

**CLASS 2****FD&D (FREIGHT, DEMURRAGE AND DEFENCE)**

1. These Rules are subject to the Act and Bye-laws of the Steamship Mutual Underwriting Association Limited, hereinafter referred to as the "Club".

**2. Entry**

i an Owner or Charterer who wishes to enter any Ship for insurance in the Club shall apply for such entry in such form and in such manner as the Managers may from time to time require.

ii an Owner or Charterer who so applies for insurance or negotiates any changes to or renewal thereof shall make to the Club a fair presentation of the risk in compliance with Part 2 of the English Insurance Act 2015, including disclosure:

a of every material circumstance which the Owner knows or ought to know; or

b providing sufficient information to place the Club on notice of the need to make further enquiry for the purposes of revealing those circumstances; and

c in which every material representation as to a matter of fact is substantially correct, and every representation as to a matter of expectation or belief is made in good faith;

save that Section 8 of the Act shall have no application and Rule 2 v b shall apply irrespective of whether any breach of the duty of fair presentation is innocent, deliberate or reckless.

iii before any application for entry is accepted, the Managers shall agree in writing the terms and conditions that are to apply to the entry, including those concerning premiums, date of commencement and scope of cover and the other terms and conditions on which the ship is to be accepted.

iv the provisions of this Rule apply throughout the period of entry of the Ship in the Club and the Member shall immediately disclose to the Club any material change in any material particulars and information or any material alteration in the risk relating to such entry.

v a If the Managers determine that the nature of the risk has materially changed since the ship was entered; or

b If the Member fails to comply with the obligations under sub-paragraphs ii or iv of this Rule, the Managers shall be entitled, without prejudice to any other right or remedy of the Club, in their absolute discretion by notice in writing to:

(i) terminate the entry of such ship or Member from the commencement of the Policy Year or such later date as they may decide, or;

(ii) amend or vary the terms of such entry as they think fit.

vi Notwithstanding that a ship is not owned by or demise chartered to a Member, it may be entered in this Class prior to or on or after the date of:

a a contract to construct; or

b a contract to purchase;

the ship, or the novation or assignment of such a contract:

save that:

- (i) Where a ship is entered after a contract to construct or purchase is entered into, there shall be no cover in respect of claims, disputes or events and matters arising prior to entry; and
- (ii) If that ship is not delivered to the Member, it pays such further premium and cover shall be subject to such terms as the Managers in their absolute discretion shall require.

A copy of such contract must accompany the application for such entry.

**vii** Where a chartered ship is entered, that entry shall:

- a** commence on the earlier of the date that the chartered vessel is delivered into the charter in the case of open covers or the date of entry and
- b** cease on the date of completion of performance under that charter.

**viii** Where:

- a** the existence of a contract or a charter is in dispute; or
- b** delivery of chartered vessel does not take place;

the Managers may agree to provide cover on such terms in their absolute discretion as they shall require.

**ix** The Managers shall be at liberty, without giving any reason, to refuse any application for entry or for renewal of entry of a ship in this Class from any Member whether or not that Member is already a Member of the Club.

**x** To the extent that these Rules and any Certificate of Entry or other policy document issued hereunder are subject to the English Insurance Act 2015, from its entry into force, the following Sections of the Act shall be excluded and have no application save to the extent provided in the case of Section 13A with the effects as set out in sub-paragraphs a-e below:

Excluded provisions - Effect

- a** Section 10 - All warranties must be strictly complied with and in the event of breach, the Club's liability is discharged from the date of such breach irrespective of whether such breach is subsequently remedied.
- b** Section 11 - The Club shall be entitled to exercise any rights provided in these Rules arising in consequence of the Member's non-compliance with the applicable terms of entry and the Rules tending to reduce the risk of loss of a particular kind, or at a particular location or time. The Club shall be so entitled notwithstanding that such non-compliance could not have increased the risk for the loss which actually occurred in the circumstances in which it occurred.
- c** Section 13 - In the event that a fraudulent claim is made by any party insured hereunder the Club shall be entitled to terminate the policy in respect of all parties insured pursuant to that entry or any of them as the Managers so decide in their absolute discretion.
- d** Section 13A - No claim shall be brought against the Club for breach of the implied term that the Club will pay to the Member any sums due in respect of a claim within a reasonable time save where or to the extent that any breach is deliberate or reckless.
- e** Section 14 - The contract evidenced by these Rules and the Certificate of Entry requires the Member and the Club to observe the duty of utmost good faith and non-observance by one party shall entitle the other to avoid the policy.

### **3. Contributions**

- i** Unless entered as a fixed premium entry or upon special terms which otherwise provide, the Members or persons who have entered ships for insurance, shall severally and not jointly mutually insure each other as hereinafter set out against costs and expenses which they or any

of them may become liable to pay or may incur in respect of any entered ship, and for this purpose each such member or person shall contribute to the funds or other obligations of the Club as required:

- a** to meet all such costs, expenses and other outgoings (whether incurred, accrued or anticipated) as the Board of Directors shall determine necessary and properly fall on the Club;
  - b** to establish, maintain and accumulate such reserve or reserves as the Directors may deem necessary, expedient or prudent;
  - c** without prejudice to the generality of paragraph b above, to accumulate such funds as may be necessary to establish and maintain any solvency margin, guarantee fund or other fund as may be required of the Club by any governmental or other legislation or regulation.
- ii** Such contributions to the funds of the Club shall be levied upon and paid by the Members as Mutual Premium and Additional Premium in accordance with the provisions of Rules 4 and 5.

#### **4. Basis of Contribution**

- i** Before the commencement of a policy year the Directors shall determine whether there shall be a general increase in the premium rating of all Members and if so its amount.
- ii** At the beginning of each policy year the Managers shall, unless the entry has been accepted upon special terms which otherwise provide, agree the Premium at such rate in respect of the relevant ship or fleet to be paid by a Member taking into account any general increase determined by the Directors and all other matters which the Managers may consider relevant.
- iii** Such Premium shall be levied on and paid by the Member during the relevant period provided for in the policy and in such subsequent periods and in such instalments as the Directors may from time to time determine.
- iv** A ship entered in the course of a policy year shall pay a daily pro rata proportion of the mutual premium to the beginning of the next Policy Year.
- v** In the event of a Member making default in payment of any contribution due from it to the Club, the same shall (subject to the provisions as to any entries on special terms) be paid by such other Members entered rateably in proportion to the contributions last due from them respectively and payment may be enforced by the Club. Each Member who may for the time being be entitled to receive from the Club any payment in respect of any cost or expense, shall bear and contribute to the proportion thereof due in respect of any ship or ships entered by it, including the ship in respect of which the cost or expense arises.

#### **5. Additional Premium**

At any time or times during or after the end of each Policy Year (but not after such Policy Year has been closed) the Directors may decide to levy from the Members who have or have had ships entered for insurance in respect of that year, unless the entry has been accepted as a fixed premium entry or on special terms which otherwise provide, one or more Additional Premiums. Such Additional Premium or Premiums shall be paid by each Member, at such time or times and at such rate or at such percentage of the Mutual Premium already paid as the Directors may decide.

#### **6. Nature of Cover**

- i** Entry in this Class provides cover in accordance with and on the terms and conditions set out in these Rules and the Member's Certificate of Entry:
  - a** In respect of the costs and assistance in Rule 7;

- b** Consequent upon events occurring during the period (s) in Rule **8**; and
- c** In respect of the categories of dispute in Rule **9**;

in connection with the chartering, trading and/or operation of the entered ship by or on behalf of the Member, or contracts for, or ancillary to, its construction, modification, refit, repair, purchase, sale or mortgage to which the Member is a party.

- ii** The cover set out in these Rules may be excluded, limited, modified or otherwise altered by any special terms which have been agreed in writing between a Member and the Managers, including insuring the Member against Risks other than those set out in these Rules, save that these Rules shall apply to the extent not inconsistent with any such special terms.

## **7. Extent of Cover**

Subject to the terms and conditions of these Rules and the Certificate of Entry the costs and expenses recoverable and assistance to which the Member may be entitled in respect of claims, disputes or events falling within the categories set out in Rule **9** are:

- i a** The costs of obtaining advice as to and/or investigating the merits; and/or
  - b** The costs of prosecuting, defending or resolving such claims whether by legal proceedings, arbitration or alternative dispute resolution, including the costs for which the Member may become liable to pay other parties, including interest thereon, and/or
  - c** Advice from the Managers;
- save that there shall be no recovery in respect of the internal costs of, or disbursements incurred by, the Member, including in respect of its employees, save to the extent that those costs would have been recoverable had the Member been entitled to recover costs from another party or the Managers in their absolute discretion otherwise agree.
- ii** The costs of representation of the Member at any enquiry, investigation or Tribunal in relation to the entered ship at which the Member's presence is compellable by law or where, in their sole discretion, such representation is considered necessary and appropriate by the Managers.

## **8. Period of Cover**

- i** Cover under these Rules is for claims or disputes arising out of events occurring during the period of entry, and in respect of the entered ship.
- ii** Claims shall be deemed to arise:
  - a** If arising out of contract or in tort or under statute when the cause of action accrues save that claims arising out of, or in connection with, contracts for the construction, modification, refit, repair, sale or purchase of a ship shall be deemed to arise when the contract is made.
  - b** If consequent on salvage or towage, whether contractual or otherwise, at the date when any contract was made or when the services commenced.

## **9. Scope of Cover**

The categories of claims, disputes or events and matters for which cover may be available save insofar as excluded by Rule **10** are those in respect of:

- i** Freight, deadfreight, hire, despatch, demurrage or other remuneration earned or to be earned from the employment or use of the ship or a part thereof arising under a charterparty, contract of affreightment, Bill of Lading, waybill or other similar contract in respect of, or by way of quantum meruit or other compensation for, such employment or use.

Save that where a dispute arises under a contract of affreightment such cover shall only be available if a vessel has been nominated in writing to perform thereunder. Unless the Managers in their absolute discretion shall otherwise agree.

- ii** Detention and/or loss of use of and delay to the entered ship.
- iii** Formation, breach, non-performance of or the existence or exercise of any right under any charterparty, contract of affreightment, Bill of Lading, waybill or other contract relating to the employment whether current or future, or operation of the entered ship or of any duty or obligation arising in connection with such employment or operation.
- iv** General and/or particular average contributions or charges.
- v** Loss of or damage to the entered ship.
- vi** Improper loading, lightering, stowage, trimming or discharge of cargo
- vii** Supplies of fuel, lubricants, materials, equipment or other necessaries to the entered ship.
- viii** Amounts due to or from underwriters, excluding the Club, in respect of marine insurance of the entered ship.
- ix** Salvage, towage and pilotage by or to the entered ship unless a tug, supply boat or salvage vessel save with the agreement in writing of the Managers.
- x** Overcharges in accounts in respect of the supply of goods or services to the entered ship.
- xi** The construction, modification, refit, repair, purchase, sale, purchase or mortgage of the entered ship or its equipment or outfit, including guarantees or other securities in respect of the same, save that containers or any other equipment for the transportation and stowage of cargo capable of removal from and transfer between ships are excluded.
- xii** Passengers under a passenger contract, their personal representatives or dependents.
- xiii** Persons, other than passengers travelling pursuant to a passage contract, on board or about the entered ship excluding disputes in respect of Masters, Officers and Crew under or in connection with their contract of employment or collective agreement.
- xiv** Representation of Members at Coroners' inquests or official investigations or enquiries of whatsoever nature in relation to an entered ship.
- xv** The entered ship's classification.
- xvi** Claims by port authorities, terminals or ship's agents in connection with an entered ship.
- xvii** Any action of whatsoever nature against an entered ship by any Governmental or Public body, including revenue or customs or its agents other than those of its port of registry or the Member's domicile or permanent place(s) of business
- xviii** Any other matters whatsoever which in the opinion of the Directors should be covered.

*Note: The Club will not normally undertake cases which concern a substantial body of Shipowners rather than an individual Member unless all or the majority are entered in the Class; nor cases which should properly be the subject of diplomatic action or action by national or international bodies.*

## 10. Excluded Claims and Risks

Claims or disputes in respect of the following are excluded from cover:

- i** Against any other party where in the opinion of the Managers there are no reasonable prospects of recovery.
- ii** Against the Member which are admitted or where in the opinion of the Managers there are no reasonable prospects of successfully disputing liability or, if liability is admitted, quantum.
- iii** Which arise in respect of a contract which in the opinion of the Directors it was imprudent of the Member to enter into.
- iv** Which are consequent on the Member's wilful or reckless breach of contract, statute or regulation or wilful or reckless commission of a tortious act, or omission, or breach of duty.
- v** Which arise out of the insolvency of the Member
- vi** Which arise out of fraud by the Member's Directors, employees, servants, agents or representatives.
- vii** Costs incurred in respect of criminal proceedings, save to the extent that the Directors in their absolute discretion otherwise determine.
- viii** Where the claim, liability or participation is in a capacity other than as Shipowner or Charterer.
- ix** By the Member against any party or by such a party against the Member whether entered as a joint Member or an Affiliate or not, in the same management or common beneficial ownership whether in whole or in part, as the Member.
- x** Between, the Member and the Club, its subsidiaries, its Directors, its Managers, or any officers, employees, agents, representatives or servants of any of them.
- xi** Against which the Member would be insured if the ship was fully insured:
  - a** For P&I risks under Class 1 or the Charterers' Terms, including Time Charterers' liability for bunkers, and recovery is not barred by the conduct of the Member or the Directors' exercise a discretion not to cover the claim; and
  - b** For Hull risks or Charterers' liability for damage to hull under
    - (i)** Lloyd's Marine Policy MAR Form 1/1/82 with Institute Time Clauses 1/10/83 attached; or;
    - (ii)** Clause **22 (i)** of the Charterers Terms; and
  - c** For War Risks under the Institute Time War and Strikes Clauses Hulls – Time 1/10/83 and the Institute Protection and Indemnity War and Strikes Clauses Hulls – Time 20/2/87;

or equivalent policies on terms no less favourable to insureds.

Save in the case of **b** and **c** for claims or disputes under such policies in respect of deductibles not exceeding 2 per cent of the ship's insured value.

- xii** Liner conferences or consortia.
- xiii** Legislative regulation of competition, mergers and/or restrictive practices.
- xiv** Hotel, entertainment, leisure or retail facilities on board an entered ship, other than claims by passengers under passage contracts.

**xv** Ship Management contracts unless otherwise agreed by the Managers in their absolute discretion and on such terms as they require.

**xvi** Arising out of the ownership or operation by the Member of road vehicles.

## **11. Basis for support**

**i.** The Directors shall have sole and entire discretion as to:

**a** The cases that may be supported by the Club.

**b** The conduct of such cases;

**c** The period for which such cases may be supported;

**d** The extent of such support;

**e** The withdrawal of such support;

**f** The costs and expenses that may be incurred or reimbursed by the Club whether in respect of the Member or third parties; and

**g** Where cases involve insurance by the Club under both the Member's P&I, and Defence cover and/or insurance by third parties or uninsured matters the apportionment of costs and expenses to each of such covers or otherwise; and

shall be entitled to:

**(i)** impose such terms or conditions whatsoever on the Club's support as they may determine; and

**(ii)** at any time review, change the terms of and/or cease such support.

The Directors will not ordinarily exercise their discretion in favour of reimbursement of costs and expenses incurred without the Managers' prior approval unless they determine that it was not reasonably practical to seek that approval before such costs and expenses were incurred

**ii** Without prejudice to the extent of their discretion the Directors shall be entitled to:

**a** Have regard to:

**i** Whether the amount of costs likely to be incurred would be proportionate to the potential benefit to the Member;

**ii** The extent to which the conduct of the Member has contributed to the circumstances giving rise to the request for support;

**iii** The prospects in their sole determination of successfully establishing or avoiding liability and/or recovery; and

**iv** The interests of the membership of the Class as a whole.

**b** Limit the extent of support in respect of particular categories of dispute.

**c** Pay such compensation as they may determine to the Member for losses incurred acting in compliance with the Club's directions under Rule **15 i v** where the latter are given for the purpose of testing the legality of action against the Member or the Entered Ship.

**iii** The Directors shall be entitled to delegate the exercise of their discretion or their powers under this Rule **11 i** and **ii**, or any part of them, to the Managers on such terms as they see fit.

**iv** In the event of such delegation pursuant to Rule **11 iii** the Member shall:

**a** Not be entitled to enquire as to extent or terms of such delegation; and

- b** Be entitled to rely on any action taken by the Managers said to be pursuant to such delegation without further enquiry.

## **12. Pay to be paid**

If any Member shall become entitled to recover any costs or expenses in accordance with these Rules, unless the Directors in the exercise of their absolute discretion otherwise determine, it shall be a condition precedent of a Member's right to recover from the funds of the Club in respect of any such, costs or expenses that he shall first have paid the same out of funds belonging to him absolutely and unconditionally and not by way of loan or otherwise.

In no case whatsoever shall interest be paid on sums due from the Club.

## **13. Limitation of Liability**

- i** Save to the extent otherwise limited in:

- a** the Certificate or terms of entry; and/or

- b** the terms on which the Club agrees to support the Member, the liability of the Club under this Class shall be limited in aggregate to US\$ 10 million in respect of all claims and disputes arising out of any one event or occurrence, save for claims and disputes in respect of construction, modification, refit, repair, purchase, sale or mortgage of a ship or any guarantee ancillary thereto which shall be limited to US\$2 million.

Where a series of events occur which are temporally and/or geographically proximate the Directors may in their absolute discretion determine such events and costs and expenses arising out of them shall be deemed consequent upon, a single occurrence for the purposes of this Rule.

- ii** In no circumstances shall the Club be liable for:

- a** costs awarded in consequence of the Member's misconduct; and/or

- b** third party litigation funding costs to the extent that these exceed the quantum of costs that would be recoverable on assessment on the standard basis in English proceedings or arbitration, or the equivalent in foreign proceedings.

## **14. Claims Handling Notification**

- i** Every Member shall give notification in writing directly to the Managers as soon as it or its agents is/are, or ought reasonably to be aware, of any claim, dispute or other event for which support may be available under these Rules.

- ii** Without prejudice to the members' obligations under sub-paragraph i above the Club shall be under no liability whatsoever in respect of any costs or expenses arising out of any claim, dispute or other event which has been notified to it later than 12 months after the Member or its agent is/are or ought reasonably to be aware of such claim, dispute or other event.

## **15. Conduct**

The Club shall have the right but not the obligation to:

- i** Investigate and/or conduct any matter;

- ii** Initiate or defend any proceedings of whatsoever nature against any parties and in such forum or jurisdiction and at such time as the Managers may determine;

- iii** Appoint any person whether on the Member's or its own behalf;



- iv Direct whatever action as the Managers may determine shall be taken, including alternative dispute resolution, compromise and/or discontinuance on such terms as they see fit;

on behalf of the Member in respect of any claim or dispute, the costs and expenses of which are or may be insured under these Rules.

## 16. Members' Obligations

- i The Member shall be under a continuing obligation promptly to:
  - a Take all reasonable steps to avert or mitigate any claim, loss, costs and/or expenses which are or may be insured under these Rules.
  - b Co-operate fully with the Managers and comply with their directions.
  - c Advise the Managers of any material development or change of circumstance.
  - d Advise the Managers of the existence of, and take all reasonable steps to preserve whether requested or not, all rights of recourse of which it is or becomes aware against third parties.
  - e Provide the Managers or their agents with all information and disclose all documents, irrespective of whether subject to legal privilege, which are in, or come into, its or its agents possession or control which are, or may be relevant, to the claim or dispute, permit inspection and/or copying of the same and authorise its agents to do so.
  - f Make available its employees and third parties where within its control or otherwise use its best endeavours to obtain the co-operation of such persons as are requested by the Managers, to provide information, be interviewed, provide statements and/or give evidence.
  - g Permit the inspection of the entered ship and any other evidence.
  - h Take all reasonable steps to collect, preserve and produce all relevant evidence of whatsoever nature.
  - i Advise the Managers of any fee arrangement or other circumstance of which the Member is or becomes aware which may affect the recoverability of or liability for legal costs or the amount recoverable or for which liable.
- ii The Member shall not without the prior written consent of the Club and complying with the terms of such consent:
  - a abandon, withdraw, discontinue, admit, settle or compromise, or submit to judgment or order whether on liability or quantum in respect of, any claim, defence or proceedings;or
  - b otherwise take any action whereby the recovery of costs may be prejudiced;in respect of any dispute where it is supported by the Club or such support may be sought.

## 17. Cost Recoveries

Where the Club has funded or incurred liability to fund costs incurred by, or on behalf of, the Member and/or the Member's liability to pay costs to another party:

- i the Member shall account to the Club forthwith in respect of all costs including interest on such costs recovered from or paid on behalf of any other party to the dispute to which the Club's funding relates save to the extent that such recoveries exceed the amounts which the Club has

funded or incurred liability to fund including liability to pay costs or interest on costs to any other party.

- ii the Club shall be subrogated to all rights whatsoever of the Member to recover such costs from any other party and have a lien or charge over such recoveries and/or rights to recover to the extent of:
  - a the costs incurred;
  - b its liability to pay costs;
  - c interest on costs paid; and
  - d the costs of exercising its rights.
- iii the Member irrevocably authorises the Club to pursue and enforce its rights of subrogation and to commence proceedings in the Member's name.
- iv where a claim or counterclaim has been admitted or established but the amount recovered is less than the amount of the admitted or established liability, unless the Directors in their discretion otherwise determine, the sum recovered shall be apportioned rateably between the amounts of:
  - a the claim and;
  - b costs which in the opinion of the Directors would otherwise have been recoverable.
- v where a claim is proposed to be settled or compromised the Club shall be entitled as a condition of its consent to require the inclusion of such terms as to the payment and recovery of costs as the Managers in their discretion may require.
- vi In the event of breach of Rule 16 the Member shall pay within 14 days such sum as the Directors in their discretion require to indemnify the Club in respect of the costs or liabilities to pay costs that it has incurred or may incur interest and any costs incurred in enforcing its rights of recovery hereunder.

## **18. Instruction of Professionals**

- i Unless impracticable due to urgency, in which event the Club should be notified as soon as reasonably possible thereafter, no professional being a third party provider of services of whatsoever nature, including but not limited to lawyers, surveyors and/or experts shall be instructed by the Member for any purpose whatsoever in respect of any matter for which cover may be available under these Rules without prior notice to the Managers requesting their approval of such instructions and their terms. Where it is proposed to instruct any professional other than on the basis of their fees being calculated on a time basis, such terms shall be advised to the Managers when approval is sought. In the event of such approval not being given the Managers shall be entitled to require the Member to instruct other professionals of the Club's choosing and on such terms as it requires.
- ii The Managers may at any time in their absolute discretion and without giving reasons direct the Member to terminate the retainer of any professional instructed by it in which event the Managers will have the same rights under this Rule as if no such retainer had been entered into.
- iii Whilst instructed on behalf of the Member, all professionals' retainers shall require them throughout the currency of such retainer regularly and promptly to:
  - a Report to the Managers;
  - b Provide the Managers with copies of all advices, correspondence, other documentation and other material generated by such retainer coming into their possession;
  - c Seek and act on the Managers' instructions;

in respect of the matter on which they have been instructed as if the Club was their principal save that in the event that they receive instructions from the Member which conflict with the obligations set out above they shall notify the Managers forthwith.

The Managers shall be entitled to copies of their retainer and any fee arrangements and shall be notified in advance of any proposed changes.

- iv Any advice or recommendation given by a person instructed on the Member's behalf shall not bind the Club or affect its rights.

## 19. Non-compliance

In the event that the Member:

- i Fails to comply with:
  - a Any of its obligations under Rules **16**, **17** and **18**, including any directions given by the Managers thereunder;
  - b Any terms or conditions to which the Club's support has been made subject; or
- ii Intentionally or negligently withholds or misrepresents any information, documents or evidence which is, or may be, relevant to the Club's support in its possession or control or knowingly causes or permits another party to do so; or
- iii Commits any act or omission which, in the opinion of the Managers, results or may result in the costs incurred by, or the liability for costs including to any other party, of the Club being unreasonably increased;

the Directors shall be empowered in their absolute discretion to:

- (i) Withdraw the Club's support from such date as they determine including prior to the date of such non-compliance;
- (ii) Decline to reimburse the Member for any costs and expenses whether incurred before or after the date of their decision, in whole or in part;
- (iii) Require the Member to repay forthwith the costs borne or reimbursed by the Club or any part of them including paid to third parties;
- (iv) Terminate the entry of the ship and/or any other ships entered by the same Member from a time and date specified by notice in writing to the Member.

## 20. Security for costs

The Club shall be under no obligation to provide security for costs on behalf of any Member irrespective of whether the Club is otherwise supporting the Member under the terms of this Class.

When the Club does provide security for costs:

- i The provision of such security, its amount, form and the terms on which it is provided shall be in the Manager's absolute discretion and the Club shall be under no liability whatsoever for any losses howsoever arising in respect of non-provision, delay in providing or the terms of provision of security;
- ii Having provided such security the Club shall be under no obligation, nor the Managers obliged to exercise their discretion, to provide additional security in respect of the same matter if demanded;
- iii The Managers may at any time until such security is returned for cancellation:

- a Require the Member forthwith to provide alternative security in substitution for that provided by the Club, if acceptable to the beneficiary, or place a cash deposit with the Club or provide such other form of security to the Club as the Managers may direct, equivalent to the amount of the Club's exposure under its security;
  - b Withhold all or any payments due from the Club to the Member under any Class up to the amount of the Club's exposure as a security deposit until its liability under its security has been determined.
- iv Insofar as the Club makes payment under or pursuant to its security and the amount of that payment or any part thereof would not have been payable by, or recoverable from, the Club but for its provision of such security, the Member shall to that extent forthwith indemnify the Club, including the costs of the provision of such security.

## 21. Double Insurance

If a Member is, apart from the insurance provided by this Class, insured in any manner whatsoever against any of the costs and expenses that would otherwise be recoverable from the Club under this Class, no contribution shall be made by the Club to such costs and expenses, on the basis of double insurance or otherwise, to the extent to which it is so insured.

## 22. Non-payment of sums due to the Club

No Member shall be entitled to insurance under this Class whilst any sum whatsoever remains due to the Club in respect of any insurance provided by it in any Class and unpaid.

## 23. Sanctions

i Where:

- a The provision of insurance to a Member or any other entity insured under that Member's entry or of any ship or any voyage or carriage is or becomes prohibited, unlawful or sanctionable; or
- b The ownership, management, operation, charter and/or employment of a ship may howsoever expose the Member entering such ship and/or the Club and/or any other Member of the Club to the risk of being or becoming subject to any sanction, prohibition or adverse action of whatsoever nature by any State or International Organisation;

The insurance by the Club of that Member or entity or ship or voyage or carriage shall cease from the date when such insurance or ownership, management, operation, charter and/or employment becomes prohibited, unlawful or sanctionable, or in the opinion of the Managers the risk thereof arises.

When the risk of any such sanction, prohibition or adverse action ceases, insurance by the Club may be reinstated on such terms and conditions and from such date and time as the Managers determine in their discretion.

- ii No claims, liabilities, costs or expenses shall be paid or recoverable from the Club where such payment or recovery is prohibited or would constitute a sanctionable activity or in the opinion of the Managers may expose the Club to the risk of being or becoming subject to any sanction, prohibition or adverse action other than, where permitted, payment into a designated account in which event the Club's liability shall be discharged by and to the extent of such payment.
- iii In the event of cesser of insurance of a Member or of a ship pursuant to this Rule **provisos (iii) and (iv)** to Rule **35** of the P&I Rules shall apply.

## **24. Incorporation of P&I Rules**

In the case of Owner Members, **Rules 2, 4, 5, 6 viii, 7i-iii, 8, 9, 13, 14, 15, 16, 19 ii-iv, vi, 20, 21, 23, 24, 26, 27, 29, 30, 32, 34, 35, 36, 37, 38, 40, 41, 44, 45, 46, 48 and 49** of Class 1; and

In the case of Charterer Members, **Clauses 2, 4, 5, 7, 8, 9, 10, 11, 12, 13 iii, 14 i-iv, v, 15, 16, 18, 19, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 40, 41, 43 and 44** of the Charterers' Terms

insofar as not inconsistent with the Rules of this Class shall be deemed to be incorporated in and form part of these Rules except that any reference in such Rules or Terms as incorporated to Protection and Indemnity shall be deemed to be a reference to the cover under the Rules of this Class.