



**SHIPOWNERS**

## ▶ LIABILITY INSURANCE POLICY FOR EUROPEAN INLAND CRAFT 2018

### Who we are

EUROP&I is a specialist P&I intermediary acting as the agent of The Shipowners' Mutual Protection and Indemnity Association (Luxembourg) in the provision of this insurance. EUROP&I is managed by DUPI ~~Rotterdam BV~~ [Underwriting Agencies B.V.](#)

The Shipowners' Mutual Protection and Indemnity Association (Luxembourg) is a marine liability insurer operating as a non-profit making organisation. We provide insurance on a mutual basis.

### Your policy documentation

When we insure *you*, *you* become a Member of the Shipowners' Club. *You* will receive a Policy Schedule from EUROP&I setting out the scope of cover and risks insured. Subsequent amendments to cover will be documented by Policy endorsements.

### The protection we provide

This policy protects the interests of European inland craft owners and operators including those whose vessels have a specific license to sail coastal and/or estuarine waters for the purpose of reaching European inland waters.

*You* can expect *us* to respond to all marine liability *claims* made against *you* as the owner or operator of the vessel named on *your* Certificate of Insurance, other than those *we* list under 'What is not covered (exclusions)' and those *claims* which are unrelated to owning and operating the vessel *we* insure for *you*. The reasonable costs of investigating and defending *claims* are paid, too.

[For any \*claim\* to be payable it must arise from an \*incident\* which occurs in connection with the operation of \*your\* vessel and during the period of insurance stated on \*your\* Certificate of Insurance.](#)

### Explanation

These words previously found in the preamble to 'What is not covered (exclusions)' have been rephrased here and amended to clarify that the basis of cover must be rooted in the operation of the insured vessel.

### Your cover

The liabilities insured include:

### Cargo

Liabilities and expenses relating to *cargo* carried or intended to be carried by the insured vessel, ~~arising under contracts of carriage on CMNI or other local applicable statutory cargo terms.~~

We also offer a number of Optional Covers in respect of specific additional *cargo* liabilities and expenses. You will find these listed at the end of this document.

#### Explanation

Cover for cargo where CMNI is applicable remains as wide as previously. This deletion simply ties in with the reference to CMNI now being rehoused under 'Cargo' in the 'What is not covered' section.

#### Collision and Property of others

*Claims* for damage to the vessels and property of others arising from collision and/or contact damage including liabilities in respect of pushed/towed units as per the European Push Conditions, either in excess of *your* Hull and Machinery Policy or to the extent not covered by *your* Hull and Machinery policy, unless we have agreed otherwise and this is stated in *your* Certificate of Insurance.

We also pay *claims* from other parties for personal injury or death which arise out of a collision.

#### Crew, passengers and others

*Claims* from *your crew, passengers* or others for personal injury, illness or death including when those *claims* arise under crew contracts so long as they are reasonable and appropriate for the duties and position held by the crew member when viewed against the prevailing compensation regime. ~~subject to 'What is Not Covered' (exclusions) 6, below.~~ Related medical costs and other expenses are covered, too.

We also cover *claims* made against *your crew* as a result of carrying out their professional duties.

#### Explanation

This broadens the cover to capture contractually agreed compensation subject always to the exclusions including exclusion number 5.

#### Diversion costs

The *extra costs and expenses* ~~of~~ of fuel, insurance, wages, stores, provisions, and port charges incurred in diverting your vessel either to bringing sick or injured crew or others ashore for urgent medical treatment; arranging or to arrange the repatriation of dead bodies from *your vessel*; ~~or delays caused by awaiting crew replacements for the above.~~

#### Explanation

This change clarifies the categories of expenses allowable. We occasionally receive requests for reimbursement for loss of hire as a result of diversion which is more properly characterised as a loss of profit rather than an expense. Loss of hire could represent a very large risk not contemplated within P&I cover. Members can buy loss of hire insurance. Delays caused by waiting for crew replacements is deleted as cover for expenses for diversion is considered adequately provided for.

### **Fines**

*Fines* in respect of short or over delivery of *cargo*, failure to comply with regulations relating to declaration of goods or documentation of *cargo*, accidental escape or discharge of oil or other substances from the insured vessel, breach of any immigration law or regulation, smuggling or any infringement by the Master or crew of any customs law or regulation other than in relation to *cargo* carried on the vessel.

~~*Fines due to an inadvertent breach of any statute relating to health and safety regulations which apply to your vessel providing these were accidental or caused by your crew's independent actions or omissions.*~~

### **Explanation**

This aspect of cover has been removed as it is considered potentially ambiguous and therefore may lead to uncertainty. To ensure Members are not punished and to put them in the best possible position, we have added a new general condition 'Discretionary Claims'. In effect, this is our plain language version of the 'Omnibus Rule', which is available to Members on Rules based cover.

### **Inquiries and criminal proceedings costs**

The reasonable costs and expenses of protecting *your* interests at formal inquiries into a *casualty* and the reasonable costs of defending criminal proceedings brought against *your* Master, crew and agents, if *you* have a responsibility for them.

### ~~**Liabilities arising under contract**~~

~~*Claims relating to liabilities which arise under contract, where the terms of that contract are imposed under the CMNI/CNLI conventions or are customary in the trade. This includes claims where mandatory local law imposes wider liabilities into your contract than exist under these CMNI/CNLI conventions. In all other cases, we must have previously agreed the terms of the contract in order for your liabilities to be covered.*~~

### **Explanation**

This text is deleted as it is unnecessary in this all risks policy. The cargo claims we do not pay are contained and explained in the 'What is not covered' section of this policy under 'Cargo'.

### **Mitigation costs**

When an [event or matter](#) ~~incident~~ arises which will or is likely to lead to a *claim* under this policy, *you* are required to take reasonable steps to mitigate the loss and minimise the amount which would be paid as a *claim* under this insurance. We will reimburse the reasonable costs and expenses *you* incur for this purpose.

### **Explanation**

The word 'incident' is replaced with the wider term 'event or matter' to ensure all mitigation costs are captured and clarify that the trigger point for Members to take steps to mitigate losses is upon the happening of any event or matter.

### Motor Vehicles when lifted or hoisted

We cover liabilities, costs or expenses arising from lifting and/or hoisting motor vehicles to or from *your* vessel by the vessel's own gear. The limit of cover under this section is EUR 20,000 per *claim*.

### Obstruction of Waterways:

We insure the financial loss *you* suffer as a direct consequence of *your* vessel being delayed from discharging its *cargo* at the port or place agreed upon due to an obstruction of any navigable waterway or port caused by:

- an accident involving a marine installation and /or
- the sinking of another vessel and/or some or all of its *cargo*
- and/or
- a collision between other vessels and/or
- *pollution* by any substance from any source.

We may at *our* discretion also reimburse *your* loss for other events having the same effect.

Cover is effective providing the responsible Maritime Authority has prohibited the free use of the waterway for all vessels of the same type and size as *your* vessel. This cover begins from the time and date of such prohibition and to be effective it requires that *your* vessel has not contributed to the accident, whether directly or indirectly.

### Obstruction of Waterways – limitations of cover

The cover we provide is subject to limits which apply to each *incident* and to each vessel, as follows:

- A waiting period of 96 hours until a *claim* is payable
- A maximum of 20 days coverage or 30 days in total each policy year
- [An amount payable per day and pro rata per of EUR 0.25 per entered ton for all cargo carrying vessels if the vessel has registered inland tonnage, or EUR 0.25 per KW if the vessel has no registered inland tonnage.](#)
- ~~An amount payable of EUR 0.25 per entered ton per day and pro rata per hour.~~

*You* must give prompt notice of any event which may give rise to a *claim*. ~~Extended limits are available upon request.~~

### Explanation

This change recognises that some inland vessels have no registered tonnage, in which case the amount payable is limited by reference to KW. Text related to extended limits is considered unnecessary within the policy wording. However, extended cover remains available upon agreement on an individual basis.

### **Personal effects**

Claims for loss of or damage to *personal effects*. The limit of cover is EUR 5,000 per person, per *claim*. The limit of cover for *personal effects of passengers* will be in accordance with the relevant statutory limitation.

### **Pollution and environmental liabilities**

*Pollution* from *your vessel*, including the cost of clean up and reasonable measures taken to prevent an imminent risk of *pollution*. For damage or contamination to property belonging wholly or in part to *you*, *you* shall have the same rights of recovery and we shall have the same rights as if such property belonged wholly to different owners.

Damage to sensitive marine environments providing these occur as a result of an identifiable ~~event~~ **accident or occurrence**. ~~We also cover resulting governmental fines and penalties.~~

### **Explanation**

Cover for Governmental fines and penalties is deleted on the basis that cover for accidental pollution is already provided under the 'Fines' section.

### **Property on board**

Loss of or damage to any equipment, fuel or other property on board the insured vessel other than *cargo* ~~and the effects of any person aboard~~, excluding loss of, or damage to, any property which forms part of the vessel or which is owned, leased or hired in.

### **Explanation**

The words 'and the effects of any person aboard' are deleted as this cover is already catered for under 'Personal Effects'.

### **Quarantine costs**

The *extra costs and expenses* you incur as a direct result of an outbreak of an infectious disease.

### **SCOPIC**

We also provide cover for *your SCOPIC* liabilities when salvors choose to use *SCOPIC* with the Lloyd's Open Form (LOF).

### **War risks (Primary or Excess)**

~~This policy will~~ We pay war risks P&I claims.

The limit of your cover under this war risks section is US\$ 500,000,000 each vessel, any one incident

If you have no other war risks insurance policy in place, your deductible for war risks P&I claims under this section is the deductible shown on your Certificate of Insurance.

If you have purchased a war risks P&I policy from another insurer, your deductible shall be the amount you can recover under your war risks P&I policy with another insurer.

~~s in excess of the policy deductible shown on your Certificate of Insurance if you have no other war risks insurance policy in place.~~

~~If you have purchased war risks insurance from other insurers, the amount recoverable under this policy will be the amount of any loss which exceeds the amount you can recover under that war risks policy or the insured value of your vessel, whichever is greater.~~

### **Explanation**

This section of cover now simplifies the position for situations where a Member has bought war risks P&I insurance from another insurer. Currently, for the purpose of the Inland policy, the war risks P&I deductible is the greater of the insured vessel value OR the amount recoverable by the Member under his alternative war risks P&I policy. The effect of this change is to simplify the position so that, where there is an alternative war risks P&I policy, the deductible will be the amount recoverable under that policy.

The deductible where no other war risks policy is in place, and the limit of cover for war risks, remains unchanged.

### **Wreck removal**

Wreck removal, marking or lighting costs which are compulsory by law, following the loss of your vessel, including claims for the extra cost and expenses of removing cargo and property which is or was carried on board.

We also cover voluntary vessel wreck removal from somewhere you own or lease when no wreck removal order has been given. The residual value of the vessel and any property recovered shall be deducted or offset against your claim.

### **What is not covered (exclusions)**

~~For any claim to be payable it must arise from an incident which occurs during the period of insurance stated on your Certificate of Insurance.~~

~~It is a requirement of this policy that you use your vessel for lawful purposes; otherwise your liabilities may not be covered. In addition, Wwe do not pay *claims* for or arising from the following:~~

#### Explanation

The first sentence of the preamble to 'What is not covered (exclusions)' has now been amended and moved to 'The protection we provide' section at the start of the policy. The text in respect of 'lawful purposes' is deleted as it was duplicated within the 'What is not Covered' section under 'Unlawful Purposes'.

#### 1. Cargo. We do not cover:

Any ~~claims~~ liabilities costs or expenses arising from:

the late arrival or non-arrival of *your* vessel at a port or place of loading ;

~~and/or~~ the issue of a bill of lading, waybill or other document issued with *your* or the Master's knowledge and containing an incorrect description of the *cargo* or its quantity or condition;

~~the deliberate breach of the contract of carriage by *you* or *your* vessel's Master ;~~

~~manager and/or~~ the discharge of *cargo* at a port or place other than that stated in the contract of carriage;

delivery to a person other than as nominated by the shipper;

~~and/or~~ any *claim* for liability which would not have been incurred or sums which would not have been payable by *you* if the *cargo* had been carried on terms no less favourable to *you* than those of the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways ~~Contrat de transport de Marchandises en Navigation Intérieure~~ (CMNI) or Strasbourg Convention on the Limitation of Liability of Owners of Inland Navigation Vessel (CLNI). ~~Unless save where~~ the contract of carriage is on terms less favorable to *you* only solely because ~~of~~ the relevant terms of carriage are being of mandatory application are mandatory;

if the liabilities costs or expenses would not have arisen under a paper trading system we do not pay *claims* arising from *your* use of an electronic trading system (unless we have approved its use in writing) when such electronic trading system is intended to replace paper documents used for the sale of goods and/or their carriage.

#### Explanation

This section is now expanded to ensure that claims are excluded in case of incorrect description of the cargo and also delivery of cargo to a place or to a person in breach of the contract of carriage. This section is also updated so as to allow for paperless trading, so long as agreed by Managers; this is in recognition that electronic trading is set to continue as an increasingly important feature of international trade.

**1.2. Chartering.** If you make your vessel available for hire or reward to other parties and your master and crew remain on board and in command, your liabilities are covered, however this policy does not insure you when you act as a time or voyage charterer of vessels which you do not own and it does not insure the liabilities of your charterers, unless they are a bareboat charterer who we have agreed to name on your policy.

~~Chemical, biological, bio-chemical or electromagnetic weapons. The use or operation, as a means of inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.~~

**2.3. Commercial diving or diving bells.**

**3.4. Contractual indemnities** or any contractual liability unless we have agreed otherwise in writing.

**5. Crew annuities, retirement accounts, pension contributions or crew compensation under crew contracts.**

If injured parties are entitled to receive compensation for personal injury or sickness benefits under a mandatory state or national insurance scheme, we are not obliged to pay such claims. This exclusion applies even if you or the injured parties have failed to take the steps necessary to receive such entitlements. We do not pay claims for or arising out of disputes with crew over contractual liabilities or obligations.

We do not pay Employment Practices liability claims.

#### Explanation

This section has been updated to clarify that we do not pay Employment Practices liability claims.

~~Crew. We do not pay Employment Practices liability claims.~~

**4.6. Deductibles, excesses, franchises or other amount(s)** which you are required to bear under other policies ~~in your name.~~

#### Explanation

This exclusion is broadened to encompass all uninsured losses borne by Members under other policies.

~~5.7. Disputes over contractual liabilities or obligations; or disputes or proceedings over obstruction or interference with your vessel's operations other than as may have been agreed under the Obstruction of Waterways section of this policy.~~

#### Explanation

This superfluous wording has been deleted.

~~6.8. Disputes between named parties. We do not support Members Assureds or Joint Assureds joint Members in dispute with each other, or Co-assureds in dispute with each other or with Members Assureds or joint Members Joint Assureds under the same policy.~~

#### Explanation

This change clarifies that disputes between Co-assureds are not covered.

~~7.9. Environmental damage~~ including wash damage arising from *your* continuing use of, or presence at, a specific location or waterway.

~~8.10. Excursions from the vessel.~~ *Claims* which result from an excursion from the vessel when the claimant has entered into a separate contract for the excursion with *you* or others or, in the absence of a separate contract, where *you* have waived any rights of recourse against any sub-contractor or other third party providing services in connection with the excursion.

~~9.11. Fines or penalties~~ arising from overloading *your* vessel, illegal fishing, carrying contraband or blockade running.

~~10.12. Hazardous waste.~~ Any liabilities, losses, damages, costs arising as a consequence of the discharge or escape of any hazardous waste, previously carried on the insured vessel, from any land based dump, storage or disposal facility.

~~11.13. Hotel or restaurant guests~~ or other visitors to *your* vessel or its catering *crew* when the vessel is moored and is open to the public as a hotel, restaurant, bar or other place of entertainment, unless on a temporary basis, meaning no longer than 30 days in one location.

~~12.14. Illegal payments~~ of any kind such as extortion, blackmail or bribery or any associated costs or expenses.

~~13.15. Kidnap and ransom~~ demands or payments.

**14.16. Motor vehicles.** *Claims arising from the use of mechanically powered vehicles whilst ashore [which would be recoverable under a fully comprehensive motor vehicle policy](#).*

#### Explanation

This exclusion is amended so that it is limited to claims that would be recoverable under a motor policy.

~~**Non-compliance.** *If you know or should reasonably have known that your vessel is not in compliance with the requirements of her Flag State, certifying authority or classification society for any reason whatsoever, claims which arise as a result, will not be payable.*~~

#### Explanation

This section, now deleted, contained various requirements for vessels to comply with flag state, certifying authority or classification society and the consequences for failing to do so; these are now clarified and re-housed within new general condition 'Classification, Certifying Authority or Flag State'.

**15.17. Nuclear risks** or *claims* arising from radioactivity other than liabilities, costs and expenses arising out of the carriage of *cargo* which is 'excepted matter' (as defined in the Nuclear Installations Act 1965 of the United Kingdom or any regulations made under that Act).

**16.18. Other Insurances.** *We do not cover liabilities which are recoverable from any other insurance (or where they could have been recoverable had such other insurance not contained a provision similar to this). We do not cover liabilities for hull and machinery risks for which you would have insurance cover under a separate policy or policies, were you to be fully insured for such risks on terms not less wide than those of the Lloyd's Marine Policy with the Institute Time Clauses (Hulls) 1/10/83 attached.*

**17.19. Own property.** Loss of or damage to owned or leased property of yours including *your* vessel.

**20. Personal effects** of *crew, passengers* or others which are cash, precious metals or stones or other objects of a rare or precious nature.

**18.21. Salvage services** to *your* vessel or demands for general average payments and any related disputes other than *claims* for *unrecoverable general average contributions* or the *vessel's proportion of general average* [or amounts recoverable under the 'SCOPIC' section of your policy](#).

**19.22. Sanctions.** *We do not pay claims which would expose ~~us~~ [EUROP&I, the Shipowners' Club or its Managers](#) to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the United Kingdom or the United States of America. Furthermore, we are not liable to pay any *claim* to you, in full or in part, if we are unable to make a recovery from our reinsurers in respect of that *claim*, due to*

sanction restrictions placed on one or all of *our* reinsurers.

#### Explanation

This clarifies that we do not pay claims where the Club or its Managers would risk exposure to sanctions.

**20.23. Ship Repair activities.** There is no cover for liabilities arising out of *your* activities as a ship repairer or ship builder.

**21.24. Specialist operations.** Other than *claims* for loss of life, injury or illness of *crew* and other personnel on board *your* vessel and/or the wreck removal of *your* vessel and/or oil *pollution* emanating from *your* vessel, we do not pay *claims* arising from the specialist nature of the *specialist operations* or *claims* for failing to perform such, or the loss of or damage to contract works or the fitness for purpose and quality of *your* work, products or services.

**22.25. Surveys & Management Audit defects.** *Claims* which arise out of defects identified during a survey and/or management audit are not payable.

**26. Time Bar.** We do not pay a claim if you have not told us of any event or matter which could give rise to that claim within one year of your first knowing about it (or in our view when you should have known of it); or if you do not submit to us for reimbursement a claim within a year of having yourself settled it.

We do not pay a claim if you have not told us in writing of that claim, within three years of the event or matter that gave rise to it.

#### Explanation

This guards against the risk of Members prejudicing their claims through late presentation.

**23.27. United States jurisdiction.** There is no cover for any contract *you* have entered into if it is subject to US jurisdiction or *your* Principal or Sub-contractor is a US entity. Punitive damages or exemplary damages however described, imposed by a court in the United States of America are also excluded.

**24.28. Unlawful purposes** including carrying contraband, blockade running, illegal fishing, or being employed in an unlawful or prohibited activity or trade, or permitting any activity on board or in connection with your vessel which is unsafe or unduly hazardous.

#### Explanation

It would naturally be improper to pay claims to Members who permit unsafe or hazardous activities on board their vessels. This wording has moved from 'Wilful misconduct' below.

**25.29. Wilful misconduct** being an intentional act or deliberate omission done by you with

knowledge that it will probably result in loss, or done with a reckless disregard for the probable consequences. ~~acts intentionally done or deliberate omissions including your infringement of any law, rule or regulation, or permitting any activity on board or in connection with your vessel which is unsafe or unduly hazardous.~~

#### Explanation

See the amendment to 'Unlawful purposes'. This section has also been bolstered to reinforce and streamline the exclusion for Wilful misconduct.

30. Wrecks which occur because the vessel has been abandoned or has been allowed to become dilapidated through *your* lack of activity or neglect.

#### 31. War risks

There is no cover for any claims arising from war risks when the liabilities costs or expenses arise directly or indirectly from any of the following:

- any chemical, biological, bio-chemical or electromagnetic weapon; or
- the use or operation, as a means of inflicting harm, of any computer virus except that this exclusion 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; or
- the outbreak of war (whether declared or not) between any of the following countries: the United Kingdom, the United States of America, France, the Russian Federation, the Peoples Republic of China; or
- incidents caused by, or contributing to, or arising out of, any event, accident or occurrence within specific ports, places, zones or areas, as we have notified to you either at the commencement of, or during the period of, your policy. We may change, vary, extend, add to or otherwise alter these specified ports, places, zones and areas upon twenty four hours notice given by us to you; or
- requisition for title or use.

If we reinsure in whole or in part any war risks then you are entitled only to recover the net sum we recover from such reinsurance together with any proportion of cover that we retain.

~~If we have agreed to insure any of the risks which we say we do not cover, it will be shown on your Certificate of Insurance.~~

#### Explanation

This amendment clarifies the exclusions for claims arising from war risks. This exclusion should be read alongside the now deleted policy exclusion for chemical, biological, bio-chemical and electromagnetic and computer virus risks. Whereas these specific exclusions were previously pertinent to ALL claims under the policy, our reinsurance arrangements for 2018 allow us to widen cover and to apply these specific exclusions only to claims arising from war risks.

For the first time, claims arising from war risks are not payable where they are unrecoverable from reinsurers.

### General conditions

#### Assignment and Subrogation

You cannot assign your policy to any other person other than with our prior written approval.

However, if we are insuring you as a private individual, in the event of your death, cover will automatically continue for the benefit of a family member inheriting the vessel or your executors for a period not exceeding 60 days.

If we make a payment to you or any joint Member or Co-Assured under this policy, or under any security we have given, and you, the joint Member and Co-Assured have any rights to claim against a third party that are connected to the payment we make, then we will be subrogated to all of those rights to the extent of our payment, including any interest and costs. You and the joint Member and Co-Assured agree to take any steps that we reasonably require to this end.

### Cancellation

~~You may cancel cover at noon GMT on the renewal date of any year by giving us not less than 30 days' prior written notice of cancellation. We may, at any time, cancel this policy by giving you not less than 30 days' notice in writing and we may at our option give you 7 days' notice of cancellation at any time to discontinue cover for war risks.~~

### Explanation

The Cancellation is now clarified and re-housed within a new **General Condition** entitled 'Termination and Cancellation'

### Claims

If a claim is made against you, you must follow the claims handling procedure set out at the end of this document. If you fail to do so your ability to claim may be affected.

### Classification, Certifying Authority or Flag state

~~Your vessel must maintain the Class, Certifying Authority or Flag State certification that it has at the time we agree to insure it. Any lapse in, or loss of, such certification must be notified to us immediately and may prejudice your ability to claim under the insurance.~~ Your vessel must comply with all statutory requirements of its classification society, certifying authority, flag State and governing regulations, as

applicable, and maintain the classification society, certifying authority or flag State certification that it had at the time we agreed to insure it. Subject to the provisions of the Insurance Act 2015, we will not pay any *claims* arising during such time as you have failed to comply with this general condition, even if your failure to comply has not increased the risk of any loss.

#### Explanation

These requirements for vessels to comply with flag state, certifying authority or classification society have been moved from 'Non Compliance' within the 'What is not Covered' section and are now set out here within this new general condition. These revised words now provide for an absolute obligation; subject to the Insurance Act 2015, claims are not payable during such time as this general condition is not complied with

#### Complaints

We take all complaints seriously. If *you* are dissatisfied with *our* handling of *your claim* or any other aspect of *your* insurance or the service *we* provide, please contact *us*. *Our* complaints handling policy is detailed on website at: [www.europandi.eu](http://www.europandi.eu)

#### Deductibles

Your entitlement to make a *claim* is subject to the *deductible* that appears on your certificate of insurance. If a single *incident* gives rise to a number of *claims* with different *deductibles* then the total of all *claims* will be subject to the highest *deductible* that applies to any one of the *claims*.

#### Explanation

This new general condition makes clear that the entitlement to claim is subject to a deductible. Also, that where a single incident gives rise to a number of claims, only one deductible will apply, namely the highest deductible that applies to any one of the claims.

#### Discretionary Claims

The Board of the Shipowners' Club has discretion to pay a *claim* in whole or in part for any liabilities or expenses which are not covered under this policy or any contract that we have with you, so long as they are related to owning and operating your vessel.

#### Explanation

This introduces for the first time the ability for Members to submit any claim to the Club's board and seek a discretionary decision. This is very much in favour of the Members and would be most unusual in a commercial insurance policy. The advantage of this clause is clear for the Members and means that our cover can be distinguished from our competitors.

### **Fair Presentation**

You have a duty to make a fair presentation of the risk, by disclosing all material matters which you know or ought to know or, failing that, by giving us sufficient information to put us, as a prudent insurer, on notice that we need to make further enquiries in order to reveal material circumstances. If you fail to do so your ability to recover a claim from us may be prejudiced.

### **Explanation**

The duty of Fair Presentation in the new Insurance Act 2015 has replaced the obligation of disclosure set out in the Marine Insurance Act 1906. This general condition is now more visible and now replaces 'Material Facts'.

### **Dispute resolution**

~~In the unlikely event that we cannot resolve your complaint satisfactorily,~~ if any dispute arises out of or in connection with this Policy or any contract with us, then such dispute ~~the matter~~ will be referred to arbitration in London, one arbitrator to be appointed by us, one by you, and a third to be appointed by the arbitrators. The reference to arbitration and the arbitration proceedings themselves will be subject to the provisions of the Arbitration Act 1996 and any statutory modification or re-enactment thereof.

### **Explanation**

This new wording makes the natural distinction between complaints and disputes.

### **Joint ~~Assureds~~ Members and Co-Assureds**

If we issue a Certificate of Insurance in the name of more than one person or company, those additional parties will be known as joint Members. Joint Members are bound by all the terms and conditions of your policy and certificate of insurance and each of them are individually responsible for paying all premium and any other sums due to us under your policy and are bound by all of the terms and conditions of your policy and your certificate of insurance. If we make payment to, or on behalf of, any joint Members for any amount due under your policy, we will make no further payment to any person, including you, in relation to the amount that was due.

If there is a failure by any joint Member to comply with the 'Fair presentation' section of your policy or if the conduct of any joint Member would entitle us to decline a claim, then we will treat such failure and/or conduct as extending to all joint Members. We direct all correspondence to you and you receive it on behalf of all joint Members.

If we issue a Certificate of Insurance naming a Co-Assured then we agree to extend cover to that named Co-Assured, but only if: the named Co-Assured is held responsible for a claim which is properly your responsibility and for which you would have been able to recover from us under this policy, had that claim

been made and enforced against you. If you have a contract with a named Co-Assured, your responsibility means your responsibility as agreed in that contract.

If we make a payment to, or on behalf of, a named Co-Assured for a claim then, in relation to that claim, we will not make payment to any other person, including you, and we agree to waive our rights of subrogation, if any, against the named Co-Assured.

~~We may agree to insure your vessel in the name of more than one person or company and to note them on your Certificate of Insurance as Joint Assureds. In these circumstances, the terms and conditions of the policy (including premium payment obligations) apply equally to all. An act, omission, statement or claim of any Joint Assured similarly affects all of them. We direct all correspondence to the first named Assured, who receives it on behalf of the others.~~

~~Whenever you have a liability which is recoverable from us but the claim for that liability is made against another person or company who appears on your Certificate of Insurance as a Co-Assured, rather than a Joint Assured, we will reimburse claim payments made by that Co-Assured, up to the limit of your liability for those payments. We will not subrogate against Co-Assureds for claims which we pay due to your liability.~~

~~When we pay a claim to any one of the Joint Assureds or Co-Assureds, we have discharged our liability to all of them.~~

## Explanation

This change clarifies the rights and obligations of Joint Members and Co-Assureds. It also makes clear that where a Member has entered into a contract with a Co-Assured, the cover will respond to the extent of the Member's responsibility under that contract. Further, for claims to be recoverable by Co-Assureds they must firstly have been held responsible to pay. Finally the clause has been updated with respect to 'Fair Presentation' obligations under the Insurance Act 2015.

## Governing Law

You and we agree that your policy is governed by and will be construed in accordance with English law. In particular, it is subject to and incorporates the provisions of the Marine Insurance Act 1906 and the Insurance Act 2015 and all amendments thereto except to the extent that such Act or modification may have been excluded by this policy or any contract of insurance between us and any insured party. It is not intended that rights should be acquired by any third party by reason of the Contracts (Rights of Third Parties) Act 1999 or any similar legislation in any jurisdiction.

## Lay up

If your vessel has been laid up for six months or more outside its usual seasonal trading pattern, you must give us notice that the vessel will be reactivated no less than seven days before the vessel leaves its place of lay up. When we receive notice from you we may appoint a surveyor, at your cost, to inspect the vessel on our behalf and you must provide your full co operation to this end. You must comply with any recommendations that we make following such an inspection. We do not pay any claims arising after you

have failed to comply with any requirement of this general condition, until you have complied with all requirements of it.

We do not return premium for periods of lay up. Premium is on the basis of cancelling returns only.

#### Explanation

This new general condition provides that Members must notify the Club of their intention to reactivate no less than seven days before the vessel leaves its place of lay-up. It further provides that the Club be entitled, at Member's cost to survey the vessel following lay-up and that claims will not be payable during such time as these requirements are not fulfilled. This new general condition recognises the potentially enhanced risk presented by vessels that are reactivated following a period of lay-up.

#### Material facts

~~You have a duty to make a fair presentation of the risk, by disclosing all material matters which you know or ought to know or, failing that, by giving us sufficient information to put us, as a prudent insurer, on notice that we need to make further enquiries in order to reveal material circumstances.~~

#### Explanation

See above explanation for new general condition 'Fair Presentation'.

#### Premium

Your insurance premium will be fixed annually and no further premium will be payable, unless you ask us to extend your insurance cover or the material facts upon which we base the cover change. You must pay your premium in such instalments and on such dates as we have specified, ~~otherwise we will not pay claims and we may cancel your insurance policy. We are entitled to call upon Joint Assureds to settle any unpaid premiums.~~

#### Explanation

Cancellation for failure to pay premium is now dealt with separately under new general condition 'Termination and Cancellation'; hence this deletion.

#### Reinsurance

We have the right to agree contracts of reinsurance relating to your insured vessel(s) with insurers of our choice, on terms as agreed between us and those other insurers.

#### Explanation

This new general condition makes clear the basis upon which the Club may enter into contracts of reinsurance.

### Security

Where we consider it appropriate and necessary we may provide letters of undertaking, bonds or bank guarantees on your behalf, as security for covered claims, providing you have paid any claims deductible which is due to us.

### Severability clause

In the event that a court or tribunal finds any part of this policy to be unenforceable, invalid or to be in conflict with any mandatorily applicable statute or law, or public policy, such part shall be severed and such a finding shall not affect the enforceability, validity or legality of the remainder of the policy, which shall remain in full force and effect.

### Shared Ownership

If the master or any crew member is also the owner or part-owner of an insured vessel, the liability shall, in relation to claims arising from the act or omissions of such person in his capacity as master or crew member, be assessed as if such master or crew was not the owner or part-owner. This shall not apply where the claim arises from the privity or wilful misconduct of an insured party or the owner or part-owner.

### Surveys & Management Audits

We may at any time appoint a surveyor, at our cost, to inspect your vessel. We may also wish to perform a Management Audit of your shore side operation. If such an inspection or audit identifies defects in your vessel and/or your management systems, we may require that you remedy them as directed at that time.

### Termination

~~The insurance which we provide to you will either terminate upon the date shown on your Certificate of Insurance or automatically and without further notice upon:~~

~~the sale or transfer of your vessel to new owners, a change of management company, if your vessel is under professional management the vessel becoming an actual or constructive total loss your bankruptcy or insolvency.~~

~~a change in the law which prevents us from insuring you, such as a United Nations Resolution or trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.~~

~~Your cover for war risks will terminate automatically should war break out between any of the following countries: the United Kingdom, the United States of America, France, the Russian Federation and the People's Republic of China.~~

~~We may give you notice whenever we believe that continuing cover with you may expose the Club or any of its Member to sanction, prohibition or adverse action from the United Nations or the European Union, United Kingdom or United States of America or you use any of your vessels for a prohibited or unlawful activity or trade.~~

~~Termination of cover shall, upon our discretion, also apply to Joint Assureds and Co-Assureds.~~

~~When cover is terminated you will be entitled to a daily pro rata return of premium other than when we have paid a wreck removal claim following the total loss of the vessel. If your policy is cancelled for non-payment of premium and part of the premium due has been paid by instalments, no return of premium is payable~~

#### Explanation

Termination is now dealt with under new general condition 'Termination and Cancellation'. Hence this deletion.

### Termination and Cancellation

#### Termination by Notice

Either We or You may terminate this policy by notice at noon on the renewal date of any year by giving not less than 30 days written notice.

We may terminate the entirety of cover under your policy by notice for each and every vessel insured, in the following circumstances:

- should any of your insured vessels be used, in our opinion, for a prohibited or unlawful activity or trade; or
- should any of your insured vessels or their activities, in our opinion, expose EuroP&I, the Shipowners' Club or its Managers to sanctions risks; or
- upon 30 days written notice given by us to you; or

We may terminate cover for war risks by notice for each and every vessel insured upon written notice by us to you to discontinue war risks cover, with cancellation becoming effective on no less than the expiry of 7 days from midnight on the day on which we issue notice of cancellation.

The effect of your policy being terminated by notice also extends to joint Members and Co-Assureds. Subject to the 'Automatic termination' and 'Cancellation' provisions of this policy, the effect of your policy terminating by notice is that you will remain liable for premium under your policy and for any other sums due to us except that you will be entitled to a daily pro rata return of premium for sums paid, if any, from the date of termination until the expiration of your policy. Likewise, we pay claims for events that arose prior to the date of termination but we will not pay claims arising for events after the date of termination.

#### Automatic termination

Your policy will be automatically terminated upon the date shown on your Certificate of Insurance or upon the happening of any of the following events: the sale or transfer of your vessel; a change of beneficial owner(s); your vessel becoming an actual or constructive total loss; an insolvency event; your vessel no longer

being classed with the classification society or certifying authority that it was at the time we agreed to insure it; should any of your insured vessels or their activities expose EuroP&I, The Shipowners Club or its Managers to Sanctions risks. If you are an individual, upon your death or upon your becoming incapable by reason of mental disorder of managing or administering your property and affairs.

The insurance which we provide to you for war risks will automatically terminate should war break out between any of the following countries; the United Kingdom, the United States of America, France, the Russian Federation and the Peoples' Republic of China; or should your vessel be requisitioned either for title or use.

The effect of your policy being automatically terminated is the same as for termination by notice except that we do not pay claims for events arising after the date of automatic termination, other than claims arising from your vessel becoming an actual or constructive total loss prior to automatic termination.

### **Cancellation**

If you fail to pay premium in such instalments and on such dates as are agreed by us, we may serve notice in writing requiring you to make payment by a specified date. If you fail to make payment in full on or before the specified date we shall immediately cancel your insurance. If we cancel your insurance you must pay all premium due up to the date of cancellation. We will not pay claims for events arising on or after the date of cancellation.

We will not pay claims arising before the date of cancellation if premium was owing at the time the claim arose and remained unpaid at the date of cancellation.

### **Explanation**

The distinction between termination of cover by notice, automatic termination and cancellation and the consequences of each is clarified.

### **Claims handling procedure**

If you are involved in an incident which could give rise to a claim you should contact:

DUPI Underwriting Agencies Rotterdam B.V.

~~Wijnhaven 65F – NL-3011WJ Rotterdam~~ Blaak 16, 6<sup>th</sup> Floor

3011 TA Rotterdam

P.O.Box 23085

3001 KB Rotterdam

~~P.O.Box 23085 – NL-3001 KB Rotterdam~~ The Netherlands

**T** 0031 (0)10 4405555

**E** info@europandi.eu

**W** [www.europandi.eu](http://www.europandi.eu)

Immediate advice and local assistance is also available from the Shipowners' Club's network of correspondents who are listed at:

[www.shipownersclub.com/correspondents](http://www.shipownersclub.com/correspondents)

It is important that *you* contact EUROP&I promptly, so that they can assist *you*. The earlier they are involved the better. *You* are required to act prudently and as if *you* are uninsured until such time as they have taken over the handling and management of the *incident*.

When reporting a *claim* it will help them if *you* include *your* vessel's name, the *incident* date, the nature of the *incident*, the location of *your* vessel and location of the *incident* (if different). If an injury or collision is involved *you* may be required to notify the appropriate authorities.

As *your* insurers, *we* have the right to handle, settle or compromise *claims* or proceedings as *we* see fit. *We* may appoint lawyers, surveyors or other persons when *we* consider these are necessary. They may report to *us* and provide documents or information to *us*, without prior referral of these matters to *you*.

When it is possible for a vessel owner to limit their liability at law, that sum becomes the maximum amount recoverable under this policy and will apply regardless of whether *we* insure *you* as the owner of the vessel or in some other capacity. *You* must not admit liability for any *claim* and *you* must not settle a *claim* without *our* prior approval. *You* must also preserve any rights *you* may have to limit *your* liability and any rights *you* may have against any third party. [\*You must also promptly notify us of every event or matter which is likely to give rise to a claim, provide us with any relevant information or documents and permit us access to any persons employed by you who we consider likely to have knowledge of the event or matter.\*](#) If *you* admit liability, settle ~~or~~ fail to preserve *your* limitation rights, [\*fail to promptly notify or provide information or access to your employees, your claim may be rejected or reduced.\*](#) If *we* pay the claimant, *you* or *your* nominated broker, manager, agent or some other person whom *you* nominate, *our* liability shall be fully discharged.

### Explanation

To reflect best practise and to preserve the Member and the Club's position, this section of the policy is expanded to ensure that all information, documentation and access is provided by Members to the Club with regard to any event or matter that may give rise to a claim. Failure to do so entitles the Club to reject claims and/or reduce the amount payable.

### Definitions

Please note that the use of italic text in this policy indicates that the word or phrase is defined in the clauses. Words in the singular shall include the plural and vice versa.

**Cargo** means materials or goods of any kind transported for reward, other than *passengers'* effects and vehicles.

**Casualty** means an *incident* affecting the physical condition of *your* vessel so as to render it incapable of safe navigation to its intended destination, or which creates a threat to the life, health or safety of *your crew* or *passengers*. Engine breakdown is not a *casualty* for the purposes of this policy.

**Claims** means liability *claims* made against *you* as a result of owning or operating the vessel named on *your* Certificate of Insurance.

~~**Co-Assured** means persons or companies other than *you* who are entitled to the protection of the policy when held responsible for liabilities which properly belong to *you*. Unlike Assureds and Joint Assureds, Co-Assureds are not Members of the Shipowners' Club and have no independent right of recovery under the policy for their own liabilities. They have no obligation to meet any unpaid premiums due under the policy.~~

#### Explanation

Co-Assureds and their rights and responsibilities are set out in general condition 'Joint Members and Co-Assureds'.

**Crew** means any person engaged or employed in any capacity in connection with *your* vessel, whether on board or proceeding to or from *your* vessel or on vessel's business. *Crew* does not mean vessel brokers or vessel agents or those supplying services to *your* vessel.

**Deductible** means the initial amount *you* have to pay yourself before the insurance policy will respond to a loss under a policy. ~~Some policies refer to this as an excess. For the purposes of this policy, the words *deductible* and *excess* in this context have the same meaning.~~

#### Explanation

This definition is clarified and streamlined.

**Employment Practices liability *claims*** means *claims* for wrongful or unfair termination, sexual harassment, discrimination or any other employment-related conduct.

**Extra costs and expenses** means costs and expenses over and above those which would ordinarily be incurred had the *incident* not taken place.

**Fines** include civil penalties, penal damages and other impositions similar in nature to *fin*es, but not punitive damages.

**Fully insured** means insured at a value which, in *our* opinion, represents its full market value, disregarding any charter or other engagement to which the vessel may be committed.

**Incident** means an accident relating to the operation or use of *your* vessel. A series of *incidents* which have the same cause will be treated as one *incident*. ~~and for the purpose of claims' settlements one claim's excess will apply.~~

#### Explanation

This definition is clarified and streamlined.

**Insolvency event** If you are an individual, *Insolvency event* means any of the following: a receiving order is made against you; you become bankrupt; you make any composition or arrangement with your creditors generally.

If you are a company, *Insolvency event* means any of the following: the passing of any resolution for voluntary winding up; an order being made for compulsory winding up (other than for the purpose of company or group reorganisation); the dissolution of the company; the appointment of a receiver or manager of all or part of the company's business; upon commencement by the company of proceedings under any bankruptcy or insolvency laws to seek protection from its creditors or to reorganise its affairs.

#### Explanation

Insolvency of a Member is a potential trigger for automatic termination under the new 'Termination and Cancellation' general condition. The circumstances in which insolvency might be triggered are set out fully in this new definition.

~~**Joint Assured** means a person or company eligible to be a Member of the Shipowners' Club and who is insured under the same policy with other eligible persons. The policy provides cover to *Joint Assureds* on the same terms and conditions as apply to you. They have joint and several liability for premiums payable.~~

#### Explanation

Joint Members and their rights and responsibilities are set out in general condition 'Joint Members and Co-Assureds'.

**Nuclear risks** means any loss, damage or expense due to or arising out of, directly or indirectly, nuclear reaction, radiation or radioactive contamination regardless of how it was caused.

**Passenger** means any person carried or intended to be or having been carried on *your* vessel under a contract of carriage for reward.

**Personal Effects** means items which *your crew, passengers* or others bring on to *your* vessel for recreational purposes and which are unconnected to the operation of *your* vessel.

**Pollution** means the accidental discharge or escape of oil or other substances from *your* vessel.

**Sanctions risks** means the risk of being or becoming subject to any sanction, prohibition, or adverse action in any form whatsoever by any State where EuroP&I, the Shipowners' Club or its Managers have registered offices or permanent places of business or any State being a Major Power or by the United Nations or the European Union. For the purpose of this policy, 'Major Power' means any of the following States: United Kingdom, United States of America, France, the Russian Federation and the Peoples' Republic of China.

**Explanation**

We do not cover claims where granting you cover or paying the claim would expose us to the risk of sanctions. Such a situation is also a potential trigger for termination of the policy (both by notice and automatic). This new definition sets out fully what we mean by '*Sanctions risks*'.

**SCOPIC** means Special Compensation P&I Club Clause.

**Specialist Operations** means dredging, blasting, pile driving, well-stimulation, cable or pipe laying, construction, installation or maintenance work, core sampling, depositing of spoil, professional oil spill response or professional oil spill response training (but excluding fire-fighting), waste incineration or waste disposal operations and other operations of a specialist nature.

**State benefits** means personal injury or sickness benefits from a State body or National Insurance Provider under a mandatory State or national insurance scheme

**Explanation**

This new definition ties in with the amended exclusion '*Crew annuities, retirement accounts, pension contribution or crew compensation under crew contracts*'

~~Subrogation means a right which we may acquire as insurers to pursue other persons for reimbursement of claims we have paid.~~

#### Explanation

This definition is now redundant due to the amended general condition 'Assignment and Subrogation'.

**Unrecoverable general average contributions** means the proportion of general average expenditure, special charges or salvage which *you* are or would be entitled to *claim* from *cargo* or from some other party to the marine adventure and which is not legally recoverable by reason only of a breach of the contract of carriage and which shall be deemed to have been adjusted in accordance with the York/Antwerp Rules 1974, 1994 or 2004.

Your right of recovery from *us* is limited accordingly.

**Vessel's proportion of general average** means the vessel's proportion of general average, special charges or salvage which are not recoverable under *your* Hull and Machinery policies solely by reason of *your* vessel sound value having been assessed for contribution to general average, special charges or salvage at a value in excess of the amount for which it should have been insured if it had been '*fully insured*'.

~~War risks means costs or expenses (regardless of whether partially caused by neglect by *you* or *your* servants or agents) when the *incident* giving rise to the liability or expense was caused by the following: war, civil war, revolution, rebellion, insurrection or resultant civil strife arising therefrom or any hostile act by or against a belligerent power, or any act of terrorism; capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat; mines, torpedoes, bombs, rockets, shells, explosives or similar weapons of war. Liabilities incurred as a result of war, civil war, revolution, rebellion, insurrection or resultant civil strife or any hostile act by or against a belligerent power or by any act of terrorism; capture, seizure, arrest, restraint or detainment; mines, torpedoes, bombs, rockets, shells, explosives or similar weapons of war.~~

~~It does not mean any chemical, biological, bio-chemical or electromagnetic weapon; the use or operation, as a means of inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.~~

#### Explanation

This ties in with the amended war risks wordings. See above.

**We** or **our** or **us** means EUROP&I as agents for the Shipowners' Mutual Protection and Indemnity Association (Luxembourg), the Shipowners' Club.

~~Wilful misconduct means an intentional act or deliberate omission done by you either with knowledge that the act or omission is likely to result in loss, or in such a way as to allow an inference of reckless disregard for the probable consequences.~~

#### Explanation

This is now redundant as Wilful misconduct is set out fully in the 'What is not covered' section.

**You** or **your** means the person or company named as the Member on the Certificate of Insurance. If more than one person is named on the Certificate of Insurance we will treat an act, omission, statement or a *claim* by any one of those persons as an act, omission, statement or a *claim* by all of them.

#### Optional additional cover

If *you* require additional cover for any of the following, please contact *us*:

- Hotel &/or Restaurant vessels
- Liability arising under indemnities and contracts
- Timely delivery of *cargo*
- Legal Assistance and Defence (for certain types of dispute)
- *Specialist Operations* including dredging risks

#### EUROP&I

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[3011 TA Rotterdam](#)

[P.O.Box 23085](#)

[3001 KB Rotterdam](#)

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