



OWNERS' FIXED P&I

TERMS & CONDITIONS

AS OF 20 FEBRUARY 2016

 **SKULD**

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PART 1 ► INTRODUCTION

1. TERMS AND SCOPE OF COVER

- 1.1. The *Assured* is insured on the terms set out in these Terms and Conditions, the *Statutes*, and the *Certificate of Insurance* (together "*this insurance*").
- 1.2. The *Assured* is only insured for liabilities, losses, expenses and costs which arise;
 - 1.2.1. in direct connection with the operation of the *Vessel* by the *Assured* in the *Assured's* capacity as *owner* of the *Vessel*,
 - 1.2.2. in respect of the *Assured's* interest in the *Vessel*, and
 - 1.2.3. out of an *Event* taking place during the period of insurance.
- 1.3. The *Assured* is only covered for such of those risks specified in Part 2 and any additional covers as are expressly agreed between the *Assured* and *Skuld*.

2. DURATION OF COVER

Unless otherwise agreed, the insurance cover shall commence at 00:00 hours GMT on the date prescribed in the *Certificate of Insurance* and shall continue annually, unless and until cover ceases or the insurance expires or is terminated in accordance with Clause 27.

3. GENERAL PROVISIONS

Words and phrases which appear in italics in these Terms & Conditions are defined in and shall have the meanings set out in Appendix 1.

PART 2 ► INSURANCE COVER

Unless otherwise agreed, *this insurance* shall cover the following specified liabilities, losses, expenses or costs;

4. CARGO

4.1. COVER

Liability for cargo loss, shortage, damage, delay or other responsibility arising in relation to the carriage of cargo on the *Vessel*.

4.2. EXCEPTIONS

However, the insurance shall not cover liabilities, losses, expenses or costs arising out of

- 4.2.1. failure to arrive or late arrival of the *Vessel* at the port of loading, other than liabilities, costs and expenses arising under a bill of lading already issued,
- 4.2.2. loss, shortage, damage or delay occurring prior to loading, except insofar as loss, shortage or damage occurs in the port of loading within 21 days of the date on which loading of the cargo on the *Vessel* commences or should commence,
- 4.2.3. loss, shortage, damage or delay occurring whilst the cargo is in the custody of another carrier or during lightering operations, except insofar as lightering is approved by *Skuld*, or occurs in port and is customary,
- 4.2.4. failure to load or delay in loading any particular cargo in the *Vessel*, other than any liabilities, costs and expenses arising under a bill of lading already issued,
- 4.2.5. the issue of a bill of lading, waybill or other document containing or evidencing the contract of carriage which,
 - a) *is antedated or postdated*,
 - b) contains a description of the cargo or its quantity or condition which the *Assured* or an officer of the *Vessel* knows is incorrect, or
 - c) should be claused to show that the cargo is carried on deck and is not so claused,
- 4.2.6. carriage of cargo on terms less favourable to the *Assured* than the *Hague* or *Hague-Visby Rules*, except insofar as the contract of carriage is on less favourable terms solely because of the compulsory application of the *Hamburg Rules* by virtue of the place of loading or discharge,
- 4.2.7. carriage of cargo on terms which are contrary to terms required by *Skuld*,
- 4.2.8. carriage of cargo under a contract providing for carriage partly in the *Vessel* and partly by some other means of transport, except insofar as *Skuld* approves the contract,
- 4.2.9. carriage of *Valuables*,
- 4.2.10. carriage under an ad valorem bill of lading, waybill or other document containing or evidencing the contract of carriage in which a value in excess of USD2,500 per unit, piece or package is declared or stated, except insofar as liability does not exceed USD2,500 per unit, piece or package,

- 4.2.11. deviation or departure from the contractually agreed voyage or adventure which deprives the *Assured* of the right to rely on defences or rights of limitation which would otherwise be available,
- 4.2.12. delay, except insofar as liability arises because of the application of the *Hague* or *Hague-Visby Rules* or compulsory law,
- 4.2.13. discharge of the cargo at a port or place other than the port or place provided for in the contract of carriage,
- 4.2.14. failure to discharge all the cargo on board, except insofar as the *Assured* takes all reasonable steps to discharge the cargo,
- 4.2.15. delivery of cargo carried under
 - a) a negotiable bill of lading or similar document of title (including an electronic bill of lading) without production (or equivalent in the case of an electronic bill of lading) of that bill of lading or document by the person to whom delivery is made, except where cargo has been carried either on the *Vessel* under the terms of a non-negotiable bill of lading, waybill or other non-negotiable document and has been properly delivered as required by that document, and liability arises under a negotiable bill of lading or other similar document of title issued by or on behalf of a party other than the *Assured* providing for carriage partly by a means of transport other than the *Vessel*, or under the terms of an approved *Electronic Trading System* and has been properly delivered to the person so entitled in accordance therewith, or
 - b) a non-negotiable bill of lading, waybill or similar document, without production of the original document by the person to whom delivery is to be made where such production is required by the express terms of that document or the law to which that document, or the contract of carriage contained in or evidenced by it, is subject, except where the *Assured* is required by any other law to deliver or relinquish custody or control of the cargo without production of such document.
- 4.2.16. loss, shortage, damage or delay occurring on land after discharge, except insofar as it occurs in the port of discharge within 21 days of discharge from the *Vessel*,
- 4.2.17. participation in or use of an *Electronic Trading System*, unless such system has been approved in writing by *Skuld*, or
- 4.2.18. loss of or damage to cargo carried on a semi-submersible heavy-lift vessel or any other vessel designed exclusively for the carriage of heavy-lift cargo.

5. EXTRA CARGO HANDLING COSTS

5.1. COVER

Extra costs, and liability for extra costs, in connection with or as a consequence of handling and disposing of cargo, where such costs are necessarily, reasonably and solely incurred, as a direct result of,

- 5.1.1. damage to cargo on board the *Vessel*,
- 5.1.2. damage to the *Vessel* which is of a type that would be covered under a standard hull policy, or
- 5.1.3. the consignee's rejection of cargo carried on board the *Vessel*.

5.2. EXCEPTIONS

However, the insurance shall not cover costs, or liability for costs, which,

- 5.2.1. are claimable in general average or for which the *Assured* has a right of recourse against any other party,
- 5.2.2. result from the *Vessel* being overloaded or improperly stowed,
- 5.2.3. are incurred in order to make the *Vessel* seaworthy to receive the cargo,
- 5.2.4. are for work which could have been carried out by the *crew* or by reasonable use of the *Vessel* and her equipment or are normal costs of operating and trading the *vessel*
- 5.2.5. are in respect of packing, rebagging, sorting and other measures taken in order to comply with ordinary obligations under the contract of carriage, or
- 5.2.6. result from any of the matters referred to in Clause 4.2 (Cargo Exceptions).

6. CREW

6.1. COVER

The *Assured's* liability arising in respect of *crew* for

- 6.1.1. injury, illness or death
- 6.1.2. costs of repatriation and maintenance ashore
 - a) due to illness, injury or death,
 - b) under a statutory obligation, including the Maritime Labour Convention 2006 or equivalent domestic legislation by a State Party to MLC, or
 - c) due to a major casualty to the *vessel* which renders the *vessel* unseaworthy and necessitates the signing off of the *crew*,
- 6.1.3. costs of providing a substitute to replace a *crew* member repatriated under 6.1.2(a) or (b) above,
- 6.1.4. wages to serving *crew* members or, if deceased, their dependants as a result of injury, illness or death,
- 6.1.5. wages and compensation payable to a *crew* member signed off due to a major casualty to the *vessel* which renders the *vessel* unseaworthy and necessitates the signing off of the *crew*,
- 6.1.6. the costs of the funeral and sending home of the coffin or ashes, and personal effects of a deceased *crew* member, and
- 6.1.7. loss of or damage to personal effects other than *Valuables*.

6.2. EXCEPTION

However the insurance shall not cover liabilities, costs and expenses which arise under the terms of a *crew* contract or other agreement, unless those terms have been approved by *Skuld*.

7. PASSENGERS

7.1. COVER

The *Assured's* liabilities, costs and expenses arising in respect of *passengers* carried on board the *Vessel* and in respect of:

- 7.1.1. injury, illness or death
- 7.1.2. costs of repatriation and maintenance ashore of embarked *passengers*
 - a) due to illness, injury or death,
 - b) under a deportation order,
 - c) arising out of a casualty involving either collision, stranding, explosion, fire or other similar cause affecting the physical condition of the *Vessel* so as to render it incapable of safe navigation to its intended destination or a threat to the life, health or safety of *passengers* in general
- 7.1.3. loss of or damage to baggage and personal effects other than *Valuables*.

7.2. EXCEPTION

However the insurance shall not cover liabilities, costs and expenses which are in excess of the liability which would have arisen under the contract of carriage had the *Assured* restricted liability to the maximum extent permitted under the applicable law.

8. PERSONAL INJURY

8.1 COVER

Liability for injury, illness or death of persons other than *crew* or *passengers*.

9. STOWAWAYS, DIVERSIONS AND RELATED COSTS

9.1. COVER

Liability to pay additional port and other costs reasonably, necessarily and solely incurred for landing or dealing with stowaways, refugees or persons saved at sea or for diverting to obtain necessary medical treatment for injured or sick persons or for assisting in the search for or rescue of persons in distress at sea, including the cost of extra fuel consumed as a result.

9.2. EXCEPTIONS

However *this insurance* shall not cover costs

- 9.2.1 which are recoverable from another party or insurer, or
- 9.2.2 which are incurred in respect of
 - a) the loss of freight or hire for the *Vessel*, or
 - b) demurrage on, detention of or delay to the *Vessel*.

10. COLLISION AND CONTACT

10.1. COVER

Liability for loss of or damage to another *vessel* or cargo or other property thereon arising out of a collision between the *Vessel* and the other *vessel*, or to a fixed or floating object arising out of contact between the *Vessel* and that object, to the extent that liability exceeds the amount recoverable under the *Vessel's hull policies* solely by reason of the fact that the liability exceeds the valuation of the *vessels* in those policies.

10.2.

If a collision or contact occurs involving two or more *vessels* belonging to the same *Assured*, the *Sister vessel* clause shall apply.

11. PROPERTY

11.1. COVER

- 11.1.1. Liability arising out of the physical loss of or damage to any property which is not specified elsewhere in *this insurance* and which is not owned or leased by the *Assured*, and
- 11.1.2. loss suffered by the *Assured* as a result of the loss of or damage to his own property, to the extent that the *Skuld* would have been obliged to indemnify the *Assured* in respect of liability had the property been owned by a third party.

11.2. EXCEPTIONS

However, subject to Clause 10.2, *this insurance* shall not cover,

- 11.2.1. loss in respect of loss of or damage to the *vessel*, her equipment, stores, bunkers, supplies, lashings or containers, or
- 11.2.2. loss in respect of cargo owned by the *Assured* or other property which could have been insured under any other customary insurance

12. POLLUTION

12.1. COVER

- 12.1.1. Liability arising out of the actual or threatened escape or discharge of oil or other polluting substance,
- 12.1.2. costs of measures reasonably taken for the purpose of preventing or minimising pollution, and
- 12.1.3. costs incurred in order to comply with an order of any government or authority for the purpose of preventing or minimising actual or threatened pollution.

12.2. EXCEPTIONS

However the insurance shall not cover the *Assured's* liability or costs in respect of pollution,

- 12.2.1. which are required as part of the normal operation, salvage or repair of the *vessel*,
- 12.2.2. resulting from the presence in or the threatened escape or discharge from any land based dump, site, storage or disposal facility of any substance previously carried on the *Vessel* as cargo, fuel, stores, waste or otherwise, or
- 12.2.3. which would be recoverable in general average if the *Assured* had incorporated the York-Antwerp Rules 1994.

13. WRECK REMOVAL

13.1. COVER

Liability for costs arising out of the raising, removal, destruction or marking of the wreck of the *Vessel*, or any other *vessel*, or their equipment, bunkers or cargo lost as a result of a casualty, provided that

- 13.1.1. the raising and other operations are compulsory by law or necessary to avoid or remove a hazard or obstruction to navigation or the costs are legally recoverable from the *Assured* under a contract approved by *Skuld*, and
- 13.1.2. the realised value of the wreck and other property saved shall be credited to *Skuld*.

13.2. EXCEPTIONS

However the insurance shall not cover liability, costs, or expenses

- 13.2.1. which are covered under the *Vessel's hull policies*,
- 13.2.2. where the *Assured* transfers his interest in the wreck or other property saved otherwise than by abandonment,
- 13.2.3. arising out of the removal of cargo carried on a semi-submersible heavy-lift *vessel* or any other *vessel* designed exclusively for the carriage of heavy-lift cargo

14. OBSTRUCTION

14.1. COVER

Liability to the *owners* of harbours, wharves, canals, or similar structures or to the *owners* of other *vessels* arising out of the *Vessel* causing an obstruction as a result of a casualty.

15. GENERAL AVERAGE CONTRIBUTIONS – CARGO

15.1. COVER

The *Assured's* loss in respect of general average expenditure, salvage and special charges which should be paid by the cargo interests or some other party to the maritime adventure but which are not legally recoverable solely by reason of a breach of the contract of carriage.

15.2. EXCEPTION

However the insurance shall not cover loss which results from any of the matters referred to in Clause 4.2 (Cargo exceptions).

16. GENERAL AVERAGE CONTRIBUTIONS – HULL

16.1. COVER

The *Assured's* loss in respect of general average expenditure, salvage and special charges which are not recoverable under the *Vessel's hull policies* solely by reason of the value of the *Vessel* being assessed for contribution to general average or salvage in excess of her insured value.

17. FINES

17.1. COVER

Liability for fines imposed on the *Assured*, or for which the *Assured* is under a legal obligation to reimburse a crew member, in respect of,

- 17.1.1. breach of any immigration law or regulation,
- 17.1.2. short delivery or over-delivery of cargo, or failure to comply with regulations concerning the declaration of goods on board other than cargo, or documentation of cargo, provided that the *Assured* is covered for cargo liability under Clause 4 and the fine does not arise out of any of the matters referred to in Clause 4.2 (Cargo Exceptions),
- 17.1.3. the accidental escape or discharge of oil or other polluting substance or threat thereof,
- 17.1.4. smuggling or any infringement of any customs law or customs regulation other than in relation to cargo carried on the *Vessel*, and
- 17.1.5. an act or omission by any member of the *crew* acting pursuant to their obligations to the *Assured* under their contract of employment.

18. QUARANTINE AND DISINFECTION REQUIREMENTS

18.1. COVER

Liability for extra costs necessarily, reasonably and solely incurred in order to comply with quarantine and disinfection requirements which could not have been avoided, as a result of infectious disease on board the *Vessel*.

18.2. EXCEPTION

However, the insurance shall not cover costs which form part of the daily running costs of the *Vessel* or which are incurred as a result of the *Vessel* being ordered to a port or loading a cargo or otherwise being employed when the *Assured* knows or should know that such costs would be incurred.

19. SALVAGE

19.1. COVER

The insurance shall cover liabilities, costs and expenses in respect of,

- 19.1.1. life salvage payable to third parties as a result of saving or attempting to save the life of a person on or from the *Vessel*, to the extent that payment is not recoverable from hull insurers or any other underwriters,
- 19.1.2. salvage operations conducted by the *Vessel* for the purpose of saving life at sea, and
- 19.1.3. special compensation payable to a salvor under Article 14 of the 1989 Salvage Convention, including when applicable by virtue of incorporation in Lloyd's Open Form of Salvage Agreement or in any other standard form salvage contract approved by *Skuld*, or under the Special Compensation P&I Clubs Clause (SCOPIC).

19.2. EXCEPTIONS

However, the insurance shall not cover risks which are outside the scope of cover available elsewhere in *this insurance*.

20. TOWAGE

20.1. COVER – TOWAGE INVOLVING THE ENTERED VESSEL

Liabilities in respect of risks set out elsewhere in *this insurance* arising out of towage involving the *Vessel*

- 20.1.1. where the *Vessel* is insured as a tug or other *vessel* engaged in towage in the ordinary course of business, or
- 20.1.2. under a contract entered into in the ordinary course of trading, or
- 20.1.3. under a contract which has been approved by *Skuld* (Appendix 4) and where cover has been agreed prior to the commencement of the towage.

21. LEGAL AND ASSOCIATED COSTS

21.1. COVER

- 21.1.1. Legal and associated costs necessarily and reasonably incurred with the consent of *Skuld*, in relation to any liability, loss, expense or costs for which the *Assured* is covered under *this insurance*.
- 21.1.2. Legal and associated costs necessarily and reasonably incurred with the consent of *Skuld* in its absolute discretion in connection with a formal inquiry into a casualty involving the *Vessel*,

22. MITIGATION COSTS (SUE AND LABOUR)

22.1. COVER

Extraordinary costs which are necessarily, reasonably and solely incurred by the *Assured*, on or after a casualty or *Event* liable to give rise to a claim against *Skuld*, in avoiding or minimising any liability, loss, expense or cost covered under *this insurance*.

22.2. EXCEPTIONS

However, *this insurance* shall not cover,

- 22.2.1. costs which are claimable in general average,
- 22.2.2. costs which result from the *Vessel* being overloaded or improperly stowed,
- 22.2.3. costs which are incurred in order to make the *Vessel* seaworthy to receive the cargo,
- 22.2.4. costs which form part of the daily running costs of the *Vessel*,
- 22.2.5. costs for work which could have been carried out by the *crew* or by reasonable use of the *Vessel* and her equipment, or
- 22.2.6. costs which are not approved in advance by *Skuld* where it is practicable to obtain such approval.

23. DIRECTIONS OF SKULD

23.1. COVER

Liability and costs which the *Assured* incurs at the direction of *Skuld*, given in writing and referring to this Clause.

PART 3 ► GENERAL PROVISIONS

Unless otherwise agreed, *this insurance*, including all additional covers, shall be subject to the provisions in Part 3.

24. CONDITIONS

24.1. DISCLOSURE AND ALTERATION OF RISK

The *Assured* shall;

- 24.1.1. make full and correct disclosure to *Skuld* of all circumstances which the *Assured* knows or should know and which would influence *Skuld* in deciding whether and on what terms to provide cover, and
- 24.1.2. make full, correct and prompt disclosure to *Skuld* of every change in circumstance which the *Assured* knows or should know and which alter the risks covered by *Skuld*, failing which the *Assured* shall not be entitled to any recovery from *Skuld* in respect of any *Event* occurring after the time of the failure to comply with this Clause.

24.2. PREMIUMS AND OTHER SUMS DUE

- 24.2.1. The *Assured's* premium is a fixed premium. The *Assured* shall not pay supplementary, overspill or release calls and shall not be entitled to any surplus
- 24.2.2. The *Assured* shall pay without set off all premiums, deductibles and other sums to *Skuld* as they fall due, failing which *Skuld* shall be entitled to interest at such rates as *Skuld* may decide from time to time.
- 24.2.3. The *Assured* shall not be covered for any liabilities, losses, expenses or costs which arise out of an *Event* which occurs at a time when the *Assured* owes premiums and *Skuld* shall be entitled to cease handling all or any cases *Skuld* is for the time being handling for the *Assured*.
- 24.2.4. The *Assured* shall pay *Skuld* on demand the amount of any tax or duty relating to premiums or other sums paid or payable by the *Assured* and for which *Skuld* is or may become liable.

24.3. CLASSIFICATION AND CERTIFICATION

The *Assured* shall

- 24.3.1. ensure that the *Vessel* remains fully classed with a classification society which is a member of the International Association of Classification Societies or approved by *Skuld*, and
- 24.3.2. maintain the validity of all statutory certificates issued by or on behalf of the *Vessel's* flag state in relation to the *ISM Code* and *ISPS Code* failing which the *Assured* shall not be entitled to any recovery from *Skuld* during the period of non-compliance.

24.4. SURVEY AND AUDIT

- 24.4.1. *Skuld* may at any time, for its sole benefit, conduct a survey of the condition, or operation of the *Vessel* or an audit of the *Assured's* management systems.
- 24.4.2. If the survey or audit demonstrates that the condition or operation of the *Vessel*, or the *Assured's* management systems are not satisfactory, the *Assured* shall indemnify *Skuld* against the cost of the survey or audit, and *Skuld* shall be entitled to restrict cover until the condition or operation of the *Vessel*, and the *Assured's* management systems are satisfactory.

24.5. OBLIGATIONS

The *Assured* shall,

- 24.5.1. comply with all requirements or recommendations of the classification society and flag state
- 24.5.2. comply with all requirements (including the inclusion or exclusion of contractual terms), recommendations or requests for surveys, information or documents made by *Skuld*,
- 24.5.3. upon the occurrence of any *Event*, take all reasonable steps to avert or minimise any liabilities, losses, expenses and costs which may be covered by *Skuld*,
- 24.5.4. preserve any right of recourse against third parties,
- 24.5.5. reimburse *Skuld* for any repatriation costs under Clause 6.1.2(b) in respect of the Maritime Labour Convention 2006 unless liability for such costs arose under Guideline B2.5 (b)(i) and (ii) of Regulation 2.5 of the Convention,
- 24.5.6. refrain from admitting liability, waiving rights, settling any claim or appointing any lawyers or arbitrators without the prior approval of *Skuld*,
- 24.5.7. allow *Skuld* to handle or take over the handling of any claim or legal or other proceedings in respect of any liability, loss, cost or expense for which the *Assured* is or may be wholly or partly covered under *this insurance* and to conduct such proceedings in the name of the *Assured* and authorise *Skuld* to appoint lawyers, experts, arbitrators, surveyors and other parties on behalf of the *Assured*,
- 24.5.8. notify *Skuld* promptly of any incident which may give rise to liabilities, losses, expenses or costs which may be covered by *Skuld*.

The insurance shall not cover the *Assured* for any liabilities, losses, expenses or costs resulting from the *Assured's* failure to comply with any of the obligations set out in this Clause 24.5, to the extent that the failure has caused or contributed towards the claim against *Skuld* or has otherwise materially prejudiced *Skuld's* interests.

25. EXCLUSIONS

25.1.

The insurance shall not cover the *Assured* for any liabilities, losses, expenses or costs which arise out of or in respect of,

- 25.1.1. the *Assured's* deliberate breach of any contract, fraudulent act or *Wilful Misconduct*,
- 25.1.2. the *Assured* knowingly sending to sea or operating the *Vessel* in an unseaworthy condition,
- 25.1.3. the *Vessel* carrying contraband, blockade running, or being employed in a trade or on a voyage which is unlawful or which *Skuld* considers imprudent, unsafe, improper or unduly hazardous.
- 25.1.4. the terms of an indemnity or contract which has not been accepted or approved by *Skuld*, except insofar as the *Assured* would have been liable in any *event* in the absence of the indemnity or contract,
- 25.1.5. the detention, delay (except for delay incurred in order to avert or minimise any liabilities, losses, expenses and costs covered by *Skuld* under *this insurance*), loss of use of the *Vessel* or in respect of hire, freight or demurrage, except insofar as this is covered under Clause 4 (cargo),
- 25.1.6. failure to arrive or late arrival of the *Vessel* at the port of loading, or cancellation or termination of, any charterparty or other engagement,
- 25.1.7. loading or carrying cargo in breach of the guidelines or requirements of the *IMDG Code* or any other applicable regulations or conventions,
- 25.1.8. consequential loss, general monetary loss, or loss of time, loss through price, market or currency fluctuations, loss of market or similar loss, loss of production, depreciation, loss of opportunity, loss of profit, or similar loss, except where the *Assured* is legally liable to a third party for such loss and such liability is covered under *this insurance*.
- 25.1.9. any claim for liquidated damages,
- 25.1.10. any claim for loss of reputation or for punitive or exemplary damages,
- 25.1.11. irrecoverable debts or the insolvency of the *Assured* (save for Clause 6.2.1.b) or any other party, or fraud of any agents or an associated company or of employees of the *Assured* acting as agent,
- 25.1.12. the *Assured's* internal administrative costs or expenses, or the daily running costs or expenses of the *Vessel*,
- 25.1.13. any claim recoverable by the *Assured* under another insurance policy, or any deductible under another insurance, or any claim which would have been recoverable under the *Vessel's hull policies* had the *vessel* been properly insured for her uncommitted market value on standard terms without deductible,
- 25.1.14. the loss of or damage to the *Vessel* or any other property owned or leased by the *Assured* or by any party associated with or under the same management as the *Assured*,
- 25.1.15. the carriage of *Valuables*,
- 25.1.16. *War Risks*
- 25.1.17. *Nuclear Risks*,
- 25.1.18. *Chemical, Bio-Chemical, Electromagnetical Weapons and Computer Virus Risks*,

- 25.1.19. any default judgement or default award, or
- 25.1.20. any claim where payment by *Skuld* or the provision of cover in respect thereof may expose *Skuld* to the risk of being subject to a sanction, prohibition or any adverse action by a state or international organisation or competent authority.

25.2. EXCLUDED OPERATIONS

The insurance shall not cover liabilities, losses, expenses or costs arising out of or during the course of *Drilling or Production Operations, Waste Disposal, Subsea Activities or Specialist Operations*.

26. LIMITATIONS AND DEDUCTIBLES

26.1. LIMITATION

- 26.1.1. Where an *Assured* or *Co-assured* is entitled to limit any liability covered by *Skuld*, there shall be no recovery in respect of such liability for more than the amount to which liability could have been limited.
- 26.1.2. There shall be no recovery under *this insurance* in excess of the agreed insurance amount for any one *Vessel* arising out of any one *Event*.
- 26.1.3. Where more than one limit applies, *Skuld's* liability shall not exceed the lowest applicable limit.
- 26.1.4. Any occurrence or occurrences arising out of an *Event* shall be treated as part of that *Event*.
- 26.1.5. The *Assured* shall in no circumstances be entitled to recover from *Skuld* that part of any liabilities, costs and expenses which is not recovered by *Skuld* under any reinsurance(s) arranged by *Skuld* because of a shortfall in recovery from reinsurers thereunder by reason of a sanction, prohibition or adverse action against them by a state, international organisation or other competent authority or the risk thereof if payment were to be made by such reinsurers. For the purposes of this provision, "shortfall" includes any failure or delay in recovery by *Skuld* by reason of the parties or reinsurers making payment into a designated account in compliance with the requirements of any state, international organisation or other competent authority.

26.2. DEDUCTIBLES

The *Assured's* cover shall be subject to the deductibles set out in Appendix 3 or the *Certificate of Insurance*, in respect of liabilities, losses, expenses and costs arising under any one *Event* and one *Vessel*. Any policy limits shall apply to the total amount of any claim, inclusive of deductibles.

27. TERMINATION

27.1. AUTOMATIC TERMINATION

Unless *Skuld* agrees otherwise, the insurance cover shall terminate automatically without notice immediately where;

- 27.1.1. there is a change of management or ownership of the *Vessel* without notice to and prior written approval of *Skuld*,
- 27.1.2. the *Assured* becomes insolvent, bankrupt, is dissolved or wound up, has a receiver or liquidator appointed or commences proceedings under any bankruptcy or insolvency laws to seek protection from creditors
- 27.1.3. the *Vessel* becomes a total loss, or accepted by hull underwriters or deemed by *Skuld* as being a constructive, compromised or arranged total loss, except in respect of liability arising out of the casualty which gives rise to the total loss,
- 27.1.4. the *Vessel* is missing for ten days from the date it was last heard of,
- 27.1.5. the *Vessel* is posted at Lloyd's as missing, or
- 27.1.6. the *Vessel* is requisitioned by a State or Government Authority.

27.2. TERMINATION BY NOTICE

- 27.2.1. The *Assured* may terminate the insurance cover with effect from 00:00 hours GMT on the annual renewal date by giving written 30 days' notice prior to that date.
- 27.2.2. *Skuld* may terminate the insurance cover by giving;
 - a) immediate notice, where the *Assured* is in breach of his obligations under Clause 24.1 (in respect of disclosure and alteration of the risk), Clause 25.1.1 (in respect of the *Assureds* fraudulent acts or *Wilful Misconduct*) or clause 24.3 (in respect of the classification and certification of the *Vessel*),
 - b) three days' notice, where the *Assured* is in breach of his obligations under 24.2 (in respect of the payment of premiums and other sums due to *Skuld*),
 - c) seven days' notice, where the *Vessel* is unseaworthy and the *Assured* has not made it seaworthy without undue delay, or where the *Assured* has not allowed *Skuld* to carry out a survey in accordance with clause 24.4, or where the *Assured* has notified *Skuld* of any change of circumstance which materially alters the risk covered by *Skuld*,
 - d) thirty day's notice, without giving any reason, or
 - e) on such notice in writing as *Skuld* may decide, where, in the opinion of *Skuld*, the *Assured* has exposed or may expose *Skuld* to the risk of being or becoming subject to a sanction, prohibition, restriction or other adverse action by a state or international organisation or competent authority.

27.3. EFFECT OF TERMINATION

- 27.3.1. *Skuld* shall be under no liability whatsoever in respect of any *Event* occurring after cessation or termination of cover.
- 27.3.2. Where cover terminates under clause 27.1 (automatic termination of cover) or where the cover is terminated under clauses 27.2.2 c) and d) (termination by *Skuld* on seven or thirty days' notice), the *Assured* shall be entitled to a pro rata return of premiums.
- 27.3.3. Where cover terminates, or cover is otherwise restricted or lost under *this insurance*, the *Assured* shall (subject to the reduction provided in 27.3.2) remain liable for all premiums due.

MISCELLANEOUS

28. TIME LIMITS

Any claim against *Skuld* shall be waived and time barred unless the *Assured*,

- 28.1. gives written notice to *Skuld* of any *event* which may give rise to a claim, under *this insurance* within six months of the *Assured* becoming aware of that *event*; and
- 28.2. commences proceedings against *Skuld* in respect of a claim under *this insurance* within twelve months of receiving written notice from *Skuld* stating that the claim has been declined,

29. PROVISION OF SECURITY

Skuld shall be under no obligation to provide security on behalf of the *Assured*. If the Association provides security, the applicable deductible shall be paid by the *Assured*, irrespective of whether any payment has been made or not.

30. WAIVER

In the absence of an express written confirmation of cover by *Skuld*, no act (including the provision of security, payment of any sum or handling of any claim) or omission or delay by *Skuld* shall be treated as a waiver of *Skuld's* rights or acceptance of cover. If *Skuld* provides security, incurs costs, or makes any payment in respect of a claim or dispute which turns out not to be covered, the *Assured* shall indemnify *Skuld*.

31. SUBROGATION

Where *Skuld* makes any payment in respect of any liability or costs, it shall be subrogated to the rights of the *Assured* or *Co-assured* and any recovery shall be passed to *Skuld* which shall be entitled to deduct a sum up to the amount paid by *Skuld* before any balance is credited to the *Assured*.

32. EXEMPTION OF LIABILITY

Skuld, its officers and employees shall not be liable in respect of any act or omission of *Skuld*, its officers, employees, correspondents, agents, representatives, lawyers, experts, surveyors or other party employed or appointed by *Skuld*, whether or not negligence is involved.

33. BURDEN OF PROOF

The *Assured* shall have the burden of proving that any claim against *Skuld* results from a risk covered under the insurance.

34. SAVINGS BY THE ASSURED

Where the *Assured* as a consequence of an *Event* which is covered by *Skuld* obtains extra revenue, saves expenses or avoids liability or loss which otherwise would have been incurred and which would not have been covered by *Skuld*, *Skuld* shall be entitled to recover from the *Assured* or retain from any sum which would otherwise be payable to the *Assured*, an amount equivalent to the benefit obtained by the *Assured*

35. ASSIGNMENT AND TRANSFERS

The *Assured* shall not, without the written consent of *Skuld*, assign or transfer any rights under *this insurance*, but in no circumstances, shall any assignee or transferee have a greater right than the *Assured*. Any assignment or transfer without *Skuld's* written consent shall not bind *Skuld*.

36. SET OFF

Skuld shall be entitled to set off any amount due from the *Assured* against any amount due to the *Assured*.

37. CERTIFICATES

Where liabilities arise under a *CLC Certificate*, *Bunkers Convention Certificate*, *Wreck Removal Convention Certificate*, *Non-war Athens Convention/PLR Certificate* or *War Athens Convention/PLR Certificate* issued by *Skuld* and such liabilities ("Certified Liabilities") exceed or may exceed in the aggregate the limit of cover,

- 37.1. *Skuld* may in its absolute discretion defer payment of a claim in respect of those liabilities or any part thereof until the Certified Liabilities, or such part of the Certified Liabilities as *Skuld* may decide, have been discharged, and
- 37.2. if and to the extent any Certified Liabilities discharged by *Skuld* exceed the said limit any payment by *Skuld* shall be by way of loan and the *Assured* shall indemnify *Skuld* in respect of such payment

38. INTEREST

In no case whatsoever shall interest be paid on any amount due from *Skuld*.

39. CO-ASSUREDS

The cover under *this insurance* maybe extended to a *Co-assured* on the terms set out in Appendix 2.

40. AMENDMENTS

Skuld may amend *this insurance* as the situation may require with effect from 00:00 hours GMT on any date by giving at least 60 days' notice prior to that date. Amendments which do not materially change existing cover, may be done without giving prior notice. Amendment notices may be posted generically on *Skuld's* website only.

41. OMNIBUS

In exceptional circumstances, *Skuld* may, in its absolute discretion, cover the *Assured's* liability, loss, expense or costs which would not otherwise be covered under *this insurance*, to the extent that *Skuld* considers that such cover would be appropriate.

42. LAW AND JURISDICTION

This insurance shall be governed by and construed in accordance with English law and be subject to the exclusive jurisdiction of the Courts of England and Wales.

43. MEDIATION

Without prejudice to Clause 42, the *Assured* and *Skuld* agree to use reasonable endeavours to resolve any dispute amicably and, if appropriate, to refer the dispute to mediation.

APPENDIX 1

DEFINITIONS

ANTE DATED OR POST DATED BILL OF LADING

A bill of lading, waybill or other document containing or evidencing the contract of carriage which records the loading or shipment or receipt for shipment on a date prior or subsequent to the date on which the cargo was in fact loaded, shipped or received.

ASSURED

A person or company afforded insurance cover by *Skuld* as evidenced in the *Certificate of Insurance*.

BUNKERS CONVENTION CERTIFICATE

A certificate issued by *Skuld* in compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001.

CHEMICAL, BIO-CHEMICAL ELECTROMAGNETICAL WEAPONS AND COMPUTER VIRUS RISKS

Loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from
i) any chemical, biological, bio-chemical or electromagnetic weapon
ii) the use or operation, as a means of inflicting harm, of any computer virus.

CERTIFICATE OF INSURANCE

A document issued by *Skuld* to the *Assured* evidencing the terms and conditions of cover.

CLC CERTIFICATE

A certificate issued by *Skuld* in compliance with Article 7 of the International Conventions on Civil liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof.

CO-ASSURED

A party, other than the *Assured*, who is named on the *Certificate of Insurance*, to whom the *Skuld* has agreed (subject to restrictions) to extend the cover afforded to the *Assured*.

CREW

Persons, including the master, contractually obliged to serve on the *Vessel*, including substitutes for such persons and including such persons while proceeding to and from the *vessel*.

DRILLING OR PRODUCTION OPERATIONS

Drilling or production operations in connection with oil or gas exploration or production, including any accommodation unit moored or positioned on site as an integral part of any such operations.

A *vessel* shall be deemed to be carrying out production operations if (inter alia) it is a storage tanker or other *vessel* engaged in the storage of oil, and either:

- a) the oil is transferred directly from a producing well to the storage *vessel*; or
- b) the storage *vessel* has oil and gas separation equipment on board and gas is being separated from oil whilst on board the storage *vessel* other than by natural venting.

ELECTRONIC TRADING SYSTEM

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

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

For the purpose of this definition, a "document" shall mean anything in which information of any description is recorded, including, but not limited to, computer or other electronically generated information.

EVENT

Any *event*, including any occurrence or occurrences arising out of any such *event* unless *Skuld* elects to treat each occurrence as a separate *event*. An *event* shall be deemed to have taken place at the time of the first occurrence which results in a claim or claims.

EXCLUDED AREA

An area which is declared by *Skuld*. An updated list of *excluded* areas is available on *Skuld's* web-site.

HAGUE RULES

The International Convention for the Unification of Certain Rules Relating to Bills of Lading signed at Brussels on 25 August 1924.

HAGUE-VISBY RULES

Hague Rules as amended by the Protocol signed at Brussels on 23 February 1968.

HAMBURG RULES

The United Nations Convention on the Carriage of Goods by Sea done at Hamburg on 31 March 1978.

HULL POLICIES

Policies effected on the hull and machinery of a *Vessel* including any excess liability policy.

IMDG CODE

International Maritime Dangerous Goods Code

ISM CODE

International Safety Management Code.

ISPS CODE

The International Ship and Port Facility Security Code.

NON-WAR ATHENS CONVENTION/PLR CERTIFICATE

A non-war Certificate issued by *Skuld* in compliance with either Article IV bis of the Athens Convention relating to Carriage of *Passengers* and their Luggage by Sea 2002 and Guidelines for its implementation or Regulation (EC) No 392/2009 of the European Parliament and of the Council which gives effect thereto

NUCLEAR RISKS

Liabilities, costs and expenses directly or indirectly caused by or contributed to by or arising from

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

other than liabilities, costs and expenses arising out of carriage of "excepted matter" (as defined in the Nuclear Installations Act 1965 of the United Kingdom or any regulations made thereunder) as cargo in the *Vessel*.

OWNER

Any *owner*, *owner* in partnership or *owner* holding separate shares in severalty, part *owner*, trustee or bareboat or demise charterer of any *Vessel*, any manager or operator having control of the operation and employment of a *Vessel* (being such control as is customarily exercised by an *owner*), and any other person in possession and control of any *Vessel*.

PASSENGER

Any person carried on board an entered *vessel* pursuant to a ticket of passage.

SISTER VESSEL CLAUSE

The *Assured* shall be entitled to recover from *Skuld* and *Skuld* shall have the same rights as if the *Vessel* had belonged to different *owners*. Unless otherwise agreed between the *Assured* and *Skuld*, if both *Vessels* involved in a collision are to blame, then where the liability of either or both of the *Vessels* in collision becomes limited by law, claims under this provision shall be settled upon the principle of single liability, but in all other cases claims under this provision shall be settled upon the principle of crossliabilities, as if the *owner* of each *vessel* had been compelled to pay the *owner* of the other *vessel* such proportion of that *owner's* damages as may have been properly allowed in ascertaining the balance or sum payable by or to the *Assured* in consequence of the collision.

SKULD

Assuranceforeningen *Skuld* (Gjensidig).

SPECIALIST OPERATIONS

Operations including and not limited to dredging, blasting, pile-driving, well-stimulation, cable or pipelaying, construction, installation, removal 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.

STATUTES

The Statutes of Assuranceforeningen *Skuld* (Gjensidig)

SUB-SEA ACTIVITIES

The operation by the *Assured* of submarines, mini-submarines or diving bells, or the activities of professional or commercial divers where the *Assured* is responsible for such activities (other than activities arising out of salvage operations being conducted by an entered *vessel* where the divers form part of the *crew* of that entered *vessel* (or of diving bells or other similar equipment or craft operating from the entered *vessel*) and where the *Assured* is responsible for the activities of such divers).

THIS INSURANCE

These Terms and Conditions, the *Certificate of Insurance* and any Endorsement issued by *Skuld*.

VALUABLES

Cash, banknotes or other forms of currency, bullion, works of art, precious or rare metals or stones, plate or other objects of a rare or precious nature, specie, bonds or other negotiable instruments.

VESSEL

The ship, boat, hydrofoil, hovercraft or other description of *vessel* (including a lighter, barge or similar *vessel* howsoever propelled but excluding (a) a unit or *vessel* constructed or adapted for the purpose of carrying out drilling operations in connection with oil or gas exploration or production and (b) a fixed platform or fixed rig) used or intended to be used for any purpose whatsoever in navigation or otherwise on, under, over or in water and which is named in the *Certificate of Insurance*.

WAR ATHENS CONVENTION/PLR CERTIFICATE

A war Certificate issued by *Skuld* in compliance with either Article IV bis of the Athens Convention relating to Carriage of *Passengers* and their Luggage by Sea 2002 and Guidelines for its implementation or Regulation (EC) No 392/2009 of the European Parliament and of the Council which gives effect thereto.

WAR RISKS

Liabilities, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the *Assured* or his servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was caused by:

- a) war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, or any act of terrorism (provided that, in the *event* of any dispute as to whether or not, for the purposes of this paragraph (a), an act constitutes an act of terrorism, the decision of the directors of *Skuld* shall be final);
- b) capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;
- c) mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war, provided that this exclusion shall not apply to liabilities, costs and expenses which arise solely by reason of
 - i) the transport of any such weapons whether on board or not, or
 - ii) the use of any such weapons, either as a result of government order or with the agreement in writing of *Skuld* where the reason for such use was the avoidance or mitigation of liabilities, costs or expenses which would otherwise give rise to a claim covered under *this insurance*.

WASTE DISPOSAL

Waste incineration or disposal operations carried out by the entered *vessel* (other than any such operations carried out as an incidental part of other commercial activities not being specialist operations).

WILFUL MISCONDUCT

An act intentionally done, or a deliberate omission by the *Assured*, with knowledge that the performance or omission will probably result in injury, loss or damage, or an act done or omitted in such a way as to allow an inference of a reckless disregard of the probable consequences.

WRECK REMOVAL CONVENTION CERTIFICATE

A certificate issued by the Association in compliance with Article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007.

APPENDIX 2

CO-ASSUREDS

1. *Skuld* may agree to extend the cover afforded to the *Assured* to a *Co-assured* named in the *Certificate of Insurance* who is:
 - a) a party interested in the operation of the *Vessel*,
 - b) the holding company of the beneficial *owner* of the *Assured* or any other *Co-assured*, or
 - c) the mortgagee of the *Vessel*
2. The cover afforded to a *Co-assured* shall extend only to risks, liabilities and expense arising out of operations and/or activities customarily carried on by or at the risk and responsibility of *vessel Owners* and which are within the scope of cover afforded by *this insurance* and any special terms set out in the *Certificate of Insurance*.
3. Contractor's co-assurance
Skuld may agree to extend the cover afforded to the *Assured* to a *Co-assured* named in the *Certificate of Insurance* who is a person (a "contractor") who has entered into a "knock for knock" contract (as customarily used in the offshore activity) with the *Assured* for the provision of services to or by the *Vessel*, and any of the contractor's affiliates, other contractors and co-licensees and its and their sub-contractors and any of their personnel.
4. *Co-assureds* shall be jointly and severally liable in respect of all premiums and other sums due to *Skuld*.
5. Any payment by *Skuld* to the *Assured* or any *Co-assured* shall be deemed to be payment to the *Assured* and to all *Co-assureds* jointly and shall fully discharge the obligations of *Skuld* in respect of that payment.
6. The contents of any communication between *Skuld* and the *Assured* or any *Co-assured* shall be deemed to be within the knowledge of the *Assured* and all *Co-assureds*.
7. Any failure by the *Assured* or any *Co-assured* to comply with any of the obligations under *this insurance*, shall be deemed to be a failure of the *Assured* and all *Co-assureds*.
8. Any conduct or omission by the *Assured* or any *Co-assured* which would have entitled *Skuld* to reject or reduce any claims shall be deemed to have been the failure of the *Assured* and all *Co-assureds*.
9. *Skuld* shall not cover any liability, loss, expense or costs in respect of any dispute between the *Assured* and any *Co-assured*.
10. The total liability of *Skuld* in respect of any one *event*, to the *Assured* and to any *Co-assured* shall not, in any circumstances, exceed such sum as would have been recoverable from *Skuld* only by the *Assured*
11. In the *event* that the total liability of *Skuld* is less than the total sum claimed by the *Assured* and by the *Co-assured*, *Skuld* shall be entitled to apportion payment in proportion to the respective amounts claimed.

APPENDIX 3

DEDUCTIBLES

Unless otherwise agreed, compensation under Part 2 of *this insurance* shall be subject to the following deductibles per category:

1.1. For insurances other than those referred to in paragraphs 1.2 to 1.9: USD 10,000

1.2. Clause 5 (cargo liability),
Clause 6 (extra cargo handling costs),
Clause 7.1.2 (cargo fines)
Clause 12 (property)
Clauses 16 (salvage & general average) and

USD 15,000 per cargo voyage for *vessels* above 2500GT

USD 10,000 per cargo voyage for *vessels* under 2500GT

The deductibles applicable to cargo claims under the Clauses referred to in this paragraph (whether for standard or separately agreed amounts) shall be doubled when the loss or liability is due to water damage resulting from leaky cargo hatches or tank hatches on account of inadequate maintenance.

1.3. Clause 11 (collision and contact liability)

USD 45,000

1.4. Clauses 20 (legal and associated costs such as correspondents' fees) and 19 (mitigation costs) shall be subject to the deductible applicable to the claim in respect of which the costs have been incurred.

2. MISCELLANEOUS

2.1. Unless otherwise agreed or stipulated otherwise in *this insurance*, the applicable deductibles shall apply to any one *Event* (as defined in Appendix 1) any one *Vessel* any one category listed under paragraph 1 of this Appendix.

2.2. Where deductibles apply per port of call and the *vessel* is staying for an unbroken period in the same port, the deductibles shall apply for a two-month period and for coasters and *vessels* engaged in local trade, for a one-month period.

2.3. The deductibles may be paid in any currency at the USD rate at the date of payment.

APPENDIX 4

CONTRACTS AND CONTRACTUAL TERMS

1. TERMS REQUIRED BY SKULD IN CONTRACTS OF CARRIAGE OF CARGO

- 1.1 *Skuld* requires the *Assured* to incorporate the *Hague Rules* or the *Hague-Visby Rules* or corresponding provisions in all contracts of carriage where permitted by relevant law.
- 1.2 *Skuld* requires the *Assured* to incorporate the "New Jason Clause" and "Both to Blame Collision Clause" in all contracts of carriage used in international trade.

2. OTHER TERMS

Skuld may during the policy year require the *Assured* to incorporate into any contract or indemnity any term which *Skuld* in its discretion considers should be so incorporated.

3. TOWAGE CONTRACTS APPROVED BY SKULD

- 3.1 *Towage of the entered vessel*
It is a requirement of approval under Clause 20.1 that the contract incorporates a term to the effect that the *Assured* and the *owner* of the towing *vessel* shall each 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.
- 3.2 *Towage by the Vessel*
Where the *vessel* is engaged in towage, *Skuld* approves the following contracts:-
 - a) Scandinavian, UK or Netherlands standard towage conditions,
 - b) "Towcon" or "Towhire",
 - c) Lloyd's Standard Form of Salvage Agreements, and
 - d) other contracts containing similar exclusions of liability clauses to those in the contracts specified in (a), (b) and (c) or incorporating a term between (i) the *Assured* and (ii) the *owner* of the tow and the *owners* of any cargo or other property on board the tow, that each shall be responsible for loss of or damage to, or injury or death of, its own property and personnel and property and personnel of its affiliates and other contractors (and in the case of offshore operators, co-licensees) and its and their sub-contractors, irrespective of any fault or neglect of that party or its affiliates, contractors or co-licensees or its or their sub-contractors or of any of their personnel (i.e. a knock-for knock).

4. HEAVY LIFT CONTRACTS APPROVED BY SKULD

The "Heavycon" charterparty is approved by *Skuld* provided it is not materially amended.