

V Warranties, Conditions, Exceptions and Limitations

RULE 4 PARTS

This Rule is divided into the following parts:

- (A) Terms applicable only to Rule 2 Part A;
- (B) Terms applicable only to Rule 2 Parts A and B;
- (C) Terms applicable only to Rule 3;
- (D) Terms applicable to Rule 2 Parts B, C, D, E and F, Rule 3 and Rule 4.A.2;
- (E) General terms applicable to each and every risk insured by the Association.

RULE 4.A TERMS APPLICABLE ONLY TO RULE 2 PART A

4.A.1.1 Where a ship, other than a British Ship, is, or is to be, entered for insurance against the Queen's Enemy Risks, the Owner or Insured Owner shall produce to the Managers a certificate from the Secretary of State that the ship, or Entered Ship, is accepted by him for reinsurance under the Reinsurance Agreement. In such event the insurance of the Entered Ship by the Association for the Queen's Enemy Risks shall commence from, and continue during, such a time as the conditions stipulated in such certificate shall have arisen or have otherwise been compiled with.

4.A.1.2 If, having given such a certificate, the Secretary of State shall subsequently give notice to the Association that he withdraws his acceptance of an Entered Ship for reinsurance under the Reinsurance Agreement:-

4.A.1.2.1 before the service of a General Premium Notice, the Association shall not thereafter insure the Entered Ship against the Queen's Enemy Risks;

PROVIDED ALWAYS that:-

if at the time that the Secretary of State gives such notice of withdrawal the Entered Ship is within an area specified by a Special Premium Notice, and is being insured by the Association against the Queen's Enemy Risks at an Additional Premium, the insurance against the Queen's Enemy Risks provided by these

Rules shall continue only until the end of the current period for which the Entered Ship is being given insurance at an Additional Premium, and shall then terminate; save that in all cases such insurance shall not terminate in less than seven days;

4.A.1.2.2 after the service of a General Premium Notice, the insurance against the Queen's Enemy Risks provided by these Rules shall continue only until the end of the Premium Period in which it is given, or at the end of any subsequent Premium Period as the Secretary of State may require, and shall then terminate; save that in all cases such insurance shall not terminate in less than seven days.

4.A.2 Notwithstanding the provisions of Rule 4.A.1, any ship which is not accepted by the Secretary of State for reinsurance under the Reinsurance Agreement may be insured by the Association against the Queen's Enemy Risks upon terms which provide that such ship is not reinsured under the Reinsurance Agreement and upon such other additional warranties, conditions, exceptions, limitations, or other terms as the Managers may agree with the Insured Owner.

RULE 4.B TERMS APPLICABLE ONLY TO RULE 2 PARTS A AND B

4.B.1 The Association shall not be liable for any losses, liabilities, costs or expenses covered by the Standard Form of English Marine Policy with the Institute Time Clauses - Hulls (edition of 1.10.83 or any subsequent edition or amendment thereof current at the date of the casualty) attached and with the War Exclusion Clause, the Strikes Exclusion Clause and the Malicious Acts Exclusion Clause inserted therein or which would have been covered thereby if the Entered Ship had been insured under such a policy. A loss shall be deemed to be so insured notwithstanding that it is excluded in whole or in part by any deductible or franchise specified in such a policy.

PROVIDED ALWAYS that:-

losses, liabilities, costs or expenses caused by piracy or violent theft by persons coming from outside the Entered Ship shall be recoverable under Rule 2 Part B notwithstanding that they are also covered by the Standard Form of English Marine Policy with the Institute Time Clauses - Hulls (edition of 1.10.83 or any subsequent edition or amendment thereof current at the date of the casualty) attached.

RULE 4.C TERMS APPLICABLE ONLY TO RULE 3

- 4.C.1** The Association shall not be liable for any claim based upon loss of or frustration of any voyage arising from any of the risks set out in Rule 3 or otherwise.
- 4.C.2** The Association shall not be liable for any claim consequent on loss of time arising from the risks set out in Rule 3 or otherwise.
- 4.C.3** The Association shall not be liable for any losses, liabilities, costs or expenses covered by the Standard Form of English Marine Policy with the Institute Time Clauses - Freight (edition of 1.8.89 or any subsequent edition or amendment thereof current at the date of the casualty) attached and with the War Exclusion Clause, the Strikes Exclusion Clause and the Malicious Acts Exclusion Clause inserted therein or which would have been covered thereby if the Entered Ship had been insured under such a policy. A loss shall be deemed to be so insured notwithstanding that it is excluded in whole or in part by any deductible or franchise specified in such a policy.

PROVIDED ALWAYS that:-

losses, liabilities, costs or expenses caused by piracy or violent theft by persons coming from outside the Entered Ship shall be recoverable under Rule 3 notwithstanding that they are also covered by the Standard Form of English Marine Policy with the Institute Time Clauses - Freight (edition of 1.8.89 or any subsequent edition or amendment thereof current at the date of the casualty) attached.

- 4.C.4** The Association shall not be liable for any claim for loss of freight where such loss is due to any regulation, restriction or impediment affecting the transfer of any currency or the value thereof or to any other order, regulation, enactment or law whatsoever or to anything done or purporting to be done thereunder by an de jure or de facto authority, unless such order, regulation, enactment or law is imposed after the contract of affreightment has been made and in time of war, hostilities, warlike operations, civil commotions, civil war, rebellion or revolution affecting the country or any part thereof in which such order, regulation, enactment or law is imposed.

RULE 4.D TERMS APPLICABLE TO RULE 2 PARTS B, C, D, E AND F, RULE 3 AND RULE 4.A.2

4.D.1 The breach of any one of the warranties contained in Rule 4.D.2 shall suspend the insurance given by Rule 2 Parts B, C, D, E and F, by Rule 3 and by reason of an Entered Ship being accepted under Rule 4.A.2 during the continuance of such breach.

PROVIDED ALWAYS that:-

the breach of any one or more of these warranties shall not operate to suspend such insurance if the Insured Owner shall prove that such breach happened without the fault or privity of the Insured Owner or the managers of the Entered Ship, or was committed in order to avoid loss by the risks hereby insured.

4.D.2 WARRANTIES

4.D.2.1 The Entered Ship shall, at all times, be properly documented and shall not carry false papers.

4.D.2.2 The Entered Ship shall not enter or attempt to leave any port which is known to be blockaded.

4.D.2.3 The Entered Ship shall, so far as possible, comply with all orders given by the Government of the Country where the Entered Ship is owned, registered or managed.

4.D.3 EXCLUSION OF NUCLEAR RISKS AND CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS

The Association shall not be liable for any losses, liabilities, costs or expenses directly or indirectly caused by or contributed to by or arising from:-

4.D.3.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;

4.D.3.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;

4.D.3.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;

4.D.3.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter, with the exception of radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored or used for commercial, agricultural, medical, scientific or other similar peaceful purposes;

4.D.3.5 any chemical, biological, bio-chemical or electromagnetic weapon,

4.D.3.6 PROVIDED ALWAYS that:-

this exclusion shall not apply to any claim in respect of losses, liabilities, costs or expenses arising out of or in consequence of the emission of ionising radiations from, or the radioactive, toxic, explosive or other hazardous or contaminating properties of, "excepted matter" as defined under the Nuclear Installations Act 1965 or any amendments thereto or regulations made thereunder, being carried as cargo in the Entered Ship.

4.D.4 EXCLUSION OF FIVE POWERS WAR RISKS

The Association shall not be liable for any losses, liabilities, costs or expenses arising from the outbreak of war (whether there be a declaration of war or not) between any of the following countries:-

the United Kingdom, the United States of America, France, the Russian Federation, the People's Republic of China.

4.D.5 IMPRUDENT CONDUCT

If any act or omission shall be committed on board or in connection with the Entered Ship which ought reasonably to be anticipated as being of such nature as to render the Entered Ship liable to any loss or damage, or to capture, seizure, arrest, restraint, detention, confiscation or expropriation, and if such act or omission shall cause or in any way contribute to such loss or damage or to such capture, seizure, arrest, restraint, detention, confiscation or expropriation, then the Association shall not be liable for the loss of, damage to or detention of the Entered Ship nor for any losses, liabilities, costs or expenses resulting therefrom.

PROVIDED ALWAYS that:-

4.D.5.1 Rule 4.D.5 shall not apply if the relevant act or omission shall have been committed with the agreement of the Managers or if the Insured Owner shall prove that such act or omission occurred without the fault or privity of the Insured Owner or the managers of the Entered Ship, and

4.D.5.2 the Directors may allow a claim either in whole or in part, which would otherwise be excluded by the provisions of Rule 4.D.5, if in all the circumstances the Directors shall in their discretion see fit.

4.D.6 EXCLUSION OF CERTAIN POLLUTION HAZARDS

The Association shall not be liable for any losses, liabilities, costs or expenses arising from compliance with any order or direction given or any measures taken by any Government or other Authority for the purposes of preventing or mitigating a pollution hazard or threat thereof, unless such hazard or threat has been caused by damage to the Entered Ship arising as a result of a risk specified in Rule 2 Part B or Rule 3.

4.D.7 EXCLUSION OF COMPUTER VIRUSES

The Association shall not be liable for any losses, liabilities, costs or expenses 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 virus.

4.D.8 NOTICE OF CANCELLATION AND AUTOMATIC TERMINATION OF COVER

4.D.8.1 Cover provided by Rule 2 Parts B, C, D, E and F, by Rule 3 and by reason of an Entered Ship being accepted under Rule 4.A.2 may be cancelled by the Association giving seven days' notice (such cancellation becoming effective on the expiry of seven days from midnight of the day on which notice of cancellation is issued by the Association). Cover will, however, be reinstated subject to agreement between the Association and the Insured Owner prior to the expiry of such notice of cancellation as to new rates of premium/contribution and/or conditions and/or warranties.

4.D.8.2 Whether or not notice of cancellation has been given under Rule 4.D.8.1, cover provided by Rule 2 Parts B, C, D, E and F, by Rule 3 and by reason of an Entered Ship being accepted under Rule 4.A.2 shall terminate at the expiry of the periods set out in Rules 5.A.4.1 to 5.A.4.4 upon the outbreak of war (whether there be a declaration of war or not) between any of the following countries:-

the United Kingdom, the United States of America, France, the Russian Federation, the People's Republic of China.

4.D.8.3 Cover provided by Rule 2 Parts B, C, D, E and F, by Rule 3 and by reason of an Entered Ship being accepted under Rule 4.A.2 shall not become effective if, subsequent to acceptance by the Association and prior to the intended time of attachment of risk, there has occurred any event which would have terminated cover under the provisions of Rule 4.D.8.2.

RULE 4.E GENERAL TERMS APPLICABLE TO EACH AND EVERY RISK INSURED BY THE ASSOCIATION

4.E.1 The breach of any one of the warranties contained in Rule 4.E.2 shall suspend the insurance given by these Rules during the continuance of such breach.

PROVIDED ALWAYS that:-

the breach of any one or more of these warranties shall not operate to suspend such insurance if the Insured Owner shall prove that such breach happened without the fault or privity of the Insured Owner or the managers of the Entered Ship, or was committed in order to avoid loss by the risks hereby insured.

4.E.2 WARRANTIES

4.E.2.1 Where a ship is entered in the Association on the basis that she is registered in a particular country and sails under a particular flag, and that she is entitled to be so registered and to remain so registered in that country and to sail under that flag, she shall remain continually so registered in that country and continually sail under that flag unless otherwise agreed by the Managers in writing.

4.E.2.2 The Entered Ship shall, so far as possible, comply with all orders given by or on behalf of Her Majesty's Government of the United Kingdom and, subject to those orders, comply with all orders, prohibitions and directions made under Rule 18, irrespective of whether such orders, prohibitions and directions were made before or after the date of entry of the Entered Ship.

4.E.3 183 DAY RULE

4.E.3.1 In the event of the detention of an Entered Ship which is caused by capture, seizure, arrest, restraint, detainment, confiscation or expropriation, no claim for an actual or constructive total loss shall arise before the expiry of a period of 183 days (or such shorter period as the Directors may in their discretion decide) from the commencement of such detention.

4.E.3.2 If, as a result of such detention, the Insured Owner loses the free use and disposal of the Entered Ship for a continuous period of 12 months, then, for the purpose of ascertaining whether the Entered Ship is an actual or constructive total loss, the Insured Owner shall be deemed to have been deprived of the possession of the Entered Ship without any likelihood of recovery.

4.E.4 FINES, PENALTIES ETC.

The Association shall not be liable for any losses, liabilities, costs or expenses arising from capture, seizure, arrest,

restraint, detainment, confiscation or expropriation or the consequences thereof where such capture, seizure, arrest, restraint, detainment, confiscation or expropriation is not the consequence of hostilities or warlike operations and has been made by or on behalf of any state or public authority on the ground of any alleged contravention of the laws of any state or in order to enforce or secure payment of a fine, penalty or other imposition in respect of such contravention.

PROVIDED ALWAYS that:-

the Directors may allow a claim, either in whole or in part, which would otherwise be excluded by the provisions of this Rule 4.E.4, if in all the circumstances the Directors shall in their discretion see fit being of the opinion that the dominant motive of those detaining the Entered Ship is her capture, seizure, arrest, restraint, detainment, confiscation or expropriation.

4.E.5 SEIZURE BY A COUNTRY WHERE THE ENTERED SHIP IS OWNED, REGISTERED OR MANAGED

The Association shall not be liable for any losses, liabilities, costs or expenses arising from capture, seizure, arrest, restraint, detainment, confiscation or expropriation by or under the order of the Government or any public or local authority of the country where the Entered Ship is owned, registered or managed.

4.E.6 REQUISITION

The Association shall not be liable for any losses, liabilities, costs or expenses arising from the requisition, whether for title or use, of the Entered Ship.

PROVIDED ALWAYS that:-

if the Insured Owner shall continue to have an insurable interest in the Entered Ship after the date of such requisition and if the Insured Owner shall thereafter sustain some further losses, liabilities, costs or expenses (such loss or damage not being the direct consequence of the requisition and not being proximately caused thereby) then nothing herein contained shall prevent recovery by the Insured Owner of such further losses, liabilities, costs or expenses.

4.E.7 ORDINARY JUDICIAL PROCESS

The Association shall not be liable for any losses, liabilities, costs or expenses arising from the operation of ordinary judicial process or any action taken for the purpose of obtaining security.

4.E.8 EXCLUSION OF SUMS INSURABLE UNDER P & I RULES

The Association shall not be liable for any losses, liabilities, costs or expenses which would be insurable under Rules of Class 3 (Protection and Indemnity) of the Association which are current at the date of the event or casualty giving rise to the same, irrespective of whether the Entered Ship is in fact entered in the said Class 3 of the Association, nor for any losses, liabilities, costs or expenses which would be so insurable:-

- 4.E.8.1** if the Rules of the said Class 3 did not include the Rule in respect of double insurance; and
- 4.E.8.2** if the Entered Ship were not insured by the Association against the risks set out in these Rules.

4.E.9 DOUBLE INSURANCE

The Association shall not be liable for any losses, liabilities, costs or expenses recoverable under any other insurance on the subject matter insured by the Association or which would have been so recoverable:-

- 4.E.9.1** apart from any term in such other insurance excluding or limiting liability on the grounds of double insurance; and
- 4.E.9.2** if the Entered Ship were not insured by the Association against the risks set out in these Rules.
- 4.E.9.3** PROVIDED ALWAYS that:-
 - 4.E.9.3.1** with the approval of the Managers an Insured Owner may be insured by special agreement with the Association made either directly with himself or with the other insurers upon the terms that certain losses, liabilities, costs and expenses shall be borne by the Association notwithstanding such other insurance, protection or indemnity;
 - 4.E.9.3.2** this exclusion shall not apply to claims arising under Rules 2.B.1.6 and 3.1.6 which shall (subject to Section 80 of the Marine Insurance Act 1906) be recoverable under these Rules notwithstanding any other insurance, protection or indemnity.

4.E.10 PARTIAL INSURANCE

- 4.E.10.1** For the purposes of Rule 2 Part A the insured value shall be the full Insured Value of the Entered Ship.

4.E.10.2 For the purposes of Rule 2 Parts B, C, D and E and Rule 3 where only a part or a percentage of the Insured Value is insured by the Association, the Insured Owner shall be his own insurer in respect of the uninsured balance. Without prejudice to the generality of the foregoing, the Insured Owner shall, unless the entry of the ship has been accepted on special terms which otherwise provide or unless the Directors in their discretion shall otherwise determine, only be entitled to recover from the Association such proportion of any claims arising under these Parts as the amount insured with the Association bears to the Insured Value.

4.E.11 OBLIGATION TO SUE AND LABOUR

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

4.E.12 OBLIGATIONS WITH REGARD TO CLAIMS

- 4.E.12.1** An Insured Owner must promptly notify the Managers of every casualty, event or claim upon him which is liable to give rise to a claim upon the Association, and of every event or matter which is liable to cause the Insured Owner to incur losses, liabilities, costs or expenses for which he may be insured by the Association.
- 4.E.12.2** An Insured Owner must promptly notify the Managers of every survey or opportunity for survey in connection with a matter referred to in Rule 4.E.12.1.
- 4.E.12.3** An Insured Owner must at all times promptly notify the Managers of any information, documents or reports in his or his agents' possession, power or knowledge relevant to such casualty, event or matter as is referred to in Rule 4.E.12.1 and shall further, whenever so requested by the Managers, promptly produce to the Association and/or allow the Association or its agents to inspect, copy or photograph all relevant documents of whatsoever nature in his or his agents'

possession or power and shall further permit the Association or its agents to interview any servant, agent or other person who may have been employed by the Insured Owner at the material time or at any time thereafter or whom the Association may consider likely to have any direct or indirect knowledge of the matter or who may have been under a duty at any time to report to the Insured Owner in connection therewith.

4.E.12.4 An Insured Owner shall not settle or admit liability for any claim for which he may be insured by the Association without the prior written consent of the Managers.

4.E.12.5 In the event that an Insured Owner commits any breach of his obligations referred to in Rules 4.E.12.1 to 4.E.12.4, the Directors may in their discretion reject any claim by the Insured Owner against the Association arising out of the casualty, event or matter, or reduce the sum payable by the Association in respect thereof by such amount as they may determine.

4.E.13 THE ASSOCIATION'S RIGHT TO SET-OFF

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

4.E.14 TIME BAR

In the event that:-

4.E.14.1 an Insured Owner fails to notify the Managers of any casualty, event or claim referred to in Rule 4.E.12 within one year after he has knowledge thereof; or

4.E.14.2 an Insured Owner fails to submit a claim to the Managers for reimbursement of any losses, liabilities, costs or expenses within one year after discharging or settling the same;

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