



# STEAMSHIP MUTUAL

## EUROPE

With Effect From 20 February 2022 12:00 hrs. GMT

### **EUROPEAN INLAND & SHORT SEA FACILITY - CLARIFICATION TO RULE 25**

Cover is in accordance with the Class 1 Rules of the Steamship Mutual Underwriting Association (Europe) Limited, hereinafter referred to as 'the Club'. The risks covered are as set out under Rule 25 reproduced below and the Clarifications set out hereafter, and are further subject to any special terms of entry agreed and endorsed on the Certificate of Entry. It is important that Members familiarise themselves with all the Club's Rules, including Rule 24, 32 and 47 which deal with the impact on cover of Sanctions.

#### **Rule 25**

##### **Preamble**

The liabilities, costs and expenses against which a Member may be protected and indemnified by entry in the Club are limited to those set out in Rules **25 i** to **25 xxi** inclusive, subject always to

- i** The terms therein provided, and
- ii** The terms of this Rule and of all other Rules of Class 1 Protection and Indemnity insurance, and
- iii** Any other terms or conditions applicable to the Member's entry and in particular, where cover is excluded in respect of any sub-paragraph of this Rule **25** under the terms of the Member's entry, those liabilities, costs and expenses shall not be recoverable under any other sub-paragraph of this Rule **25**.

##### **i Liability to Persons**

Liabilities, costs and expenses as set out in Rule **25 ii** and in respect of the categories of persons set out in Rule **25 iii**:

- a** arising by operation of law; or
- b** arising under any contract including any collective agreement approved in writing by the Managers prior to the event giving rise to the claim, and upon such terms as the Managers may require.

##### **ii Covered Risks**

###### **a Damages or Compensation for Loss of Life or Personal Injury or Illness**

Liability for damages or compensation in respect of personal injury, illness or death;

###### **b Medical and Funeral Expenses**

Hospital, medical and/or funeral expenses, including repatriation of remains, in relation to injury, illness or death of any person, or any Seaman whilst engaged as crew of, or arising out of employment on board, an entered ship, provided reasonably incurred;

###### **c Repatriation Expenses**

- (i)** in respect of persons on board an entered ship consequent on illness or injury to such persons;
- (ii)** in any other case or expenses incurred in order to avoid repatriation which would otherwise have been necessary where the Managers in their discretion determine that such expenses have been necessarily and reasonably incurred;

###### **d Crew Substitutes**

Expenses necessarily incurred in sending abroad substitutes, or in securing, engaging, repatriating or deporting a substitute engaged abroad, to replace any Seaman on board an entered ship who shall have died, or who shall have been disembarked due to injury, illness, or deserted, or in any other case in which the Managers determine that such expenses were reasonably incurred, save that wages shall only be recoverable as part of such expenses when payable to substitutes, engaged abroad, whilst awaiting and during repatriation;

###### **e Shipwreck Unemployment Indemnity**

Wages or other compensation for loss of employment payable to Seamen in consequence of the loss or constructive total loss of an entered ship;

*Provided always that*

in respect of paragraphs **c (ii)**, **d** and **e** of Rule **25 ii** no such expenses shall be recoverable in consequence of the termination of any agreement whether in accordance with its terms, by mutual consent or by the Member's breach, or by dismissal, or the sale of the entered ship or by reason of industrial action, or any other voluntary act of the Member giving rise to such expenses or where such expenses could reasonably have been avoided.

**f Compensation following a casualty**

(i) Damages or compensation for which a Member may be liable under a passage contract to passengers on board an entered ship in consequence of a casualty to that entered ship while they are on board, "casualty" meaning an incident involving either:

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

Provided that any claim on the Club under this paragraph **f** shall be reduced by the amount of any savings accruing to the Member as a result of the casualty.

(ii) Damages or compensation payable in respect of passengers under this paragraph **f** or any other paragraph applicable to passengers under Rule **25 ii** shall include a Member's liability for the cost of forwarding them to destination, returning them to port of embarkation, and their maintenance ashore.

**g Deviation Expenses**

Port and deviation expenses when solely incurred:

- (i) For the purpose of landing or disposing of stowaways, refugees or other persons rescued at sea; or
- (ii) In order to secure the necessary treatment for an injured or sick person being carried on an entered ship; or
- (iii) While awaiting a substitute for a deceased, injured or sick crew member or deserter; or
- (iv) In attempting to save or saving life at sea; or
- (v) In order to search for, and/or recover, persons missing from the ship;
- (vi) To transfer the remains of a deceased person on board to shore for the purpose of repatriation to their place of domicile;

*Provided* that such expenses have in the opinion of the Managers been reasonably incurred.

The expenses recoverable are limited to those additional costs of fuel, insurance, crew wages, stores, provisions and port charges over and above the ordinary operating costs of the Member, which are incurred as a direct result of the deviation, less any savings in expenditure which would have been incurred by the Member but for the deviation.

**h Loss of Baggage and Effects**

Loss of or damage to baggage and effects save for specie, bullion, precious or rare metals or stone, plate or other objects of a rare and precious nature, bank notes or other forms of currency, bonds or other negotiable instruments, whether the value is declared or not, unless in any such case the Managers have been notified prior to any such carriage, and any directions made by them complied with, provided that in respect of crew, cover hereunder is limited to their "effects" as defined in Rule **2**.

**i Expenses in respect of Deserters and Stowaways**

Repatriation expenses in respect of crew members posted as deserters, stowaways, refugees and persons rescued at sea.

*Provided always that*

- (i) such expenses have in the opinion of the Managers been reasonably incurred;
- (ii) the Directors may agree in their discretion to cover any other expenses and costs incurred by the Member in respect of such persons.

**J Maritime Labour Convention Liabilities**

Where a certificate of financial responsibility has been issued by the Club in accordance with the Maritime labour Convention 2006 as amended ("MLC 2006"), or equivalent statutory provisions implementing MLC 2006, in respect of:

- (i) Outstanding wages and repatriation expenses under Regulation 2.5, Standard A2.5 and Guideline B2.5 thereof, and/or

- (ii) Compensation of a seafarer for death or long-term disability under Regulation 4.2, Standard A4.2 and Guideline B4.2 thereof,

The terms of the MLC Extension Clause 2016, as set out below, shall apply.

Note: Maritime Labour Convention Extension Clause 2016

1. Subject only to the other provisions of this MLC Extension ("the Extension"), 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 2.5.2, Standard A2.5.2 and Guideline B2.5; and
  - (b) Liabilities in respect of compensating a Seafarer for death or long-term disability in accordance with Regulation 4.2, Standard A4.2.1 and Guideline B4.2.
2. The Member shall reimburse the Association in full:
  - (a) any claim paid under paragraph 1(a) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable under Rule 25 ii (c); and
  - (b) any claim paid under paragraph 1(b) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable under Rule 25 ii (a).
3. There shall be no payment under paragraph 1(a) or paragraph 1(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.
4. The Association shall not discharge or pay any liabilities, costs or expenses under paragraph 1(a) or paragraph 1(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 by or arise from:
  - (a) Any chemical, biological, bio-chemical or electromagnetic weapon
  - (b) 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.
5.
  - (a) The Extension 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).
  - (b) Whether or not such notice of cancellation has been given the Extension hereunder 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.
  - (c) The Extension 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: the UK, the USA, France, The Russian Federation, the People's Republic of China;
    - (ii) Requisition for title or use.
6. The Extension shall be subject to Rules 47 and 20.
7. Without prejudice to paragraph 5, cover under the Extension 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 A4.2.1.12.
8. Any dispute arising out of or in connection with the Extension shall be resolved in accordance with Rule 48.
9. For the purpose of the Extension:

"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 21.

**k Exclusion of Pollution Liabilities**

Without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under Rules 25 i – iii or any other Rule is subject to Rule 22 iii.

**iii Categories of Persons**

Those persons in the categories **a - e** below, but always excluding:

- (i) personnel (other than marine crew) on board the entered ship (being an accommodation ship), employed otherwise than by the Member under a contract with a third party which has been approved by the Managers;
- (ii) Hotel and restaurant guests and other visitors and catering crew of the entered ship where the ship is moored (otherwise than on a temporary basis) and is open to the public as a hotel, restaurant, bar or other place of entertainment.

**a Crew**

Seamen, including any replacement or substitute.

**Covered risks:**

The following risks as set out in Rule **25 ii** are covered in respect of these persons:

- a** damages or compensation for loss of life or personal injury or illness
- b** medical or funeral expenses
- c** repatriation
- d** crew substitutes
- e** shipwreck unemployment indemnity
- g** deviation expenses
- h** loss of baggage and effects
- j** Maritime labour Convention liabilities

**b Supernumeraries**

Supernumeraries and persons being carried other than pursuant to a contract for carriage.

**Covered risks:**

The following risks as set out in Rule **25 ii** are covered in respect of these persons

- a** damages or compensation for loss of life or personal injury or illness
- b** medical or funeral expenses
- c** repatriation
- g** deviation expenses
- h** loss of baggage and effects

***Note:** It is recommended that whenever practicable an indemnity is taken from non-fare paying passengers. The Managers will provide a form of indemnity on request and may also arrange a separate insurance to cover such passengers' risks and liabilities.*

**c Passengers**

Passengers

**Covered risks:**

The following risks as set out in Rule **25 ii** are covered in respect of these persons

- a** damages or compensation for loss of life or personal injury or illness
- b** medical or funeral expenses
- c** repatriation
- f** compensation following a casualty
- g** deviation expenses
- h** loss of baggage and effects

*provided always that:*

- (i) There shall be no recovery in relation to any liabilities, costs or expenses whatsoever arising out of travel by air save during:
  - (a) Repatriation by air of an injured or sick passenger or of a passenger following a casualty as defined in paragraph **f (i)** of Rule **25 ii**; or
  - (b) Excursions from the insured vessel, (subject to proviso **(ii)** below);
- (ii) There shall be no recovery in respect of contractual liabilities, costs or expenses incurred by a Member in respect of a passenger whilst on an excursion from the entered ship if:
  - (a) A separate contract has been entered into by the passenger for the excursion whether or not with the Member; and/or
  - (b) The Member has waived any or all of its rights of recourse against any sub-contractor or any third party in respect of the excursion.

**d Third Parties**

Third parties within the categories set out below.

**Covered risks:**

The following risks as set out in Rule **25 ii** are covered in respect of these persons:

- a** damages or compensation for loss of life or personal injury or illness
- b** medical or funeral expenses

For a person :

- (i) In respect of liability resulting from negligent navigation or management of the entered ship or other negligent act or omission on board or in relation to an entered ship.
- (ii) In respect of liabilities arising in relation to any act, neglect or default in the handling of the cargo of an entered ship or in consequence of the negligence of persons employed solely for that purpose, from the time of receipt for shipment on quay or wharf until final delivery ex quay or wharf at the port of discharge.

**e Deserters**

Deserters, stowaways, refugees and persons rescued at sea.

**Covered risks**

The following risks as set out in Rule **25 ii** are covered in respect of these persons

- g** Deviation expenses
- i** Expenses in respect of deserters and stowaways

*Provided always that: -*

Any wages due to a deserter shall, if and to the extent permissible by law, be retained by the Member and such savings deducted from a claim for reimbursement under paragraph **i** of Rule **25 ii**.

**iv Life Salvage**

- a** To the extent not recoverable from hull underwriters, cargo owners or underwriters, sums awarded to third parties, or in the Managers absolute discretion, where claimed by third parties to be lawfully recoverable, for the saving of, or attempting to save, the life of any person on or from an entered ship.
- b** To the extent not recoverable from any other party, the costs of search and rescue operations which do not result in the rescue of persons to the extent that these fall within Rule 25 ii g (iv) and the proviso thereto

**v Collision Liability**

Liabilities, costs and expenses arising within the categories and subject to the terms set out below consequent upon collision between an entered ship and any other ship:

- a** One-fourth or such other proportion as may have been agreed by the Managers of such liabilities, costs and expenses, if and to the extent that such proportion is not covered under the collision liability clause contained in the Hull Policies of the entered ship.  
  
Provided that the liabilities, costs and expenses are covered under the usual form of Lloyd's policy with the Institute Time Clauses (Hulls) attached or under other forms of Hull Policies on the entered ship approved by the Managers.
- b** Liabilities, costs and expenses irrecoverable under the Hull Policies of the entered ship, solely because they exceed the ship's insured value under those policies.

- (i) There shall be no recovery under this paragraph **b** if in the opinion of the Managers the insured value is less than an amount reasonably reflecting the free uncommitted market value ("the proper value") of the ship; or
- (ii) The Managers may reduce such recovery to the amount, if any, that would have been irrecoverable under the ship's Hull Policies had the ship been insured for the proper value.
- (iii) At the request of a Member the Managers may, but shall not be obliged to, agree for the purposes of paragraph **b** of Rule **25 v**, the proper value for which an entered ship should be insured for collision liabilities for the current year.

**Note:** *When considering the proper value for which an entered ship should be insured or deemed to be insured for the purposes of Rule **25 v** the Member must satisfy the Managers that the hull and machinery and/or excess liability policies of the Member concerned have been subject to periodic review as market conditions may require, so that the total amount of liability coverage contained in these policies is maintained at a figure which is as near as possible to the free uncommitted market value of the ship at the time of the incident giving rise to the claim.*

*Members should consult with their brokers and/or ship valuers in order to assess, in the light of the above, the amount for which insurances should be effected to cover collision and general average or salvage liabilities. Provided that the necessary insurances are effected, on the basis of the advice received, the Managers will give favourable consideration to a claim under these Rules consequent upon assessment of the value of the ship by a Court or Tribunal at an amount in excess of the insurances so effected.*

- c** A Member's liability to indemnify the owner of the other ship against, or to pay, liabilities, costs and/or expenses of or incidental to:
  - (i) Raising, removal, destruction, lighting or marking of the wreck of such other ship, its cargo or other property on board.
  - (ii) Loss of, or damage to, or interference with rights in relation to any fixed or movable property, whether on or above, in or below land or water, caused by such other ship.
  - (iii) An actual or threatened escape or discharge of oil or any other substance (other than from the entered ship) save for that causing damage to the ship with which the entered ship is in collision or that causing damage to any property on board that ship.
  - (iv) Remuneration payable under the Special Compensation P&I (SCOPIC) Clause or special compensation and any increment awarded thereon under the provisions of Article 14 of the International Convention on Salvage 1989.
  - (v) Other risks excluded under the Hull Policies of the entered ship provided either
    - (a) that the cover under those Hull Policies is no less wide than under the usual form of Lloyd's policy with the Institute Time Clauses (Hulls) attached or
    - (b) that the Hull Policies of the entered ship are in a form previously approved in writing by the Managers and upon such terms as they may require.

- d** Loss or damage to cargo or other property being carried on an entered ship consequent upon collision

*Provided always that*

- (i) the Member is insured by the Club for liabilities in respect of cargo, and subject to the terms of entry and the Rules applicable to such cover.
- (ii) Rule **25 xiii** proviso (vii) shall apply in respect of cargo being carried in the entered ship which is owned by the Member.

**Note:** *It is recommended that bills of lading or any other relevant contract of carriage should whenever possible incorporate a 'Both-to-Blame' collision clause. A recommended form of such a clause is set out under 'Clauses Recommended by the Association' at the end of the Rules.*

- e** Unless otherwise provided for under a form of hull policy on the entered ship approved by the Managers in writing, if the entered ship and the other ship are both to blame for a collision, then (except where the liability of the owners of one or both of them becomes limited by law, in which event claims under this Rule **25 v** shall be settled upon the principle of single liability) claims for reimbursement under this Rule **25 v** shall be settled upon the principle of cross-liabilities, as if the owner of the entered ship had been compelled to pay the owner of the other ship such proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the former in consequence of the collision.

- f** No recovery shall be made under this Rule **25 v**:

- (i) in respect of any excess, franchise and/or deductible borne by the Member under the Hull Policies of the entered ship;
- (ii) if there would otherwise be a right of recovery under the Hull Policies of the entered ship but for the conduct of the Member.

- g** If a claim arises under this Rule upon a collision involving two ships belonging to the same Member, the Member shall be entitled to recover from the Club, and the Club shall have the same rights, as if the ships had belonged to different Owners.
- h** Without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under this Rule **25 v** is subject to the following provisions:
  - (i)** Rule **22 iii**; and
  - (ii)** In respect of pollution, Rule **18 ii** and the note thereto.

**vi Pollution**

Liabilities, losses, damages, costs and expenses caused by or consequent on the escape or discharge or threatened escape or discharge of oil or any other substance from the entered ship, including cargo or any other property intended to be, being, or having been carried on, the entered ship, as follows: -

**a Actual escape of pollutants**

Liability for loss, damage or contamination.

**b Clean up costs**

Costs of any measures reasonably taken for the purpose of avoiding, minimising or cleaning up any pollution, or any resulting loss, damage or contamination, together with any liability for any loss of or damage to property caused by any measures so taken.

**c Prevention costs**

Costs of any measures reasonably taken to prevent an imminent danger of discharge or escape from the entered ship of oil or any other substance which may cause pollution.

**d Costs pursuant to Government Directions**

Liabilities, costs or expenses following a casualty to the entered ship incurred as a result of compliance with the order or direction of any government or authority made in consequence of such casualty (other than in respect of repair or salvage or any permanent structural alteration to an entered ship) for the purpose of avoiding or minimising or cleaning up any pollution or preventing the danger of pollution.

**e Voluntary agreements**

Liabilities, costs or expenses for which a Member may be liable or otherwise incur as a party to any agreement relating to oil pollution previously approved by the Managers on such terms as they may require.

**f Salvors' Expenses**

Liability for special compensation and any increment awarded thereon payable to salvors and incurred by a Member under the terms of the Special Compensation P&I Club (SCOPIA) Clause or under the provisions of Article 14 of the International Convention on Salvage 1989 or assumed under the terms of a standard form of salvage contract approved by the Managers.

*provided always that: -*

- (i)** Unless otherwise agreed by the Managers in writing prior to the event giving rise to a claim, or unless the Directors shall in their discretion otherwise determine, there shall be no recovery under paragraphs **a - f** of this Rule **25 vi** in respect of liabilities, costs or expenses that are recoverable under the Hull Policies of the Entered Ship, or would be recoverable under such Hull Policies but for the conduct of the Member.
- (ii)** Unless otherwise agreed by the Managers in writing prior to the event giving rise to a claim, or unless the Directors shall in their discretion otherwise determine, there shall be no recovery under paragraphs **a - f** of this Rule **25 vi** in respect of liabilities, costs and expenses which would have been recoverable by the Member in general average if the relevant charterparty or other contract of carriage had incorporated the unamended York Antwerp Rules 1994.
- (iii)** Without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under this or any other Rule is subject to Rule **22 iii**.
- (iv)** A Member insured in respect of a ship which is a "relevant ship" as defined in the Small Tanker Oil Pollution Indemnification Agreement, including any addendum to, or variation or replacement of such agreement (STOPIA) shall, unless the Managers otherwise agree in writing, be a party to STOPIA for the period of entry of the ship in the Club.  
  
Unless the Managers have agreed in writing or unless the Directors in their discretion otherwise determine, there shall be no cover under this Rule **25 vi** in respect of such a ship so long as the Member is not a party to STOPIA.
- (v)** A Member insured in respect of a ship which is eligible for entry in the Tanker Oil Pollution Indemnification Agreement, including any addendum to, or variation or replacement of such agreement (TOPIA) shall, unless the Managers otherwise agree in writing, be a party of

TOPIA for the period of entry of that ship in the Club. Unless the Managers have agreed in writing or unless the Directors in their discretion otherwise determine, there shall be no cover under this Rule **25 vi** in respect of such a ship so long as the Member is not a party to TOPIA.

**Note:** See Rule **18 ii** under which, *inter alia*, the extent of the Club's liability for claims involving oil pollution is determined by the Directors.

The limit with effect from 20th February 2017 is USD 1,000,000,000 each vessel any one accident or occurrence.

#### **vii Damage to fixed and floating objects**

Liability for loss of, or damage to, or interference with rights in relation to any fixed or movable property, whether on or above, in or below land or water, and whether or not on board the entered vessel.

*Provided always that:*

**a** There shall be no recovery under this Rule **25 vii** in respect of:

**(i)** the liabilities set out in the following Rules:

Rule **25 i-iii** Persons

Rule **25 ii h** Effects of seamen, supernumeraries or passengers

Rule **25 v** Collision

Rule **25 vi** Pollution

Rule **25 viii** Non contact damage to ships

Rule **25 ix** Towage contracts

Rule **25 xi** Wreck

to the extent that those liabilities are recoverable under the respective Rules set out above or would be recoverable but for any exclusions or other conditions of those Rules and/or under the terms of the Member's entry.

**(ii)** Liabilities in respect of cargo intended to be or having been carried in the entered ship to the extent that those liabilities are recoverable under Rule **25 xiii** or would be recoverable but for any exclusions or other conditions of that Rule and/or under the terms of the Member's entry.

**(iii)** Liabilities arising under the terms of any contract or undertaking, unless approved in writing by the Managers on such terms as they may require.

**(iv)** Any liabilities, costs and expenses covered under the Hull Policies of the entered ship.

**(v)** Any Excess, Franchise and/or Deductible borne by the Member under the Hull Policies of the entered ship.

**b** If a claim is made on the Club under this Rule **25 vii** for loss of or damage to or interference with rights in relation to any property belonging to the Member in respect of whose entered ship the claim arose, the Member shall be entitled to recover from the Club and the Club Rules shall apply in all respects, as if such property belonged to a third party, but to the extent only that such claim is not recoverable under any other insurance upon the said property, and provided that there shall be no recovery under this Rule in respect of any such claim which is not recoverable under any other insurance only by virtue of the existence of the cover provided by the Club.

**c** Without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under this Rule **25 vii** is subject to the following provisions:

**(i)** In respect of pollution, Rule **18 ii** and the note thereto; and

**(ii)** Rule **22 iii**.

#### **viii Damage to Vessels without collision**

Liability for loss of, or damage to, or interference with rights in relation to any other ship or property therein occasioned otherwise than by collision with the entered ship.

**a** Without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under this Rule **25 viii** is subject to the following provisions:

**(i)** In respect of pollution, Rule **18 ii** and the note thereto; and

**(ii)** Rule **22 iii**.

**(iii)** There shall be no recovery in respect of any liabilities relating to cargo or other properties carried on the entered ship unless the Member is insured by the Club under Rule **25 xiii**, and cover in respect of any such liabilities shall be subject to the terms of that Rule and to the applicable terms of entry.



- b** If a claim arises under this Rule **25 viii** upon loss of or damage to any other ship belonging to a Member, in respect of whose entered ship the claim arose, the Member shall be entitled to recover from the Club and the Club shall have the same rights as if the ship lost or damaged had belonged to a third party, but to the extent only that such claim is not recoverable under any other insurance upon such ship, and provided that there shall be no recovery under this Rule in respect of any such claim which is not recoverable under any other insurance only by virtue of the existence of the cover provided by the Club.

## **ix Towage**

- a** Liabilities of a Member, other than for the cost of any contracted services, arising from and/or in respect of the towage of an entered ship

Provided that there shall be no recovery in respect of liabilities, costs and expenses incurred under or pursuant to the terms of a contract for towage of an entered ship, unless that contract:

- (i)** Is entered into during the ordinary course of trading for the purpose of entering, leaving or manoeuvring within a port;
- (ii)** Is entered into during the ordinary course of trading, when the entered ship is habitually towed from place to place and has been declared as such to the Managers, to the extent only that such liability is not recoverable under the Hull Policies of the entered ship other than by reason of the conduct of the Member;
- (iii)** Is on Lloyd's Open Form of Salvage Agreement (1980, 1990, 1995 or 2000, whether or not incorporating SCOPIC) or any other form of salvage contract approved by the Managers in writing on such terms as they may require;
- (iv)** Incorporates a term to the effect that each of the Owner of the entered Ship and the owner of the towing vessel shall be responsible for any loss or damage to his own vessel, and for loss of life or personal injury on his own vessel, without any recourse whatsoever against the other.

- b** Liabilities of a Member arising from and/or in respect of towage by the entered ship,

Provided that in respect of liability for loss of or damage to or wreck removal of a vessel or other floating structure towed by the entered Ship or the cargo or other property on such tow (together with costs and expenses associated therewith), there shall be no recovery under this Rule save insofar as:

- (i)** the towage or attempt thereat is made for the purpose of saving or attempting to save life or property at sea, or
- (ii)** the entered ship is towing under a contract approved in writing by the Managers on such terms as they may require; or
- (iii)** If the entered Ship is working under a time charter and there is no contract between the Member and the owner of the tow, the Managers have approved in writing the terms of that time charter.

- c** There shall be no recovery in respect of liabilities, costs and expenses arising out of towage otherwise than in accordance with this Rule **25 ix** and cover hereunder is in any event limited to the liabilities set out under Rules **25 i –xxi** (excluding this Rule **25 ix**) to the extent that such Rules are applicable to the Member's entry in the Club.

- d** Without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under this Rule **25 ix** is subject to the following provisions:

- (i)** in respect of pollution Rule **18 ii** and the note thereto; and
- (ii)** Rule **22 iii**.

### **Note:**

*The Managers will ordinarily only approve contracts for towage by an entered Ship pursuant to paragraph **b (ii)** above of this Rule **25 ix** in terms not less favourable to the towing vessel than:*

- a) United Kingdom, Netherlands and Scandinavian standard towage conditions.*
- b) Towcon and Towhire*
- c) The Lloyds standard form of salvage agreement (1980, 1990, 1995 or 2000, whether or not incorporating SCOPIC) - no-cure no pay*
- d) A contract that contains a term that the parties to the towage contract, and any parties on whose behalf they contract, shall be responsible for any loss or damage to or wreck removal of their own ship, cargo or property and for loss of life or personal injury thereon, without recourse against the other and will indemnify the other against any such liability (a "knock for knock" clause).*

- e) *Other contracts where*
- (i) *A term or terms of the contract complying with d) above is or is likely to be unlawful or unenforceable in whole or in part; and*
  - (ii) *The contract does not impose on the Member any liability to any person arising out of any act, neglect or default of the owner of the tow or any other person; and*
  - (iii) *The contract limits the liability of the Member under the contract or otherwise to the maximum extent possible by law.*

*In addition, the Managers recommend in all cases, and particularly when cargo is carried on board the towed vessel, that;*

- 1) *a Himalaya clause or similar provision should be incorporated in the towage or other contract under which the entered ship is hired to perform towage services, to protect the tug owner's own employees, servants and sub-contractors from being sued in tort by the hirer or charterer of the tug; and*
- 2) *the towage or other contract under which the entered ship is hired to perform towage services should include a requirement that any other contract entered into by the hirer or charterer of the tug with any third party should contain a Himalaya clause, under which the tug is afforded the same defences as the hirer or charterer.*

#### **x Contracts and Indemnities**

- a** Liabilities in respect of risks covered under any Rule (other than this Rule **25 x** which is applicable to and not excluded by the terms of the Member's entry in the Club, arising under the terms of an indemnity, undertaking or contract made by the Member;

*provided always that:*

the terms of the indemnity, undertaking or contract shall have been approved in writing by the Managers, or the Directors have in their discretion determined that a particular claim falls within the scope of Club cover.

- b** Without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under this Rule **25 x** is subject to the following provisions:

- (i) in respect of pollution, Rule **18 ii** and the note thereto; and
- (ii) **22 iii**

#### **xi Removal of a Wreck**

- a** Costs and expenses of or incidental to or liabilities arising out of the actual, or attempted raising, removal, destruction, lighting or marking of:

- (i) the wreck of an entered ship, including any part thereof; or,
- (ii) cargo, equipment or other property carried on the entered ship, to the extent that the Member is unable to recover those costs from the owner of such property or from any other party;

*Provided always that:*

- (a) Such raising, removal, destruction, lighting or marking is compulsory by law, or the costs thereof are legally recoverable from the Member; and
- (b) The casualty or event giving rise to a claim under paragraph **a** of this Rule **25 xi** occurred during the period of the ship's entry in the Club, and in the case of actual, constructive or compromised total loss of the entered ship the Member shall continue to be covered by the Club in respect of such liabilities notwithstanding the provisions of Rule **36 v**.

- b** Liabilities arising out of the presence or involuntary shifting of, or obstruction caused by, the wreck of an entered ship, including any part thereof or cargo, equipment or other property carried thereon.

*Provided always that*

in respect of paragraph **b** of this Rule **25 xi**:

- (i) The event causing the loss or wreck of the entered ship has occurred during the period of entry of that ship in the Club and liability is attributable to such event;
- (ii) Unless the Directors in their absolute discretion otherwise determine, there shall be no recovery in respect of:
  - (a) Liabilities resulting from the failure of the Member to take such measures as are reasonable to raise, remove, destroy, light or mark the wreck; and
  - (b) Any liabilities incurred more than two years after the entered ship became a wreck.

- c** To the extent of the Member's interest therein, the value of:

- (i) The wreck itself and all stores and materials saved shall be deducted from any reimbursement made by the Club under this Rule **25 xi**; and/or
- (ii) All cargo saved, shall be deducted from any reimbursement made by the Club under either Rule **25 xi a (ii)** or Rule **25 xiii**.

Provided that if any such proceeds are realised by the Member after reimbursement by the Club and without deduction in accordance with paragraphs (i) and (ii) above, the Member shall pay any such proceeds to the Club up to the amount of any prior reimbursement.

- d Unless the Managers otherwise agree in writing, there shall be no recovery under this Rule **25 xi** or any other Rule in respect of any liability, costs or expenses incurred by the Member after the transfer of its interest in the cargo or wreck, otherwise than by abandonment, prior to the actual or attempted raising, removal, destruction, lighting or marking of the wreck or prior to incurring any other liabilities covered by this Rule **25 xi**;
- e There shall be no recovery under this Rule **xi** in respect of any liabilities arising under the terms of any contract or undertaking, unless approved in writing by the Managers on such terms as they may require.
- f Without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under this Rule **25 xi** is subject to the following provisions:
  - (i) In respect of pollution, Rule **18 ii** and the note thereto; and
  - (ii) Rule **22 iii**.
  - (iii) Provisos (x) and (xii) to Rule **25 xiii**.

## xii Quarantine Expenses

Extraordinary expenses consequent on the outbreak of infectious or contagious disease upon an entered ship or in respect of quarantine as follows:-

- a The disinfection of the entered ship or of persons on board her under quarantine or pursuant to any public health order, including the cost of taking in fuel in quarantine, and of loading and discharging cargo and of the victualling of the crew and passengers provided that there shall be deducted from any recovery under this Rule **25 xii** any of such costs and expenses as would have been incurred but for the quarantine or public health order;
- b Fuel consumed or towage in proceeding to and from and lying at a special station or place solely in accordance with quarantine or public health orders;
- c Expenses directly consequent upon deviating to a port or place of refuge and resuming the voyage thereafter by reason of quarantine or public health orders;

*provided always that:-*

There shall be no recovery under this Rule **25 xii** if the entered ship, not already being so contracted, is ordered or chartered to proceed to a port at which it was known or should in the determination of the Directors have reasonably been anticipated that the entered ship would be subject to quarantine.

## xiii Cargo Liabilities

Liabilities and costs insofar as they relate to cargo intended to be or being or having been carried in an entered ship as follows:

### a Loss, Shortage, Damage and other Responsibility

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

### b Handling of Damaged or Worthless Cargo

The extra costs (over and above those required by and/or incurred in the performance of his obligations under the contract of carriage) incurred by the Member in restowing, discharging or disposing of damaged or worthless cargo, provided that the Member has no recourse to recover such costs from any other party and, in respect of such cargo, the Member shall only be entitled to recover such extra costs if and to the extent that they exceed any proceeds of sale of the cargo payable to the Member.

### c Failure of cargo interests to collect cargo

The extra costs and liabilities incurred by the Member arising directly out of the failure by cargo interests to collect or remove cargo from the port or place of discharge or delivery; provided that:

- (i) The Member is legally liable for such costs or has incurred them under the direction or with the approval of the Managers; and
- (ii) The Member has no recourse to recover such costs from any other party; and

- (iii) The Member shall only be entitled to recover such extra costs if and to the extent that they exceed the proceeds of the sale of the cargo; and
- (iv) In any event there shall be no recovery in respect of
  - (a) storage charges for the first 30 days following discharge and
  - (b) any costs and liabilities (including storage charges), under paragraph c of this Rule 25 xiii, which have been incurred prior to notification of the failure to collect or remove cargo being received by the Managers.

#### d Through Transport

Liability for loss and shortage of, damage to or other responsibility in respect of cargo for which the Member may be liable under a through or transshipment bill of lading or other form of contract of carriage providing for carriage partly to be performed by an entered ship, provided that:

- (i) the terms of any such contract of carriage have been approved in writing by the Managers on such terms as they may require.
- (ii) where part of the carriage is performed by the Member in his capacity as an Owner (as defined in Rule 2) of a ship which he has not entered in the Club, the Member may recover from the Club for liability in respect of loss, shortage, damage or other responsibility in respect of cargo only to the extent that it occurred during, or was consequent upon, that part of the carriage performed by the entered vessel.

*Provided always that: -*

in relation to paragraphs a – d of this Rule 25 xiii

#### Hague Rules and Hague-Visby Rules

- (i) Unless and to the extent that the Directors in their discretion otherwise determine or special terms have been agreed in writing by the Managers, there shall be no recovery from the Club in respect of any liabilities, costs and expenses which would not have been incurred or become payable by the Member if the cargo had been carried under a bill of lading or other contract of carriage incorporating terms no less favourable to the carrier than the Hague Rules or Hague-Visby Rules.

*Note: A Member should ensure wherever possible that any bill of lading or other contract of carriage to which any other is the contracting party contains a provision in the same or substantially the same form as the "Himalaya" clause set out under the 'Clauses recommended by the Association' at the end of the Rules, extending any exemptions and immunities of the carrier to that Member, and to each of his servants, agents and subcontractors.*

#### Through and transshipment bills of lading

- (ii) Where a through or transshipment bill of lading or other contract of carriage has been issued by the Member in accordance with paragraph d of this Rule 25 xiii there shall be no recovery from the Club in respect of liabilities, costs or expenses incurred by the Member under or in connection with such a bill of lading or other contract of carriage, unless the Member preserves its rights of recourse against any sub-contractor by sub-contracting only on terms that:
  - (a) the sub-contractor shall be liable to the Member to the same extent as is the Member to any other person under the Member's bill of lading or other contract of carriage, or
  - (b) have been approved in writing by the Managers.

#### Deviation

- (iii) There shall be no recovery from the Club in respect of any liabilities, costs and expenses arising out of or incurred in consequence of a deviation of an entered ship and/or a deviation in relation to cargo before, during or after being carried in an entered ship, including without limitation any geographical or other departure from the contractually agreed voyage or adventure, unless
  - (a) in the case of a deviation authorised by the Member, it shall prior thereto have given notice of the same to the Managers, or in the case of a deviation without its authority, it shall have given notice to the Managers immediately upon receiving information thereof, and the Managers have in writing agreed cover in respect of such losses, costs and expenses on such terms as they may require; or
  - (b) to the extent that the Directors in their discretion otherwise determine.

*Note: If the contract of carriage contains an appropriate Voyage Liberty Clause, an example of which is set out under 'Clauses Recommended by the Association' at the end of the Rules, some unplanned deviations may be permissible. The Managers may in such circumstances determine that no additional premium is to be paid by the Member. (The shipment of cargo on deck without a*

*specific statement to that effect in the Bill of Lading may amount to a deviation in addition to an infringement of the requirements of proviso (x) to this Rule 25 xiii).*

#### Valuable Cargo

- (iv) There shall be no recovery from the Club in respect of any liabilities, costs or expenses arising out of the carriage of specie, bullion, precious or rare metals or stones, plate, jewellery or other objects of a rare or precious nature, banknotes or other forms of currency, bonds or other negotiable instruments, unless the contract of carriage relating thereto and the spaces, apparatus and means in which the same are to be carried and the instructions given with regard to the safe custody thereof have been approved in writing by the Managers on such terms as they may require.

#### Ad valorem bills of lading

- (v) There shall be no recovery from the Club in respect of any liabilities, costs or other expenses arising out of carriage under an ad valorem bill of lading or other document of title, waybill or other contract of carriage in which a value of more than United States dollars two thousand five hundred (USD 2,500) (or the equivalent in any other currency) is declared and/or inserted by reference to a unit, piece, package or otherwise, where the effect of such a declaration/insertion is to deprive the carrier of any right or rights of limitation to which he would otherwise have been entitled and cause him to incur a greater liability than he would have done but for such declaration/insertion, to the extent that such liability thereby exceeds United States dollars two thousand five hundred (USD 2,500) (or the equivalent in any other currency) in respect of any such unit piece or package, unless the contract of carriage has been approved in writing by the Managers on such terms as they may require.

#### Refrigerated Cargo

- (vi) The Managers may at any time require to be satisfied as to the spaces, plant and apparatus, and means used for the carriage of refrigerated cargo in an entered ship, the instructions given to those on board and the terms of the contract of carriage under which the same is to be carried, and the Member shall upon such request supply the relevant information to the Managers. In the event the Managers withhold their approval and so notify the Member in writing, there shall be no recovery from the Club in respect of any loss of or damage to such refrigerated cargo carried upon any voyage which began after the service on the Member of such notice.

#### Member's Own Cargo

- (vii) If the cargo in respect of which a claim is made on the Club under paragraphs **a - d** of this Rule **25 xiii** is owned by the Member, the Member shall be entitled to recover from the Club and the Club Rules shall apply in all respects as if such cargo belonged to a third party, and that third party had concluded a contract of carriage of the cargo with the Member on the terms of the Club's recommended standard terms of carriage as referred to in proviso (i) above.

#### Discretionary Claims

- (viii) Unless and to the extent that the Directors shall in their absolute discretion otherwise determine, (and in any event only if they are satisfied that the Member took such steps as appear to those Directors to be reasonable to avoid the event or circumstances giving rise to such liabilities, costs and expenses), there shall be no recovery from the Club under paragraphs **a - d** of this Rule **25 xiii** in respect of the Member's liabilities, costs or expenses arising out of:
  - (a) the discharge of the cargo or any part thereof at any port or place other than a port or place permitted by the relevant contract of carriage;
  - (b) the delivery of cargo carried on an entered ship under a negotiable bill of lading or similar document of title without the production of that bill of lading or document by the person to whom delivery is made, except where cargo has been carried on an entered ship under the terms of a non-negotiable bill of lading, waybill or other non-negotiable document, and despite having been properly delivered as required by that document, liability nevertheless arises under the terms of a negotiable bill of lading or other similar document of title (issued by or on behalf of a party other than the Member) providing for carriage in part upon the entered ship and in part upon another ship or by another mode of transport;
  - (c) the delivery of cargo carried under a non-negotiable bill of lading, waybill or similar document without production of such document by the person to whom delivery is made, where such production is required pursuant to the terms of and/or the law applicable to that document, except where the Member is obliged by law to deliver or relinquish custody or control of, the cargo, without production of such document;

- (d) the issue of an ante dated or post dated bill of lading, waybill or other document containing or evidencing the contract of carriage;
- (e) the issue of a bill of lading, waybill or other document containing or evidencing the contract of carriage known by the Member or the Master of the entered ship to contain an incorrect description of the cargo or its condition or quantity;
- (f) the failure to arrive or late arrival of an entered ship at any port of loading, or out of the failure to load or delay in loading any particular cargo or cargoes in an entered ship otherwise than under a bill of lading already issued.

#### Loss of Freight or Hire, Detention or Demurrage

- (ix) Loss of freight or hire or any proportion thereof, or claims for demurrage on, detention of, or delay to an entered ship shall be recoverable under this Rule **25 xiii** if, but only if, such loss or claim forms part of a claim for liabilities in respect of cargo or is, with the consent of the Managers, included in the settlement of a claim;

#### Deck Cargo

- (x) Unless and to the extent otherwise agreed in writing by the Managers, there shall be no recovery from the Club in respect of liabilities for loss, shortage, damage or other responsibility arising out of the carriage on deck unless the cargo and the ship are, in the opinion of the Managers, suitable for carriage on deck and the Bill of Lading or other contract of carriage:
  - (a) states that the cargo is carried on deck and either provides that the carrier is free from all liability for loss of or damage to cargo or provides the carrier with rights, immunities and limitations no less favourable than those contained in the Hague Rules or Hague-Visby Rules; or
  - (b) contains an appropriate liberty to carry cargo on deck and provides for the Hague Rules or the Hague-Visby Rules to apply to such cargo.

**Note:** A suitably worded deck cargo carriage clause may exclude liability for deck cargo where the Hague Rules or Hague-Visby Rules do not apply. Two examples are set out under the 'Clauses Recommended by the Association' at the end of the Rules. A clause giving general permission to carry on deck may not be "an appropriate liberty" for the purposes of paragraph (b) of proviso (x) to this Rule **25 xiii**. The Managers will on request but at the Member's expense endeavour to arrange an insurance to cover the Member's liability in respect of cargo carried otherwise than in accordance with paragraphs (a) and (b) of proviso (x) to this Rule **25 xiii**.

#### Exclusion of pollution liabilities

- (xi) There shall be no recovery under this Rule **25 xiii** in respect of:
  - (a) any liabilities, losses, damages, costs or expenses caused by or consequent on the escape or discharge or threatened escape or discharge of oil or any other substance from the entered ship, including cargo or any other property intended to be, being, or having been carried on, the entered ship
  - (b) any liability, loss, damage, cost or expense, including, without limitation, liability for the cost of remedial works or clean-up operations, arising as a result of the disposal or discharge at, presence in, or the escape or discharge or threat of escape or discharge from, any land based dump, site, storage or disposal facility of any substance previously carried or intended for carriage on the entered ship whether as cargo, fuel, stores or waste and whether at any time mixed in whole or in part with any other substance whatsoever, unless the Directors shall in their absolute discretion otherwise determine

#### Heavy Lift Cargo

- (xii) There shall be no recovery from the Club in respect of loss of or damage to or wreck removal of cargo carried on a semi-submersible heavy lift vessel or any other vessel designed exclusively for the carriage of heavy lift cargo, save to the extent that such cargo is being carried under the terms of a contract on Heavycon terms or on such terms as the Managers may otherwise agree in writing.

#### Livestock

- (xiii) Unless and to the extent otherwise agreed in writing by the Managers, there shall be no recovery from the Club under paragraphs **a-d** of this Rule **25 xiii** in respect of any liabilities, costs and expenses arising out of or incurred in consequence of the intended or actual carriage of live animals.

#### xiv Cargo's Proportion of General Average

Contribution by cargo or some other party to the maritime adventure to general average, special charges or salvage which is not legally recoverable solely by reason of a breach of the contract of carriage;

provided always that:

- a Provisos (i) – (xi) to Rule 25 xiii shall apply to any claim under this Rule 25 xiv;
- b Any cargo allowance stated in the adjustment, but for which credit has not in fact been taken by cargo, shall be deducted.

**Note:** *No proportion of any sacrifices of ship or interest, commission or adjustment charges on sacrifices of ship (which are normally recoverable from Hull Underwriters) are payable under this Rule.*

#### xv Ship's Proportion of General Average

A Member shall be entitled to recover the entered ship's proportion of general average, special charges or salvage not recoverable under the Hull Policies by reason of the value of the entered ship being assessed for contribution to general average or salvage at a sound value in excess of the insured value under the Hull Policies; :

*provided always that*

- a There shall be no recovery under this Rule 25 xv if in the opinion of the Managers the insured value is less than an amount reasonably reflecting the free uncommitted market value ("the proper value") of the ship; or
- b The Managers may reduce such recovery to the amount, if any, that would have been irrecoverable under the ship's Hull Policies had the ship been insured for the proper value.
- c At the request of a Member the Managers may, but shall not be obliged to, agree for the purposes of this Rule 25 xv, the proper value for which an entered ship should be insured under the Hull Policies for the current year.

**Note:** *When considering the 'proper value' for which an entered ship should be insured or deemed to be insured for the purpose of Rule 25 xv, the Member must satisfy the Managers that the hull and machinery and/or excess liability policies of the Member concerned have been subject to periodic review as market conditions may require, so that the total amount of liability coverage contained in these policies is maintained at a figure which is as near as possible to the free uncommitted market value of the ship at the time of the incident giving rise to the claim.*

*Members should consult with their brokers and/or ship valuers in order to assess, in the light of the above, the amount for which insurances should be effected to cover collision and general average or salvage liabilities. Provided that the necessary insurances are effected, on the basis of the advice received, the Managers will give favourable consideration to a claim under these Rules consequent upon assessment of the value of the ship by a Court or Tribunal at an amount in excess of the insurances so effected.*

#### xvi Fines

Fines for which a Member is liable or for which a Member, with the approval of the Managers, assumes responsibility, imposed in respect of an entered ship by any court, tribunal or authority of competent jurisdiction as follows:

##### a Cargo

Fines for short or over delivery of cargo, or for failure to comply with regulations concerning the declaration of goods, or the documentation of cargo;

*provided always that: -*

The Member is insured by the Club for liability in respect of cargo, and subject to the terms of entry and the Rules applicable to such cover.

##### b Immigration laws

Fines for breach of any law or regulation relating to immigration;

##### c Pollution

Fines in respect of the accidental escape or discharge of oil or any other substance or the threat thereof;

*provided always that: -*

the Member is insured for pollution liability by the Club, and subject to the terms of entry, the Rules, and the limit of liability applicable to such cover.

**d Smuggling**

Fines for smuggling or any infringement of any customs law or customs regulation other than in relation to cargo carried on the entered ship.

**e Other Fines**

There shall be no recovery in respect of fines other than those specified in paragraphs **a - d** of this Rule **25 xvi** unless the Member has satisfied the Directors that it took such steps as appear to the Directors to be reasonable to avoid the event giving rise to the fine;

*provided always that: -*

any amount claimed under paragraph **e** of this Rule **25 xvi** in respect of any such fine shall be recoverable to such extent only as the Directors in their absolute discretion may determine without having to give any reason for their decision; and

without prejudice to any other provision, exclusion, limitation or condition set out in these Rules, cover under this or any other Rule is subject to Rule **22 iii**.

**xvii Confiscation**

Notwithstanding the terms of Rule **22**, the Directors in their discretion may authorise the payment, in whole or in part, of an Owner's claim for loss of an entered ship following confiscation of the ship by any legally empowered court, tribunal or authority by reason of the infringement of any customs law or customs regulation;

*provided always that: -*

- a** the amount recoverable from the Club shall under no circumstances exceed the market value of the ship without commitment at the date of the confiscation;
- b** the Owner shall have satisfied the Directors that he took such steps as appear to the Directors to be reasonable to prevent the infringement of the customs law or customs regulation giving rise to the confiscation;
- c** any amount claimed under this Rule **25 xvii** shall be recoverable to such extent only as the Directors in their absolute discretion may determine without having to give any reason for their decision;
- d** no such claim shall be considered by the Directors until such time as the Owner has been finally deprived of his full interest in the entered ship.

**xviii Enquiry**

Costs and expenses incurred by a Member in defending himself or in protecting his interests before a formal enquiry into the loss of or casualty to an entered ship in cases which, in the opinion of the Managers, may affect any claim upon the Club arising out of such loss or casualty.

**xix Expenses Incidental to Shipowning**

Liabilities, costs and expenses incidental to the business of owning, operating or managing ships which the Directors may decide to be within the scope of the cover of the Club. Claims under this paragraph shall be recoverable to such extent only as the Directors in their absolute discretion may determine without having to give reasons for their decision.

**xx Legal and other Expenses**

**a Legal costs and Expenses**

Costs and expenses including legal costs and charges, which a Member may incur in respect of any liability or expenditure against which he is insured by the Club;

**b Sue and Labour**

Extraordinary costs and expenses reasonably incurred upon or after any casualty, occurrence or event which is likely to give rise to a claim covered by the Club, solely for the purpose of avoiding or minimising any liability or expenditure arising from such claim;

**c Expenses incurred under direction of Club**

Costs, expenses and losses which a Member may incur by special direction of the Club in relation to claims which the Directors consider affect or may affect the interests of the Members or the Club ;

*provided always that: -*

There shall be no recovery under this Rule **25 xx** in respect of any costs or expenses save to the extent that

- (i)** the same have been incurred with the consent in writing of the Managers, or
- (ii)** the Directors in their absolute discretion shall otherwise determine.



**xxi Loss of or Damage to Containers**

loss of or damage to containers owned or leased by the Member;

*provided always that:*

there shall be no recovery under this Rule **25 xxi** unless the Member has obtained the prior written agreement of the Managers to extend his cover in terms of this Rule and the Member has agreed to such special terms, and has agreed to pay such additional premium, as the Managers may require.

**xxii Deductibles and Policy Limits**

Unless otherwise agreed by the Managers in writing:

- a** any liabilities, costs and expenses recoverable under Rule **25** shall be subject to such deductible(s) as may have been agreed between the Managers and the Member; and
- b** any amount recoverable by the Member hereunder up to the policy limit shall be reduced by the amount of such deductible(s).

Deductibles to be applied to particular claims will be on the basis agreed between the Managers and Members as part of the terms and conditions upon which the entry of the ship is either accepted or continued. In the absence of contrary notification from the Club, the deductibles applicable to any particular entry at the end of any policy year shall be deemed to continue to apply to that entry in the next policy year.

**Clarifications to Rule 25**

**Rule 25 i, ii, iii - various Crew aspects:**

Members are reminded that liability in respect of permanent, temporary or substitute crew may vary largely on the basis of the actual conditions of the crew contract or other type or form of contract for service or employment of crew.

Cover in respect of crew is available in accordance with the Rules and terms of entry, however excluding liabilities in respect of crew insofar as these liabilities fall within the scope and limits of other insurances placed in respect of crew, or are otherwise recoverable under social security systems. Such insurance terms and limits, and any subsequent material amendments thereto, to be notified to the Club.

**Rule 25 (ii) h – Loss of Baggage and Effects:**

Members are reminded that cover for seamen's effects is restricted to the liability as per the Applicable Law and does not therefore automatically include coverage for cars, motorcycles or other exceptional property of the crewmember, irrespective of possible contractual terms. Please also refer to the definition of 'Effects' under Rule 2. Any special terms of entry stating otherwise shall be endorsed on the Certificate of Entry.

**Rule 25 iii c - Passengers:**

Members are reminded that cover for any liabilities, costs and expenses in respect of passengers, meaning any person carried on board the entered ship pursuant to a contract for carriage, is excluded unless prior approval has been obtained and special terms of entry agreed and endorsed on the Certificate of Entry.

**Rule 25 v, vii and viii - Hull & Machinery related aspects:**

Members are reminded that in respect of collision with other vessels or contact with any fixed or moveable object, or otherwise arising, it is assumed that liabilities, costs and expenses arising thereof are insured under a Hull & Machinery policy covering 4/4ths R.D.C. and further 4/4ths F.F.O. and further 4/4ths collision without contact risks, with the sums insured to reflect the free uncommitted market value of the entered ship. The Club shall only cover the excess liabilities, costs and expenses which are irrecoverable there under solely by reason of such liabilities, costs and expenses exceeding the maximum amount recoverable under the Hull & Machinery policy, unless special terms of Entry have been agreed and the Certificate of Entry endorsed accordingly.

**Rule 25 ix- Towage:**

The expression "towage" in the Rules includes any operation in connection with the holding, pushing, pulling, moving, escorting or guiding of or standing by of the "towed" vessel.

Reference to "habitually towed" includes, inter alia, dumb barges.

Cover in respect of liabilities under other special or dedicated contracts may be possible, but only subject to the Managers' approval prior to the towage and special terms of entry being agreed and endorsed on the Certificate of Entry.

The Directors may in their absolute discretion reject or reduce a claim if they consider it was unreasonable, having regard to all the circumstances of the case, to have entered into the particular contract.

Without prejudice to Rule 23 (Double Insurance) there shall be no recovery from the Club where the liabilities, costs or expenses are covered or deemed to be covered under the Hull & Machinery Policy of the entered ship.

Members are reminded that with regard to tugs, pushboats and any other type of vessel performing operations as mentioned under the expression "towage" cover is excluded for liabilities in respect of damage to and / or caused by the towed or pushed object including the cargo therein, up to the entered vessels' Hull and Machinery insured value.

**Rule 25 x – Contracts and Indemnities:**

Members are reminded that cover is excluded for liabilities arising under the terms of an indemnity or contract, unless prior approval has been obtained and special terms of entry agreed and endorsed on the Certificate of Entry.

Note: to avoid cover being prejudiced it is strongly recommended Members do not contract on an individual basis in respect of the normal operations of the entered ship without consulting the Managers.

**Rule 25 xi - Removal of Wreck:**

Members are reminded that where the liability arises, or the costs or expenses are incurred, under the terms of any contract or indemnity and would not have arisen but for those terms, such liability, costs or expenses are only recoverable if and to the extent that:

- (i) those terms have been approved and special terms of entry agreed and endorsed on the Certificate of Entry,
- (ii) the Directors in their absolute discretion decide that the Member should be reimbursed.

Where the liability arises, or the costs or expenses are incurred at a place owned, leased or occupied by the Member, the Member shall be entitled to the same rights of recovery from the Club, and the Club shall have the same rights as if the place were owned, leased or occupied by a third party, provided that the total liability of the Club in respect of any one incident shall not exceed the sum of USD 1,000,000 unless the Managers have agreed to provide additional cover upon such terms and conditions as they think fit and endorsed on the Certificate of Entry.

Without prejudice to Rule 23 (Double Insurance) there shall be no recovery where the liability, costs or expenses are covered or deemed to be covered under the Hull & Machinery Policy of the entered ship.

**Rule 25 xiii - various Cargo aspects:**

In relation to the proviso thereunder, a claim by the Member will not be rejected or reduced where the contract of carriage under which any cargo is or is intended to be carried on, in or by the entered ship on any voyage, is subject to terms no less favourable to the carrier than those of the Applicable Law.

Cargo carried by the entered vessel includes cargo on, in or by any other ship, lighter or barge or similar floating object, when it is actually carried as cargo in or on the entered vessel or such other ship, lighter or barge or similar floating object forming part of a combined unit which includes the entered vessel. Any such ship, lighter or barge or similar floating object in a combined unit as aforesaid is not itself considered to be "cargo" for the purposes of this Rule.

**Rule 25 xiii - specific Cargo aspects:**

- (a) Cover includes the liabilities and additional costs and expenses incidental thereto, (over and above the costs which would have been incurred by the Member under the terms of the contract of carriage), incurred by the Member in reducing, averting, mitigating or minimising any loss, shortage or damage to cargo provided that there shall be no right of recovery unless the action taken by the Member has been approved by the Managers or the Member proves to the satisfaction of the Managers that, having regard to all the circumstances prevailing at the time, the Member acted with utmost care to prevent or reduce possible claims. In the case of temporary storage being required whilst awaiting re-coopering or repacking or after such re-coopering or repacking until delivery or on-carriage, cover shall only be available if and to the extent that the Managers have given their prior written approval.
- (b) NOTE: In the case of cargo carried in open holds there will be no right of recovery from the funds of the Club unless, in addition to anything provided for elsewhere in the Rules or terms of entry, the cargo is suitable for carriage in open holds and such carriage (a) has been agreed with the Shipper in writing or (b)

either is in accordance with the customary practice of the particular trade or is required by Regulations in force.

**Rule 25 xiii proviso (iii) - Deviation:**

Cover includes liabilities, costs and expenses arising from a deviation, in the sense of a departure from the contractually agreed voyage or adventure, or from events occurring before, during or after a deviation, if as a result of such deviation the Member is not deprived of any defences or rights of limitation which would otherwise have been available to him to eliminate or reduce his liability.

**Rule 25 xiii proviso (viii) (b) – Delivery of Cargo:**

Where for the "inland" trade cargo is carried without the issuing of bills of lading, there shall be no right of recovery from the Club unless the Member proves that such carriage is customary in the particular trade and at the particular port or place, and the Managers are satisfied that the Member took all reasonable steps to ensure the cargo was delivered to the rightful Owner.

**Rule 25 xiv – Cargo's proportion of General Average:**

A claim by the Member will not be rejected or reduced where the contract of carriage under which any cargo is or is intended to be carried on, in or by the entered ship on any voyage, is subject to terms no less favourable to the carrier than those of the Applicable Law.

**Rule 25 xvi (a) to (d) - Fines:**

Cover includes the fines described therein if imposed upon any crewmember whom the Member may be legally liable to reimburse or reasonably reimburses with the agreement of the Managers.

**Rule 25 xxii - Deductibles:**

Where one incident gives rise to claims of a different nature, the aggregate of all claims resulting therefrom shall only be subject to the highest applicable deductible, unless any special terms of entry set out in the Certificate of Entry state otherwise.

**Additional general clarifications and provisions**

In the context of these Clarifications to Rule 25: the Club, Certificate of Entry and the Rules are defined as:

The Club : Steamship Mutual Underwriting Association (Europe) Limited

Certificate of Entry: The Certificate of Entry and Acceptance issued

The Rules : The Rules of Class 1 - Protection & Indemnity, subject to the Memorandum and Articles of Association of Steamship Mutual Underwriting Association (Europe) Limited.

Members are further reminded that

- (a) With regard to General Average and "inland" trade the Rhine Rules 1979 or the I.V.R. Rules for G.A. are a suitable and approved alternative to the York Antwerp Rules 1994.
- (b) There shall be no "laid-up" returns unless special Terms of Entry have been agreed and endorsed on the Certificate of Entry.
- (c) The Member shall pay on demand to the Club or its order the amount of any premium tax or other tax levied on or in connection with the insurance or reinsurance provided by the Club to the Member for which the Club determines it or the Member has or may become liable, and shall indemnify and hold harmless the Club in respect of any loss, damage, liability, cost or expense which the Club may incur in respect of such premium tax or other tax

and that the following provisions, exclusions and extensions apply:

**Applicable Law:**

The phrase "Applicable Law" means the provisions of Law in relation to the responsibilities, obligations, duties, rights, liabilities, immunities, exceptions and limitations of a carrier by water which are or would be applied by the competent Court to the particular contract but without regard to any express or special provisions contained therein relating to or otherwise regulating any of the aforesaid matters.

### **Trading Limits**

Members are reminded that cover is provided solely in respect of vessels trading in European "inland waters" only and any deviation therefrom requires the prior approval of the Managers and shall be subject to special Terms of Entry to be agreed and endorsed on the Certificate of Entry. In this context "inland waters" means any harbour, dock, basin, lake, river, canal, or other inland water (whether natural or artificial and whether tidal or non-tidal) including any estuary or arm of the sea within or adjacent to a specified area, but otherwise excluding the open sea within territorial waters and the high seas.

### **Aerial or Aquatic Activities Exclusion Clause**

Cover excludes liabilities to any person in respect of any claim arising as a result of any aerial or aquatic activities.

Aerial or aquatic activities in this context being waterskiing, parasailing, scuba diving, the operation of speed boats and jet-skis, boom-netting and other similar water sports.

### **Specialist Craft Exclusion Clause**

Excluding liabilities, costs and expenses incurred by a Member who contracts to perform specialist operations including but not limited to dredging, blasting, pile-driving, well-stimulation, cable or pipelaying, construction, installation or maintenance work, core sampling, depositing of spoil, professional oil spill response or professional oil spill response training and tank cleaning (otherwise than on the entered vessel) (but excluding fire-fighting) to the extent that such liabilities, costs and expenses arise as a consequence of:

- a) Claims brought by any party for whose benefit the work has been performed, or by any third party (whether connected with any party for whose benefit the work has been performed or not), in respect of the specialist nature of the operations; or
- b) The failure to perform such specialist operations by the Member or the fitness for purpose or quality of the Member's work, products or services, including any defect in the Member's work, products or services; or
- c) Any loss of or damage to the contract work.

Provided that this exclusion shall not apply to liabilities, costs and expenses incurred by the Member in respect of:

- i) loss of life, injury or illness of crew and other personnel on board the entered vessel,
- ii) the wreck removal of the entered vessel,
- iii) oil pollution emanating from an entered vessel or the threat thereof.

But only to the extent that such liabilities, costs and expenses are covered in accordance with the Rules.

Excluding liabilities, costs and expenses arising out of salvage operations conducted by an entered ship, other than where the purpose of such operations is saving or attempting to save life at sea.

NOTE: Members are reminded that any additional cover is only available if prior approval has been obtained and special terms of entry agreed and endorsed on the Certificate of Entry.

### **Delay Cover Extension**

Limit of liability: Euro 5,000,000 any one incident, all vessels in the aggregate. If all claims from Members of E.I.S.S.F., any one incident, exceed the aggregate limit, then each claim to be paid in proportion to the whole.

It has been agreed to extend the Members' cover to include financial losses incurred by the Member as a direct consequence of the entered vessel concerned being delayed following:

- (a) An obstruction of any navigable waterway or port as a direct result of:
  - (i) an accident to a bridge, lock, dike or similar structure, as a result of coming into contact with a vessel or vessels and/or
  - (ii) sinking of another ship and/or her cargo or part thereof, and/or
  - (iii) a collision between other ships, and/or
  - (iv) pollution by any substance from any source.

- (b) Any event, not mentioned under (a), having the same effects, but only to the extent that the Directors in their absolute discretion decide that the Member should recover from the Club.

provided that:

- (a) the appropriate Authorities have prohibited the free use of the waterway for all ships of the same type and size as the entered vessel and this extension shall only take effect from the time and date of such prohibition, and
- (b) the entered vessel has not contributed to the accident in any way whatsoever, or howsoever, directly or indirectly.
- (c) cover hereunder shall be subject to a deductible of 48 hours each incident, per vessel
- (d) cover hereunder shall be subject to a Limit of 20 days each incident, per vessel, or 30 days in the aggregate, per vessel, per Policy Year.
- (e) cover is restricted to a figure of EUR 0.50 per entered ton or € 0.50 per KW engine power for tugs and pushboats , per day, per vessel, pro rata per hour.

### **Additional Clauses in respect of Mutual Premium Owned Entries**

#### **War Risk Extension Clause**

1) Cover excluded under Rule 21 is hereby reinstated subject to the following conditions.

2) This special cover shall be subject to an excess of either:

- a) the "proper value" of the entered ship as defined in the Note to Rule 25 xv, (which, for the purpose of this War Risk Extension only, shall be deemed not to exceed US\$ 500 million), or
- b) the amount recoverable in respect of the claim under any other policy of insurance, whether of war risks or otherwise,

whichever shall be the greater, save that such excess shall not apply where the entry of the ship is solely in the name of or on behalf of a Charterer other than a Charterer by Demise or Bareboat Charterer, provided that the Directors may authorise the payment, in whole or in part, of any claim or part of a claim which falls within such excess, if in their discretion and without having to give any reasons for their decision they decide that the Owner should recover from the Club.

3) Subject to the exception set out below, the limit applying to this special cover shall be US\$ 500 million, any one event each vessel or any limit set out elsewhere in this Certificate, whichever shall be the lesser.

4) All perils included in the special cover shall be subject to the following:

Chemical, Biological, Bio-chemical, Electromagnetic Weapons and Computer Virus Clause:

In no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from

- a) any chemical, biological, bio-chemical or electromagnetic weapon;
- b) the use or operation, as a means for inflicting harm, of any computer virus.
- c) Clause 4 b) shall not operate to exclude losses (which would otherwise be covered under the terms of this policy) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

5) At any time or times before, or at the commencement of, or during the currency of any Policy Year of the Club, the Directors may in their discretion determine that any ports, places, countries, zones or areas (whether of land or sea) be excluded from the insurance provided by this P&I war risks cover. Save as otherwise provided by the Directors, this P&I war risks cover shall cease in respect of such ports, places, countries, zones or areas at midnight on the seventh day following the issue to the Members of notice of such determination in accordance with the terms of the cover provided pursuant to Rule 21 of the Club's Rules. Unless and to the extent that the Directors in their discretion otherwise decide there shall be no recovery from the Club under this P&I war risks cover in respect of any claim howsoever arising out of any event, accident or occurrence within the said area after such date.

6) Whether or not notice has been given under Clause (5) above, this P&I war risks cover shall terminate automatically:

i) upon the outbreak of war (whether there be a declaration of war or not) between any of the following countries:

United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China and this insurance excludes loss, damage, liability or expense arising from such outbreak of war;

ii) in respect of any vessel, in connection with which cover is granted hereunder, in the event of such vessel being requisitioned either for title or use and this insurance excludes loss, damage, liability or expense arising from such requisition.

7) Notwithstanding any other term or condition of this insurance, the Directors may in their discretion cancel this special cover giving 7 days' notice to the Members (such cancellation becoming effective on the expiry of 7 days from midnight of the day on which notice of cancellation is issued by the Club and the Directors may at any time after the issue of notice of such cancellation resolve to reinstate special cover pursuant to the proviso to the terms of the cover issued pursuant to Rule 21 on such terms and conditions and subject to such limit as the Directors in their discretion may determine.

8) When either a Demise, Time, Voyage, Space or Slot Charterer and/or the Owner of the Entered Ship are separately insured for losses, liabilities, or the costs and expenses incidental thereto covered under Rule 21 of the Club and/or the equivalent Rule of any other Association which participates in the Pooling Agreement and General Excess Loss Reinsurance Contract, the aggregate of claims in respect of such losses, liabilities, or the costs and expenses incidental thereto covered under Rule 21 of the Club and/or the equivalent Rule of such other Association(s), shall be limited to the amount set out in the Certificate of Entry in respect of any one ship, any one incident or occurrence. If such claims exceed this limit, the liability of the Club in respect of each Certificate of Entry shall be limited to that proportion of the limit that claims recoverable from the Club under that Certificate bear to the aggregate of the said claims recoverable from the Club and from such other Association(s), if any.

9) Cover for acts of terrorism as defined in the U.S. Terrorism Risk Insurance Act of 2002 (TRIA) is included hereunder, subject to the conditions set out above, the estimated cost of this element of coverage being US\$0.0025 cents per entered gross ton.

10) The Club shall not provide insurance hereunder for any losses, liabilities, costs or expenses if the provision of such insurance would create a liability for the (Insured Owner) under the Tanker Oil Pollution Indemnification Agreement 2006 to contribute to the IOPC Supplementary Fund.

11) Sanctions Clause - Excluding coverage for liabilities, costs and expenses to the extent that the payment of any claim or the provision of any benefit in respect of those liabilities, costs and expenses would expose the Club and/or their reinsurers hereunder to any sanction, prohibition or restriction under United Nations Resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

### **Bio-chem Clause**

1.1 Subject to the terms and conditions and exclusions set out herein, cover is extended to include the liability of the Member:

- (a) To pay damages, compensation or expenses in consequence of the personal injury to or illness or death of any seaman (including diversion expenses, repatriation and substitute expense and shipwreck unemployment indemnity),
- (b) For the legal costs and expenses incurred solely for the purpose of avoiding or minimising any liability or risk insured by an Association (other than under the Omnibus Rule)

1.2 Where such liability is not recoverable under either:

- (a) cover provided by the Club for such liabilities, costs, losses and expenses as would be covered under the Rules but for the exclusion of war risks in Rule 21, or
- (b) Any underlying war risk policies covering the same risks,

1.3 Solely by reason of the operation of an exclusion of liabilities, costs, losses and expenses directly or indirectly caused by or contributed to by or arising from :

- (a) Any chemical, biological, bio-chemical or electromagnetic weapon
- (b) the use or operation, as a means for inflicting harm, of any computer, computer system, computer software program, malicious code, computer virus or process or any other electronic system,

1.4 Other than liabilities, costs, losses and expenses arising from:

- (i) Explosives or the methods of the detonation or attachment thereof
- (ii) The use of the entered ship or its cargo as a means for inflicting harm, unless such cargo is a chemical or bio-chemical weapon.

- (iii) the use of any computer, computer system or computer software program or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

2. Excluded Areas

- 2.1 The Directors may in their discretion decide that there shall be no recovery in respect of any liabilities, costs, losses and expenses directly or indirectly caused by or contributed to by or arising out of any event, accident or occurrence within such ports, places, zones or areas or during such period as they may specify.
- 2.2 At any time or times before, or at the commencement of, or during the Policy Year, the Club may by notice to the Member change, vary, extend, add to or otherwise alter the ports, places, countries, zones and periods specified in Clause 2.1 from a date and time specified by the Club not being less than 24 hours from midnight on the day the notice is given to the Member.

3. Cancellation

Cover hereunder may by notice to the Member be cancelled by the Club from a date and time specified by the Club, not being less than 24 hours from midnight on the day notice of cancellation is given to the Member.

4. Limit of Liability

- 4.1 Subject to Clause 4.2 the limit of liability of the Club under this extension of cover in respect of all claims shall be in the aggregate USD 30,000,000 each ship any one accident or occurrence or series thereof arising from any one event.
- 4.2 In the event that there is more than one entry by any person for Bio-Chem cover as provided herein in respect of the same ship with the Club and/or any other insurer which participates in the Pooling Agreement or General Excess Loss Reinsurance Contract, the aggregate recovery in respect of all liabilities, costs, losses and expenses arising under such entries shall not exceed the amount stipulated in Clause 4.1 and the liability of the Club under each such entry shall be limited to such proportion of that amount as the claims arising under that entry bear to the aggregate of all such claims recoverable from the Club and any such other insurer.

5. Deductible

The deductible shall be the deductible applicable to the relevant cover set out in the Certificate of Entry.

6. Law and Practice

This clause is subject to English law and practice.

**Additional Clauses in respect of Fixed Premium Owned Entries**

**War Risk Extension Clause**

Cover excluded under Rule 21 is hereby reinstated subject to the following conditions. However, in no case shall this extension cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from any chemical, biological, bio-chemical or electromagnetic weapon.

1. Cancellation

In respect of the risks insured by virtue of this War Risk Extension cover may be cancelled by either the Club or the Member giving 7 days notice (such cancellation becoming effective on the expiry of 7 days from midnight of the day on which notice of cancellation is issued by or to the Club).

2. Automatic Termination of Cover

Whether or not such notice of cancellation has been given cover hereunder in respect of the risks insured by virtue of this War Risk Extension shall TERMINATE AUTOMATICALLY

2.1 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;

2.2 in respect of any vessel, in connection with which cover is granted hereunder, in the event of such vessel being requisitioned either for title or use.

3. Five Powers War Exclusion

This insurance excludes

3.1 loss damage liability or expense arising from

3.1.1 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;

3.1.2 requisition either for title or use.

Cover in respect of the risks insured by virtue of this War Risk Extension shall not become effective if, subsequent to acceptance by the Club and prior to the intended time of attachment of risk, there has occurred any event which would have automatically terminated cover under the provisions of this clause.

### **Bio-chem Clause**

1.1 Subject to the terms and conditions and exclusions set out herein, cover is extended to include the liability of the Member:

(a) To pay damages, compensation or expenses in consequence of the personal injury to or illness or death of any seaman (including diversion expenses, repatriation and substitute expense and shipwreck unemployment indemnity),

(b) For the legal costs and expenses incurred solely for the purpose of avoiding or minimising any liability or risk insured by an Association (other than under the Omnibus Rule)

1.2 Where such liability is not recoverable under either:

(a) cover provided by the Club for such liabilities, costs, losses and expenses as would be covered under the Rules but for the exclusion of war risks in Rule 21, or

(b) Any underlying war risk policies covering the same risks,

1.3 Solely by reason of the operation of an exclusion of liabilities, costs, losses and expenses directly or indirectly caused by or contributed to by or arising from :

(a) Any chemical, biological, bio-chemical or electromagnetic weapon

(b) the use or operation, as a means for inflicting harm, of any computer, computer system, computer software program, malicious code, computer virus or process or any other electronic system,

1.4 Other than liabilities, costs, losses and expenses arising from:

(i) Explosives or the methods of the detonation or attachment thereof

(ii) The use of the entered ship or its cargo as a means for inflicting harm, unless such cargo is a chemical or bio-chemical weapon.

(iii) the use of any computer, computer system or computer software program or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

### 2. Excluded Areas

2.1 The Directors may in their discretion decide that there shall be no recovery in respect of any liabilities, costs, losses and expenses directly or indirectly caused by or contributed to by or arising out of any event, accident or occurrence within such ports, places, zones or areas or during such period as they may specify.

2.2 At any time or times before, or at the commencement of, or during the Policy Year, the Club may by notice to the Member change, vary, extend, add to or otherwise alter the ports, places, countries, zones and periods specified in Clause 2.1 from a date and time specified by the Club not being less than 24 hours from midnight on the day the notice is given to the Member.

### 3. Cancellation

Cover hereunder may by notice to the Member be cancelled by the Club from a date and time specified by the Club, not being less than 24 hours from midnight on the day notice of cancellation is given to the Member.

### 4. Limit of Liability



4.1 Subject to Clause 4.2 the limit of liability of the Club under this extension of cover in respect of all claims shall be in the aggregate no more than USD9,000,000 or any limit in respect of P&I liabilities set out elsewhere in the relevant P&I Certificate of Entry, whichever shall be the lesser, each ship any one accident or occurrence or series thereof arising from any one event.

4.2 In the event that there is more than one entry by any person for Bio-Chem cover as provided herein in respect of the same ship with the Club and/or any other insurer which participates in the Pooling Agreement or General Excess Loss Reinsurance Contract, the aggregate recovery in respect of all liabilities, costs, losses and expenses arising under such entries shall not exceed the amount stipulated in Clause 4.1 and the liability of the Club under each such entry shall be limited to such proportion of that amount as the claims arising under that entry bear to the aggregate of all such claims recoverable from the Club and any such other insurer.

5 Deductible

The deductible shall be the deductible applicable to the relevant cover set out in the Certificate of Entry.

6. Law and Practice

This clause is subject to English law and practice.

**Cyber Exclusion Clause**

1. Subject only to paragraph 3 below, in no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus, computer process or any other electronic system.

2. Subject to the conditions, limitations and exclusions of the policy to which this clause attaches, the indemnity otherwise recoverable hereunder shall not be prejudiced by the use or operation of any computer, computer system, computer software programme, computer process or any other electronic system, if such use or operation is not as a means for inflicting harm.

3. Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, paragraph 1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

4. This exclusion shall not apply in relation to liabilities not exceeding US\$10 million in total any one accident or occurrence.

**Public Health Emergency Exclusion**

This clause shall be paramount and shall override any other provision(s) in the terms of entry inconsistent therewith.

1. In the event that the World Health Organization ('WHO') has determined an outbreak of a Communicable Disease to be a Public Health Emergency of International Concern (a 'Declared Communicable Disease'), no coverage will be provided under this insurance for any loss, damage, liability, cost or expense directly arising from any transmission or alleged transmission of the Declared Communicable Disease.

2. The exclusion in paragraph 1 above will not apply to any liability of the Member otherwise covered by this insurance where the liability directly arises from an identified instance of a transmission of a Declared Communicable Disease and where the Member proves that identified instance of a transmission took place before the date of determination by the WHO of the Declared Communicable Disease.

3. However even if the requirements of paragraph 2 above are met, no coverage will be provided under this insurance for any:

- a. liability, cost or expense to identify, clean up, detoxify, remove, monitor, or test for the Declared Communicable Disease whether the measures are preventative or remedial;
  - b. liability for or loss, cost or expense arising out of any loss of revenue, loss of hire, business interruption, loss of market, delay or any indirect financial loss, howsoever described, as a result of the Declared Communicable Disease;
  - c. loss, damage, liability, cost or expense caused by or arising out of fear of or the threat of the Declared Communicable Disease.
4. As used in this exclusion, Communicable Disease means any disease, known or unknown, which can be transmitted by means of any substance or agent from any organism to another organism where:
    - a. the substance or agent includes but is not limited to a virus, bacterium, parasite or other organism or any variation or mutation of any of the foregoing, whether deemed living or not, and
    - b. the method of transmission, whether direct or indirect, includes but is not limited to human touch or contact, airborne transmission, bodily fluid transmission, transmission to or from or via any solid object or surface or liquid or gas, and
    - c. the disease, substance or agent may, acting alone or in conjunction with other co-morbidities, conditions, genetic susceptibilities, or with the human immune system, cause death, illness or bodily harm or temporarily or permanently impair human physical or mental health or adversely affect the value of or safe use of property of any kind.
  5. This exclusion shall not extend this insurance to cover any liability which would not have been covered under this insurance had this exclusion not been included.

This exclusion shall not apply in relation to liabilities not exceeding US\$10 million in total any one accident or occurrence.

These Clarifications should be read in conjunction with the Rules. The full text can be downloaded at the Post & Co (P&I) B.V. website – [www.post-co.com](http://www.post-co.com).