claims, and
  - (c) from such proportion as the Association in its discretion determines of any sums standing to the credit of such Reserves as the Association may in its discretion have established, and
  - (d) by levying one or more Overspill Calls in accordance with Rule 5, irrespective of whether the Association has sought to recover or has recovered all or any of the sums referred to in Rule 3.1. paragraph (b) but provided the Association shall first have made a determination in accordance with Rule 3.1 paragraph (c), and
  - (e) from any interest accruing to the Association on any funds provided as aforesaid.

- 3.2 The funds required to pay such proportion of any Overspill Claim incurred by any other party to the Pooling Agreement which the Association is liable to contribute under the terms of the Pooling Agreement shall be provided in the manner specified in Rule 3.1 paragraphs (b)-(e).
- 3.3 To the extent that the Association intends to provide funds required to pay any Overspill Claim incurred by it in the manner specified in Rule 3.1 paragraph (d), the Association shall only be required to pay such Overspill Claim as and when such funds are received by it, provided that it can show from time to time that, in seeking to collect such funds, it has taken the steps referred to in Rule 2.3 paragraphs (a) and (b).

## Appendix I, Rule 4

### Overspill claims - expert determinations

- 4.1 Any of the issues referred to in Rule 4.2 on which the Association and a Member cannot agree shall be referred to a panel (the "Panel") constituted in accordance with arrangements established in the Pooling Agreement which, acting as a body of experts and not as an arbitration tribunal, shall determine the issue.
- 4.2 This Rule 4 shall apply to any issue of whether, for the purpose of applying any of Rules 2.2, 2.3 and 3.3 in relation to any Overspill Claim (the "relevant Overspill Claim")
  - (a) costs have been properly incurred in collecting or seeking to collect Overspill Calls, or
  - (b) any Overspill Call or part thereof is economically recoverable, or
  - (c) in seeking to collect the funds referred to in Rule 3.3, the Association has taken the steps referred to in that Rule.
- 4.3 If the Panel has not been constituted at a time when a Member wishes to refer an issue to it, the Association shall, on request by the Member, give a direction for the constitution of the Panel as required under the Pooling Agreement.
- 4.4 The Association may (and, on the direction of the Member, shall) give such direction as is required under the Pooling Agreement for the formal instruction of the Panel to investigate any issue and to give its determination as soon as reasonably practicable.
- 4.5 The Panel shall in its discretion decide what information, documents, evidence and submissions it requires in order to determine an issue and how to obtain these, and the Association and the Member shall cooperate fully with the Panel.
- 4.6 In determining any issue referred to it under this Rule 4 the Panel shall endeavour to follow the same procedures as it follows in determining issues arising in respect of the relevant Overspill Claim which are referred to it under the Pooling Agreement.

- 4.7 In determining an issue the members of the Panel
- (a) shall rely on their own knowledge and expertise, and
  - (b) may rely on any information, documents, evidence or submission provided to it by the Association or the Member as the Panel sees fit.
- 4.8 If the three members of the Panel cannot agree on any matter, the view of the majority shall prevail.
- 4.9 The Panel shall not be required to give reasons for any determination.
- 4.10 The Panel's determination shall be final and binding upon the Association and the Member (subject only to Rule 4.11) and there shall be no right of appeal from such determination.
- 4.11 If the Panel makes a determination on an issue referred to in Rule 4.2. paragraphs (b) or (c) the Association or the Member may refer the issue back to the Panel, notwithstanding Clause 4.10, if it considers that the position has materially changed since the Panel made its determination.
- 4.12 The costs of the Panel shall be paid by the Association.
- 4.13 Costs, indemnities and other sums payable to the Panel by the Association in relation to any Overspill Claim, whether the reference to the Panel has been made under this Rule 4 or under the Pooling Agreement, shall be deemed to be costs properly incurred by the Association in respect of that Overspill Claim for the purposes specified in Rule 2.2 paragraph (a).

## Appendix I, Rule 5

### Levying of overspill calls

- 5.1 If
- (a) the Association shall at any time determine that funds are or may in future be required to pay part of an Overspill Claim (whether incurred by the Association or by any other party to the Pooling Agreement); and
  - (b) the Association shall have made a declaration under Rule 6.1 or 6.3 that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls in respect of that Overspill Claim,
- the Association in its discretion, at any time or times after such declaration has been made, may levy one or more Overspill Calls in respect of that Overspill Claim in accordance with Rule 5.2.
- 5.2 The Association shall levy any such Overspill Call
- (a) on all Members entered in the Association on the Overspill Claim Date in respect of vessels entered by them at that time, notwithstanding the fact that, if the Overspill Claim Date shall be in a Policy Year in respect of which the Association has made a declaration under Rule 6.3, any such vessel

may not have been entered in the Association at the time the relevant incident or occurrence occurred, and

- (b) at such percentage of the Convention Limit of each such vessel as the Association in its discretion shall decide.
- 5.3 An Overspill Call shall not be levied in respect of any vessel entered on the Overspill Claim Date with an overall limit of cover equal to or less than the Group Reinsurance Limit.
- 5.4 The Association shall not levy on any Member in respect of the entry of any one vessel an Overspill Call or Calls in respect of any one Overspill Claim exceeding in the aggregate two and one half percent (2 ½ %) of the Convention Limit of that vessel.
- 5.5 If at any time after the levying of an Overspill Call upon the Members entered in the Association in any Policy Year, it shall appear to the Association that the whole of such Overspill Call is unlikely to be required to meet the Overspill Claim in respect of which such Overspill Call was levied, the Association may decide to dispose of any excess which in the opinion of the Association is not so required in one or both of the following ways:
- (a) by transferring the excess or any part thereof to the Reserve; or
  - (b) by returning the excess or any part thereof to those Members who have paid that Overspill Call in proportion to the payments made by them.

## Appendix I, Rule 6

### Closing of policy years for overspill calls

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

- 6.3 If at any time after a Policy Year has been closed in accordance with the provisions of Rule 6.1 and 6.2, it appears to the Association that an incident or occurrence which occurred during such closed Policy Year may then or at any time in the future give rise to an Overspill Claim, the Association shall as soon as practicable declare that the earliest subsequent open Policy Year (not being a Policy Year in respect of which the Association has already made a declaration in accordance with Rule 6.1 or 6.3) shall remain open for the purpose of levying an Overspill Call or Calls in respect of that claim and such open Policy Year shall not be closed for the purpose of making an Overspill Call or Calls in respect of that claim until such date as the Association shall determine.
- 6.4 A Policy Year shall not be closed for the purpose of levying Overspill Calls save in accordance with this Rule 6.

## Appendix I, Rule 7

### Security for overspill calls on termination or cesser

- 7.1 If
- (a) the Association makes a declaration in accordance with Rule 6.1 or 6.3 that a Policy Year shall remain open for the purpose of levying an Overspill Call or Calls, and
  - (b) a Member who is liable to pay any such Overspill Call or Calls as may be levied by the Association in accordance with Rule 5 ceases or has ceased to be insured by the Association for any reason, or the Association determines that the insurance of any such Member may cease
- the Association may require such Member to provide to the Association by such date as the Association may determine (the "due date") a guarantee or other security in respect of the Member's estimated future liability for such Overspill Call or Calls, such guarantee or other security to be in such form and amount (the "guarantee amount") and upon such terms as the Association in its discretion may deem to be appropriate in the circumstances.
- 7.2 Unless and until such guarantee or other security as is required by the Association has been provided by the Member, the Member shall not be entitled to recovery from the Association of any claims whatsoever and whensoever arising in respect of any and all vessels entered in the Association for any Policy Year by him or on his behalf.
- 7.3 If such guarantee or other security is not provided by the Member to the Association by the due date, a sum equal to the guarantee amount shall be due and payable by the Member to the Association on the due date, and shall be retained by the Association as a security deposit on such terms as the Association in its discretion may deem to be appropriate in the circumstances.

- 7.4 The provision of a guarantee or other security as required by the Association (including a payment in accordance with Rule 7.3) shall in no way restrict or limit the Member's liability to pay such Overspill Call or Calls as may be levied by the Association in accordance with Rule 5.

## Appendix II

- Appendix II, Rule 1 Passengers and seamen
- Appendix II, Rule 2 Maritime Labour Convention (2006) Extension Rule
- Appendix II, Rule 3 Consortium claims

## Appendix II, Rule 1

### Passengers and seamen

- 1.1 For the purpose of this rule and Rule 3 Section 5 in the Rules for P&I Insurance, and without prejudice to anything else contained in these Rules or in Rules for P&I Insurance, 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 arising under any one Member's entry shall not exceed:

- USD 2 billion any one event in respect of liability to Passengers; and
- USD 3 billion any one event in respect of liability to Passengers and Seamen

Provided always that:

Where there is more than one Owner's entry in respect of the same ship in the Association and/or in any other association which participates in the Pooling Agreement

- (a) the aggregate of claims in respect of liability to Passengers recoverable from the Association and/or such other associations shall not exceed USD 2 billion any one event and the liability of the Association shall be limited to such proportion of that sum as the claim recoverable by such persons from the Association bears to the aggregate of all such claims otherwise recoverable from the Association and from all such associations;
- (b) the aggregate of all claims in respect of liability to Passengers and Seamen recoverable from the Association and/or such other associations shall not exceed USD 3 billion 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 USD 2 billion in accordance with proviso (a) to such proportion of the balance of USD 1 billion as the claims recoverable by such persons in respect of liability to Seamen bears to the aggregate of all such claims otherwise recoverable from the Association and all such associations; and
  - (ii) in all other cases, to such proportion of USD 3 billion as the claims recoverable by such persons in respect of liability to Passengers and Seamen bears to the aggregate of all such claims otherwise recoverable from the Association and all such associations.



- 1.2 Where liabilities to Passengers include liabilities arising under a certificate issued by the Association in compliance with either Article IV bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by sea, 1974 and the Protocol thereto of 2002 or Regulation (EC) No. 392/2009 of the European Parliament and all liabilities to Passengers exceed or may exceed in the aggregate the limit of cover
- (a) the Association may in its absolute discretion, until the Certified Liabilities, or such part of the Certified Liabilities as the Association may decide, have been discharged, defer payment of a claim in respect of other liabilities to Passengers or any part of thereof; and
  - (b) 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 the Member shall indemnify the Association in respect of such payment.

## **Appendix II, Rule 2**

### **Maritime Labour Convention (2006) Extension Clause**

Subject only to the other provisions of this Rule, the Association shall discharge and pay on the Member's behalf under the 2006 Maritime Labour Convention, as amended (MLC 2006) or domestic legislation by a State Party implementing MLC 2006:

- (a) Liabilities in respect of outstanding wages and repatriation of a seafarer together with costs and expenses incidental thereto in accordance with Regulation 2.5, Standard A2.5 and Guideline B2.5 of MLC 2006; and
- (b) Liabilities in respect of compensating a seafarer for death or long-term disability in accordance with Regulation 4.2, Standard A4.2 and Guideline B4.2 of MLC 2006.

The Member shall reimburse the Association in full any claim paid under paragraphs (a) and (b) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable elsewhere under these Rules.

There shall be no payment under paragraph (a) or paragraph (b) if and to the extent that the liability, cost or expense is recoverable under any social security scheme or fund, separate insurance or any other similar arrangement.

The Association shall not discharge or pay any liabilities, costs or expenses under paragraph (a) or paragraph (b), irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member or the Member's servants or agents, where such liabilities, costs or expenses were directly or indirectly caused by or contributed to or arise from:

- (c) Any chemical, biological, bio-chemical or electromagnetic weapon.
- (d) The use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, computer virus or process or any other electronic system.
- (e) The obligations of the Association under this Rule may be cancelled in respect of War Risks by the Association on 30 days' notice to the Member (such cancellation becoming effective on the expiry of 30 days from midnight of the day on which notice of cancellation is issued).
- (f) Whether or not such notice of cancellation has been given the obligations of the Association under this Rule shall terminate automatically in respect of the War Risks:
  - (i) upon the outbreak of war (whether there be a declaration of war or not) between any of the following:  
United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China;
  - (ii) In respect of any ship, in connection with which cover is granted hereunder, in the event of such ship being requisitioned either for title or use.
- (g) The obligations of the Association under this Rule excludes loss, damage, liability or expense arising from:
  - (i) The outbreak of war (whether there be a declaration of war or not) between any of the following:  
United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China,
  - (ii) Requisition for title or use.

This Rule is subject to Rule 11 Sections 4 and 7, and Rule 18.

The Association's obligations under this Rule shall cease 30 days after notice of termination in accordance with either Regulation 2.5, Standard A2.5.2.11 or Regulation 4.2, Standard A4.2.12.

For the purpose of this Rule:

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

"Seafarer" shall have the same meaning as in MLC 2006.

"War Risks" means the risks set out in Rule 11:5.

## **Appendix II, Rule 3**

### **Consortium claims**

**Consortium agreement:** Any arrangement under which a Member agrees with other parties to the reciprocal exchange or sharing of cargo space on the entered ship and consortium ships.

**Consortium ship:** A ship or space thereon, not being the entered ship, employed to carry cargo under a consortium agreement.

**Consortium claim:** A claim shall be a consortium claim where:

- (a) it arises under a P&I entry of an insured ship; and
- (b) it arises out of the carriage of cargo on a consortium ship; and
- (c) the Member and the operator of the consortium ship are parties to a consortium agreement; and
- (d) at the time of the entry of the Member in respect of consortium claims, the Member employs an insured ship pursuant to that consortium agreement.

Unless otherwise agreed the Association is not liable for consortium claims.

A consortium agreement must be submitted and approved by the Association.

The Association's liability in respect of a consortium claim shall be limited to such sum or sums and be subject to such terms and conditions as the Association may from time to time determine and the aggregate amount recoverable from the Association and/or all other Associations participating in the Pooling Agreement for consortium claims arising out of one and the same incident or occurrence shall not exceed that limit.

The aggregate of all claims recoverable from the Association or and/or all other associations participating in the Pooling Agreement from any one consortium ship shall not exceed USD 350 million any one event.



## Changes to the FD&D Rules for the 2019/2020 policy year

### Rule 2

The rule is changed to reflect that members can purchase FD&D cover with a limit of USD 10 million



# Rules for Freight Demurrage & Defence Insurance 2019/2020

Valid as from 20 February 1985  
Amended as from 20 February 2019

## **Chapter I    Introductory**

FD&D Rule 1    Definitions

FD&D Rule 2    Nature of cover

## FD&D Rule 1 Definitions

Headings and List of Contents form part of these Rules.

In these Rules the following words or expressions shall mean

### Agree/Agreement

"Agree in writing"/"written agreement".

### Approval

"Approval in writing"/"written approval".

### Association

Sveriges Ångfartygs Assurans Förening (The Swedish Club).

### Consent

"Consent in writing"/"written consent".

### Hull Insurance

The insurance effected on the hull and machinery of the entered ship, including hull excess liability insurance, hull interest insurance, freight interest insurance and other total loss insurances.

### Member

An owner, operator or charterer, whether an individual or a corporation, in favour of whom the Association has issued a policy of insurance under these Rules.

### Notify/Notification

"Notify in writing"/"written notification".

### P&I Insurance

The insurance effected under the full terms of the Association's Rules for P&I insurance.

### Ship

A ship or other floating structure used or intended to be used in navigation on water or any part thereof or share therein in respect of which the Association has issued a policy of insurance under these Rules.



## **FD&D Rule 2    Nature of cover**

The cover afforded by the Association is set out in these Rules subject to any special terms which may be agreed.

The Member is covered in respect of costs or expenses incurred by him in his capacity as owner, operator or charterer of the entered ship and arising during the period of insurance as a direct consequence of the operation of that ship.

The cover afforded by the Association shall not include the deductible fixed by the Association or otherwise agreed with the Member.

The cover afforded by the Association shall be limited to USD 5 million for any one dispute unless a limit of USD 10 million has been agreed.

These Rules are subject to the Articles of the Association. Furthermore, the General Swedish Marine Insurance Plan of 2006 (SPL 2006) and Swedish Law in relevant parts to apply in matters not provided for in these Rules.

## **Chapter II    Disputes covered and claims handling**

- FD&D Rule 3    Disputes covered
- FD&D Rule 4    Extent of cover
- FD&D Rule 5    Discretion of the Association
- FD&D Rule 6    Recovery from the Association
- FD&D Rule 7    Employment of lawyers and other persons
- FD&D Rule 8    Powers of the Association relating to the handling and settlement of claims

### **FD&D Rule 3    Disputes covered**

The Association insures the Member in the manner and to the extent provided in FD&D Rule 4 in connection with claims, disputes or proceedings which arise

- (a) out of events occurring during the period of insurance of the entered ship and
- (b) in respect of the Member's interest in the entered ship and which relate to the matters enumerated below
  - (i) freight, deadfreight, demurrage, detention or any other matter arising out of a charterparty, bill of lading or other contract of affreightment or the carriage of goods in or the trading of the entered ship generally,
  - (ii) detention, salvage, general average contributions and charges, except where the entered ship is a salvage tug or other vessel used or intended to be used for salvage operations and the claim arises as a result of or during any salvage operations or attempted salvage operations but the Association in its absolute discretion may allow claims of this type to be covered,
  - (iii) a policy of insurance other than with the Association,
  - (iv) damage sustained by the entered ship,
  - (v) representation at official inquiries and protection against any interference by a public body, authority, company or corporation in matters connected with the business of shipowning,
  - (vi) any contract for the building, purchase, sale, conversion or repair of the entered ship, including any guarantee in connection with such contract, only to the extent that the Association agrees that claims, disputes or proceedings arising from the particular contract will be covered as a term of entry,
  - (vii) any mortgage of the entered ship or contract for such mortgage,
  - (viii) any other contract in relation to the entered ship,
  - (ix) any other matter which in the opinion of the Association falls within the scope of this insurance.

#### **FD&D Rule 4    Extent of cover**

Subject to any special terms which may be agreed the Member is entitled

- (a) to recover from the Association the costs and expenses incurred in connection with any of the claims, disputes and proceedings described in FD&D Rule 3, including costs and expenses payable to other parties to such proceedings under any judgement or order therein, but only if the Association has decided that the case merits the support of the Association and has not withdrawn that support,
- (b) to receive legal advice from the Association in connection with any of the claims, disputes and proceedings described in FD&D Rule 3 or the possibility thereof,
- (c) to recover from the Association the costs and expenses incurred in obtaining advice in connection with the claims, disputes and proceedings aforesaid or the possibility thereof from lawyers, surveyors, representatives and persons other than employees of the Member, where the Association has consented to the obtaining of such advice.

#### **FD&D Rule 5    Discretion of the Association**

The Association shall have absolute discretion to determine whether any particular case merits the support of the Association and without prejudice to the generality of the foregoing the Association shall, in exercising its discretion, be entitled to take into account the consideration whether support of the Member in respect of any particular case is in the interest of the Membership.

The Association may at any and all times impose such terms as a condition of supporting the Member in any particular case as it thinks fit.

The Association may at any time withdraw its support from the Member in any particular case if it considers that such case ought to be settled or otherwise discontinued and the Association shall not be liable for any costs and expenses incurred in connection with such case after the time of such withdrawal of support.

If a claim or dispute for which the Member is insured is settled without the prior consent of the Association or without a provision for reasonable costs, the Association shall be entitled to recover a reasonable contribution to such costs or expenses incurred by the Association from the Member, provided such costs would otherwise have been recoverable.

## **FD&D Rule 6 Recovery from the Association**

No costs or expenses shall be recoverable from the Association unless

- (a) they have been incurred with the prior consent of the Association,
- (b) they have been incurred by the Association on behalf of the Member in accordance with FD&D Rule 7,
- (c) the Association in its absolute discretion shall decide that they were reasonably incurred and ought in all the circumstances to be borne by the Association.

## **FD&D Rule 7 Employment of lawyers and other persons**

Without prejudice to any other provisions of these Rules and without waiving any of the Association's rights hereunder, the Association may at any and all times appoint and employ on behalf of the Member, upon such terms as it may think fit, lawyers, surveyors or other persons, whether or not lawyers, surveyors or other persons have already been appointed or employed by the Member, for the purpose of dealing with any matter liable to give rise to a claim by the Member upon the Association, including, but not limited to, investigating, or advising upon any such matter and taking or defending legal or other proceedings in connection therewith. The Association may also at any time discontinue such employment as it may think fit.

The costs and expenses incurred in connection with a particular case shall only be recoverable from the Association on condition that all lawyers, surveyors and other persons employed in the case are appointed with the prior consent of the Association, or by the Association under the first paragraph of this Rule.

All lawyers, surveyors and other persons appointed by the Association on behalf of the Member or appointed by the Member with the prior consent of the Association shall at all times be and be deemed to be appointed and employed on the terms

- (i) that, without prejudice to their right to retire from the matter on any other grounds, they shall be entitled to retire from the matter if either the Association or the Member so requests or if such person considers that a conflict of interest has arisen or may arise between the Member and the Association so that he ought to retire from the matter,
- (ii) that they have been instructed by the Member 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 Member,
- (iii) that they are to produce to the Association without prior reference to the Member any documents or information in their possession or power relating to such matter,

as if such person had been appointed to act and had at all times been acting on behalf of the Association and notwithstanding that any such advice, reports, documents or information would otherwise be the subject of legal or any other form of privilege.

### **FD&D Rule 8 Powers of the Association relating to the handling and settlement of claims**

The Association shall have the right if it so decides

- (a) to require the Member to settle, compromise or otherwise dispose of any claim, dispute or proceedings which may give rise to a claim by the Member upon the Association in such manner and upon such terms as the Association sees fit,
- (b) to require the Member to take any step in connection with the handling of such claim, dispute or proceedings which the Association may think appropriate.

If the Member does not settle, compromise, dispose of or take steps in connection with the handling of a claim, dispute or proceedings as required by the Association in accordance with the first paragraph of this Rule, any eventual recovery by the Member 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 Association.

## Chapter III Conditions for cover

FD&D Rule 9 Conditions

## FD&D Rule 9 Conditions

### Section 1 Classification of ship

The following conditions are terms of the insurance of the entered ship unless otherwise agreed

- (a) The ship must be and remain throughout the period of insurance classed with a Classification Society approved by the Association,
- (b) The Member must promptly call to the attention of that Classification Society or the Society's surveyors any incident or condition which has given or might have given rise to damage in respect of which the Classification Society might make recommendations as to repairs or other action to be taken by the Member,
- (c) The Member must comply with all the Rules, recommendations and requirements of that Classification Society relating to the entered ship within the time or times specified by the Society,
- (d) The Member must authorise the Association, for whatever purpose it may consider necessary, to receive information and to inspect and obtain documents relating to the class of the entered ship from a Classification Society with which the ship is or has been classed.

The conditions under (b)-(d) above shall also apply in respect of obligations imposed by competent authorities.

Where the Member commits any breach of the conditions under (a)-(d) above, the Association may exercise its discretion as per FD&D Rule 5.

### Section 2 ISM Code

The Member must comply with the flag state's ISM Code requirements and maintain required ISM Code certificates. The Association shall not be liable for any costs or expenses incurred in connection with claims, disputes or proceedings arising out of the Member's failure to comply with the requirements of the flag State or to maintain the required certificates.

### Section 3 Regulations

The Association may issue general or particular regulations in writing or by electronic means.

The Association may exercise its discretion pursuant to FD&D Rule 5 in respect of claims, disputes or proceedings arising as a consequence of the Member not complying with such regulations.



#### **Section 4 Obligations with regard to casualties and claims**

The Member must take all reasonable steps to avert or minimise liabilities, costs or expenses in respect of any claim, casualty or event which may give rise to a claim upon the Association.

The Member must promptly notify the Association of any such claim, casualty or event and of any related formal enquiry or legal proceedings involving the entered ship.

The Member must promptly provide the Association with all documents and evidence which may be relevant to the case and must produce any person for interview or to give evidence. Furthermore, the Association must at any time be allowed admittance to the ship to conduct any surveys and investigations which the Association considers necessary.

The Member shall not settle or admit liability for any claim for which he may be insured by the Association without the prior consent of the Association.

Where the Member commits any breach of these obligations, the Association may exercise its discretion pursuant to FD&D Rule 5.

## Chapter IV Exclusions from cover

FD&D Rule 10 Exclusions

## **FD&D Rule 10 Exclusions**

### **Section 1 Member's intent or gross negligence**

The Association shall not be liable for costs and expenses incurred in connection with claims, disputes or proceedings caused by the intentional or grossly negligent acts or omissions of the Member.

### **Section 2 General exclusions**

The Association shall not be liable for costs and expenses incurred in connection with claims, disputes or proceedings arising out of the entered ship carrying contraband or being employed in an unlawful trade or, if the Association having regard to all the circumstances, shall be of the opinion that the carriage, trade, voyage or any other activity on board or in connection with the entered ship, was imprudent, unsafe, unduly hazardous or improper.

### **Section 3 Other insurance**

- (a) The Association shall not be liable for costs and expenses incurred in connection with claims, disputes or proceedings which would have been covered under the Hull insurance if the entered ship had been fully insured under Hull insurance conditions approved by the Association for a sum which at any time should be either the market value of the ship or its maximum liability under the Brussels Convention of 1957 whichever is the higher.
- (b) The Association shall not be liable for costs and expenses incurred in connection with claims, disputes or proceedings in respect of the entered ship which would have been recoverable if the ship had been fully insured under P&I insurance.
- (c) The Association shall not be liable for costs and expenses incurred in connection with claims, disputes or proceedings in respect of the entered ship, which are recoverable under any other insurance.
- (d) The Association shall not be liable for any franchise, deductible or deductions of a similar nature borne by the Member under any other insurance or for costs and expenses incurred in connection therewith except that costs relating to claims for damage sustained by the entered ship shall be covered to the extent that such damage is not recoverable under the Hull insurance by reason only of a franchise or deductible.

## Chapter V Other provisions

- FD&D Rule 11 Bail or other security
- FD&D Rule 12 Set-off
- FD&D Rule 13 Right of recourse
- FD&D Rule 14 Time bar
- FD&D Rule 15 Payment by the Association
- FD&D Rule 16 Forbearance
- FD&D Rule 17 Disputes
- FD&D Rule 18 Omnibus clause
- FD&D Rule 19 Period of insurance
- FD&D Rule 20 Premiums and deductibles
- FD&D Rule 21 Additional premiums
- FD&D Rule 22 Right of lien for amounts due to the Association
- FD&D Rule 23 Termination
- FD&D Rule 24 Cesser
- FD&D Rule 25 Effect of termination and cesser
- FD&D Rule 26 Insurance premium tax
- FD&D Rule 27 Joint members
- FD&D Rule 28 Fleet entry

### **FD&D Rule 11 Bail or other security**

In no circumstances shall the Association be obliged to provide bail or other security to obtain the release of or to prevent the arrest or attachment of the entered ship or of any other property or assets of the Member.

The Association may agree in exceptional cases to provide such bail or security on such terms as it in its discretion may consider necessary. If it does so agree

- (a) the Association shall be entitled to recover from the Member the expenses incurred in connection with the provision of such bail or security,
- (b) the Member shall immediately forward to the Association a cash deposit, bank guarantee or any other form of counter security in favour of the Association that the Association deem appropriate.

### **FD&D Rule 12 Set-off**

The Association shall be entitled to set off any amount due from the Member under these Rules or under any other policy against any amount due to the Member from the Association.

### **FD&D Rule 13 Right of recourse**

For any amount paid by the Association to the Member or to a claimant, the Member's right of recovery from third parties is transferred to the Association, which is entitled to collect any amount recovered.

The Association has a right of recourse against the Member for any amount which the Association has paid on behalf of the Member and for which the Member is not entitled to compensation under these Rules.

### **FD&D Rule 14 Time bar**

The Association shall have no liability under these Rules if the Member

- (a) fails to notify the Association of any claim, casualty or event referred to in FD&D Rule 9, Section 4 within six months after he has knowledge thereof,
- (b) fails to claim compensation from the Association within three years after having paid costs or expenses.

Where the Member's claim against the Association has not been extinguished earlier, his right to claim compensation shall be extinguished after ten years from the time of the casualty or other event. However, where final judgement or adjustment has to be awaited before a claim for compensation from the Association can be made, the claim shall not be extinguished until one year after such judgement or adjustment has acquired legal force.

Where the Association has called upon the Member in writing to submit his claim for decision in accordance with FD&D Rule 17 within a time not exceeding six months from the receipt of such request, and the Member fails to comply with the request, his rights to compensation from the Association shall be extinguished.

### **FD&D Rule 15 Payment by the Association**

Payment to the Member of any sums due shall fully discharge the Association of its liabilities under these Rules unless otherwise agreed.

### **FD&D Rule 16 Forbearance**

No act, omission, course of dealing, forbearance, delay or indulgence by the Association shall constitute a waiver of the Association's rights under these Rules.

### **FD&D Rule 17 Disputes**

Disputes arising out of the contract of insurance shall be decided by a Swedish Average Adjuster or at the request of either party be referred to arbitration in Göteborg in accordance with Swedish law.

### **FD&D Rule 18 Omnibus Clause**

The Association shall have the absolute discretion to compensate the Member for claims or for costs or expenses as referred to in the second paragraph of FD&D Rule 2 even where such compensation would not have followed under these Rules.

### **FD&D Rule 19 Period of insurance**

The cover afforded by the Association as set out in these Rules is for events occurring during the period of insurance.

The period of insurance shall commence at the time and date stated in the policy of insurance issued by the Association and shall continue until 1200 hours UTC (Universal Time, Co-ordinated) on 20 February and thereafter from policy year to policy year unless terminated in accordance with these Rules.

The policy year begins at 1200 hours UTC on any 20 February and continues until the same time on the next following 20 February.

### **FD&D Rule 20 Premiums and deductibles**

Premiums and deductibles for the policy year to come are decided annually by the Association.

The premium is due for payment in two instalments, half of the annual premium at inception on 20 February and half of the premium on 20 August.

Should the period of insurance commence during the current policy year, a pro rata premium shall be paid at the time when the period of insurance begins, for the period until the next 20 August or 20 February whichever date comes first. Thereafter the premium shall be paid as stated in the second paragraph.

### **FD&D Rule 21 Additional premiums**

During or after the end of a policy year which has not been declared closed, the Association may levy one or more additional premiums for that policy year. Such additional premiums shall be calculated pro rata on the net premium debited for the policy year.

Unpaid additional premiums may be levied on other Members pro rata on the net premium debited for the policy year.

Should the Member's insurance be terminated, the Association may levy an estimated additional premium on the Member.

Additional premiums are due for payment on demand.

### **FD&D Rule 22 Right of lien for amounts due to the Association**

The Association shall be entitled to a lien on the insured vessel, and any other insured vessels which are part of a fleet in accordance with FD&D Rule 28, for all premiums and any other amounts due to it under these Rules. Such lien shall be in addition to and in no way be construed as a waiver or amendment to, any other contractual or maritime lien which the Association may expressly or impliedly possess in respect of the said vessel or vessels. In order to exercise this right and notwithstanding FD&D Rule 17 the Association may take action and/or commence proceedings to enforce its right of lien in any jurisdiction in accordance with local law in such jurisdiction.

### **FD&D Rule 23 Termination**

The period of insurance may be terminated by a written notice of termination from the Member to the Association or from the Association to the Member not later than 1200 hours UTC (Universal Time, Co-ordinated) on 20 January. Where such notice of termination has been given the period of insurance shall terminate at noon on 20 February next.

It shall be a condition precedent of the Members' right to recover costs and expenses and to receive legal advice from the Association that all premiums and other amounts due by the Member to the Association shall have been paid in full. Where the premium is not paid timeously, the Association shall not be liable and shall have the right to terminate the period of insurance on three days' written notice. Where the premium is paid before such termination, the Association shall be liable from the date of payment only.

Where the premium for an ensuing period is not paid without delay, the Association shall have the right either to serve a written reminder regarding the date of payment, whereupon the Association shall be relieved from liability after seven days, or to terminate the period of insurance on three days' written notice.

Where the period of insurance and/or the entry of a ship is terminated or has become terminated due to the non payment of premiums at a time when premiums or any other sums due to the Association are outstanding, it is agreed that the Association is entitled to a lien over the previously entered ship.

The Association may further terminate the period of insurance

- (a) with immediate effect upon notification, where the Member has wilfully caused or tried to cause a casualty,
- (b) on three days' notice, where the Member has failed to pay, when due and demanded, any sums other than premiums,
- (c) on seven days' notice, where the Member has failed to comply with regulations issued by the Association,
- (d) on fourteen days' notice, where the Member becomes bankrupt or otherwise insolvent,
- (e) on thirty days' notice, without giving any reason.

Notice of termination of the P&I insurance of the entered ship shall be regarded as a notice of termination of this insurance.

#### **FD&D Rule 24 Cesser**

The Member shall cease to be insured by the Association

- (a) where the entered ship is posted at Lloyd's as missing or is missing for thirty days since last heard of, whichever is the earlier,
- (b) where the entered ship becomes a total loss or is accepted by the Hull insurance as being a constructive, compromised or arranged total loss, in which case the insurance shall cease at the time when total loss compensation is due from the Hull insurance,
- (c) where the entered ship is transferred to a new owner by sale or otherwise, in which case the insurance shall cease at the time of such transfer,
- (d) where the entered ship is requisitioned, in which case the insurance shall cease at the time of such requisition,
- (e) where the entered ship, with the knowledge of the Member, is being used to carry contraband or employed in an unlawful trade,
- (f) where the Member is in breach of FD&D Rule 9, Section 1 (a).



### **FD&D Rule 25 Effect of termination and cesser**

Termination or cesser of the insurance shall have the following effect.

The Member shall remain liable for all premiums due for the current or previous policy years up to the date of termination or cessation but shall be entitled to a refund of premiums paid which refer to a period after that date.

The Association shall remain liable for all claims under these Rules in respect of events which occurred prior to the date of termination or cessation provided that premiums due shall have been paid.

### **FD&D Rule 26 Insurance premium tax**

The Member shall be liable to pay any tax or other fiscal demand relating to premiums or other sums due under the insurance policy. In the event that the Association has become liable for any such tax or fiscal demand, the Member shall reimburse the Association on demand.

### **FD&D Rule 27 Joint members**

The Association may allow several Members to be covered jointly (Joint Members) by the same insurance on the following conditions unless otherwise agreed.

The Joint Members shall be jointly and severally liable for all sums due to the Association.

The Association may fully discharge its obligations with regard to payment under these Rules by payment to any one of the Joint Members.

Any communication by the Association to any one of the Joint Members shall be deemed to be communicated to all. Failure by any one of the Joint Members to disclose material information shall be deemed to be the failure of all.

Any act or omission of any one of the Joint Members which causes the insurance to cease or which entitles the Association to terminate the insurance or to decline or reduce any compensation shall be deemed an act or omission of all of them.

The Association shall not be liable for any costs or expenses incurred in connection with any dispute or proceedings between the Joint Members or any of them.

**FD&D Rule 28 Fleet entry**

When the Member and the Association have agreed that the entered ship forms part of a fleet of ships insured by the Association, the Members of the fleet shall be jointly and severally liable for premiums or any other sums due to the Association in respect of any ship in the fleet.

Failure of any Member to pay premiums or other sums shall be deemed to be a failure of all the Members of the fleet and the Association shall be entitled to give notice of termination under FD&D Rule 23 and to set-off under FD&D Rule 12.





## Articles of Association

Adopted by the General Meeting  
Gothenburg, 14 June 2018

## Articles of Association

### Article 1

The Association's registered name is Sveriges Ångfartygs Assurans Förening. The Association's English name is The Swedish Club.

### Article 2

The members of the Association shall be the policy holders. A holder of a reinsurance policy with the Association shall, however, not in this capacity be a member.

### Article 3

The object of the Association's operations is to issue both direct and indirect insurance in Sweden and abroad - including countries outside the European Economic Area (EEA) - in the following classes of non-life insurance:

- Ship (Class 6)
- Ship liability (Class 12)
- Legal expenses (Class 17)

### Article 4

The Board's registered office is Gothenburg, Sweden.

### Article 5

The Board shall be elected each year at the Annual General Meeting for the period ending on the next Annual General Meeting, and shall comprise not less than ten and not more than twenty-five Directors.

A majority of the Directors shall consist of persons who either are members of the Association or have an active management function with members and whose principal activities are in the shipping business of such members.

### Article 6

For examination of the administration of the Board and the Managing Director, the annual report and the Association's accounts, one or two auditors, who shall be authorised accountants, and up to a corresponding number of deputies, shall be appointed annually at the Annual General Meeting for the period up to the end of the next Annual General Meeting. A registered auditing firm may be appointed as auditor.

### Article 7

Notice of a General Meeting shall be given by letter or e-mail to the members and through announcement on the Association's website not earlier than four weeks and not later than two weeks before the meeting.

To attend the General Meeting, members must not later than on the day specified in the notice to attend the meeting, notify the Association of their intention. The day so specified may not be a Sunday, any other public holiday, a Saturday, Midsummer Eve, Christmas Eve or New Year's Eve and may not occur earlier than five days before the meeting.

## Article 8

The Annual General Meeting shall be held each year in May or June, in Gothenburg or Stockholm.

The following business shall be dealt with at the Annual General Meeting:

1. Election of the chairman at the meeting.
2. Checking of the voting list.
3. Approval of the agenda.
4. Election of a person to check and sign the minutes jointly with the chairman.
5. Consideration of whether the meeting has been duly convened.
6. Presentation of the Annual Report and Audit Report.
7. Approval of the profit and loss statement and the balance sheet.
8. Appropriations with respect to the Association's profit or loss according to the approved balance sheet.
9. Consideration of discharge from liability for the Directors and Managing Director.
10. Determination of the number of Directors.
11. Determination of compensation to the Directors and auditors.
12. Election of Directors.
13. Election of auditors and deputy auditors.
14. Appointment of an electoral committee to prepare next year's election of Directors and auditors.
15. Any other business duly referred to the meeting.

## Article 9

Each member is entitled to vote at a General Meeting, with one vote for each commenced portion of SEK 100,000 of the estimated aggregate total of his premiums for the current financial year provided that it can be assumed that the insurance of such member will remain unchanged throughout the relevant year. No member may exercise his voting right with more than 1/10 of the total number of votes of the members represented at the meeting.

A resolution that the Association shall enter into liquidation in the absence of a legal obligation to do so, or a resolution that the entire insurance portfolio of the Association shall be assigned shall be approved by two general meetings and subject to the following requirements.

If a resolution is supported by members representing not less than two thirds of the aggregate number of votes in the Association at the first meeting, the Board may refer the matter to a second general meeting to be held not earlier than ninety days after the first general meeting. At the second general meeting a resolution as set out in this paragraph can be made if supported by not less than three quarters of the votes represented at this second general meeting. If the Board shall not refer the resolution to a second general meeting the decision by the first meeting shall be without effect.

### **Article 10**

The Association's annual profit is, unless otherwise stipulated by law or a regulation issued pursuant to the law, at the disposal of the Annual General Meeting.

A residual loss in the non-life insurance classes Ship (Class 6), Ship liability (Class 12) and Legal expenses (Class 17) that remains after utilisation of reserves not corresponding to obligations and also utilisation of equity capital shall be distributed as follows. The loss shall be levied on those who were members of the Association during any part of the financial year in which the loss arose, and in relation to each member's premiums payable in the year of the loss. The right to levy a loss is, however, limited to an amount corresponding to each member's premiums payable in the loss year.

The Board shall implement the levy immediately after the Annual General Meeting has adopted the balance sheet for the relevant financial year. Payment of the amount levied may be divided into a maximum of six instalments. The last instalment shall be paid within three years of the Board's implementation resolution. Members shall receive written notice to this effect at least one month before each day on which an instalment falls due.

### **Article 11**

In the event of the Association's dissolution, its retained assets shall be distributed among those who, at the time of the liquidation resolution, were members of the Association, in proportion to the aggregate amount of each member's premiums for the past five financial years.

## **Article 12**

Disputes arising between the Association and a Director, the Managing Director, a receiver in a liquidation or a member shall, unless such dispute relates to indemnity due to insurance, be settled by arbitrators according to the Swedish arbitration act which applies at the relevant time. Swedish law shall apply and the arbitration shall take place in Gothenburg.

## **Article 13**

The English version of these Articles is a translation of the original Swedish text which is subject to confirmation by the Swedish Financial Supervisory Authority and registration by the Swedish Companies Registration Office.

Adopted by the General Meeting  
Gothenburg, 14 June 2018





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