

Rest assured.



Terms & Conditions as of 20 February 2022

# Yacht



**SKULD**



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# Part 1 Insurance agreement

## 1. Terms and scope of cover

- 1.1** The *Assured* is insured by *Skuld* in accordance with the terms set out in these Terms and Conditions, the Certificate of Insurance and any Endorsement issued by *Skuld* (together "*this insurance*") for the liability, losses, expenses and costs specified in Part 2 below (and the additional cover under Part 5, where applicable) arising out of an event taking place during the *period of insurance* in direct connection with *the Assured's* ownership and the operation of the *Yacht*, unless expressly excluded under Part 3 below or elsewhere under *this insurance* and subject always to the General Provisions set out in Part 4 below.
- 1.2** The cover under *this insurance* shall extend to cover:
- 1.2.1 the *Yacht's crew* for claims made against them as a result of carrying out their professional duties onboard or in respect of the *Yacht*;
  - 1.2.2 the *Yacht's guests* for claims made against them arising directly from their use of the *Yacht* or her equipment; and
  - 1.2.3 the *Yacht's charterers* for claims made against them arising directly from their charter and use of the *Yacht* or her equipment provided that the *Yacht* is under the control and command of the *Assured's* professionally qualified captain during the charter.
- 1.3** The cover under *this insurance* may be extended to a *Co-assured* on the terms set out in Appendix 2.
- 1.4** If, in the opinion of *Skuld*, there is a substantial change of risk, as a result of new legislation or for any other reason, *Skuld* may make such amendments to these T&Cs as the situation may require, giving at least two months' notice in writing of the amendment.

## 2. Definitions

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

This insurance shall in accordance with Part 1 above cover (unless specifically amended in the Certificate of Insurance or in an Endorsement) the following specified liabilities, losses, expenses or costs:

### 3. Injury, illness or death

Liability for injury, illness or death of *crew*, *dayworkers* or any *third party*.

### 4. Medical and funeral expenses and repatriation costs

Liability to pay for the necessarily and reasonably incurred costs of medical or hospital treatment and ancillary expenses in relation to any injury, illness or death, funeral arrangements, repatriation of an injured person (or a deceased's remains) incurred in respect of:

- 4.1 any person onboard the *Yacht* and any *crew* only to the extent that these costs exceed the amount that is recoverable under the *crew* medical insurance which the *Assured* is required to have in place in accordance with Clause 33 below or would have been recoverable had the *Assured* complied with Clause 33; or
- 4.2 any person who is on a vessel which is in collision with the *Yacht* or who is injured by the *Yacht* or on any property or object damaged by the *Yacht*.

### 5. Crew

- 5.1 Liability, costs and expenses necessarily and reasonably incurred by the *Assured* pursuant to a statutory obligation by reason of any *crew* who go absent from the *Yacht* without leave, where such costs or expenses cannot be recovered from the *crew* concerned.
- 5.2 Liabilities arising under *MLC Certificates*, if applicable, save that the *Assured* shall reimburse the Association in full any claim paid under Certificates issued under Regulation 2.5, Standard A2.5.2.
- 5.3 Liability for loss of or damage to *personal effects* other than *valuables*.
- 5.4 Liability for compensation for loss of employment to serving *crew* members as a result of being signed off due to a major *casualty* to the *Yacht* which renders the vessel unseaworthy, and necessitates the signing off or termination of employment of any *crew* member for a maximum period of 60 days.
- 5.5 Costs of providing a substitute *crew* member required as a result of the injury, illness or death of a serving *crew* member covered under Clause 3 or repatriation under Clause 5.2.
- 5.6 Liability for wages to serving *crew* members or, if deceased, their dependants as a result of injury, illness or death. Any such liability shall not exceed the terms of the *crew* members' agreement or contract of employment.

### 6. Stowaways, refugees or persons saved at sea

Liabilities arising from dealing with stowaways, refugees or persons saved at sea.

### 7. Diversions and related costs

Extra costs necessarily, reasonably and solely incurred for landing or dealing with stowaways, refugees or persons saved at sea or for diverting to obtain necessary medical treatment for an injured or sick person 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.



## 8. Quarantine and disinfection requirements

Liability for *extra costs* necessarily, reasonably and solely incurred to comply with quarantine, disinfection and fumigation requirements as a result of infectious human and/or animal disease on board the *Yacht*.

## 9. Life salvage

Liability for life salvage payable to *third parties* as a result of saving or attempting to save the life of a person on or from the *Yacht*, to the extent that payment is not recoverable from the *Yacht's* hull underwriters or any other underwriters.

## 10. Salvage operations for saving life at sea

*Extra costs* necessarily, reasonably and solely incurred for salvage operations conducted by the *Yacht* for the purpose of saving life at sea.

## 11. Uninsured and underinsured boater cover

Medical costs and expenses necessarily and reasonably incurred directly in respect of bodily injury sustained onboard the *Yacht* by the *Assured*, *crew* or the guests onboard the *Yacht* which are directly caused by an uninsured or underinsured *third party* vessel, provided that such medical costs and expenses are not recoverable from the *third party* vessel, its owner, its operator, the *Yacht's* hull insurance, the *crew* medical insurance which the *Assured* is required to have in place in accordance with the provisions of Clause 33 below, or any other insurance.

## 12 Property

### 12.1 Cover for the *Assured's* liability and loss:

- 12.1.1 Liability arising out of the physical loss of or damage to any vessel, fixed or movable property or any other property or object which is not owned or leased by the *Assured* and for which liability is not excluded elsewhere under *this insurance*;
- 12.1.2 Loss suffered by the *Assured* as a result of the loss of or damage to his own property, to the extent that *Skuld* would have been obliged to indemnify the *Assured* in respect of liability had the property been owned by a *Third Party*;
- 12.1.3 Liability arising out of damage to a coral reef or marine conservation zone.

Provided that if a collision or contact occurs involving the *Yacht* and any other vessel belonging to the same *Assured*, the *Sister Vessel Clause* shall apply.

### 12.2 Exceptions in respect of the *Assured's* liability or loss in respect of property:

- 12.2.1 Loss of or damage to the *Yacht*, her equipment, stores, bunkers or supplies; and
- 12.2.2 Liability or loss recoverable under any other insurances.

## 13. Pollution

### 13.1 Cover for the *Assured's* liability and costs:

- 13.1.1 Liability arising out of the actual or threatened escape or discharge of oil or other polluting substance;
- 13.1.2 Costs of measures reasonably taken, for the purpose of preventing or minimising pollution; and
- 13.1.3 Costs incurred in order to comply with an order of any government agency or authority for the purpose of preventing or minimising actual or threatened pollution.



### 13.2 Exceptions in respect of the Assured's liability or costs in respect of pollution:

- 13.2.1 Costs which are required as part of the normal operation or repair of the *Yacht*; and
- 13.2.2 Pollution 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 *Yacht* as fuel, stores, waste or otherwise.

## 14. Wreck removal and obstruction

### 14.1 The standard insurance shall cover liability and costs arising out of the raising, removal, destruction or marking of the wreck of the *Yacht* or its equipment, bunkers or cargo lost as a result of a *casualty*, provided that:

- 14.1.1 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*.

For the purpose of this rule, 'casualty' means collision, stranding, explosion, fire or similar fortuitous event, but excludes any wreck caused by dereliction.

The standard insurance shall also cover the *Assured's* liability and costs of the raising, removal, destruction or marking of the wreck of any other vessel as far as the raising and other operations are compulsory by law.

- 14.1.2 However the standard insurance shall not cover liability, costs, or expenses
  - 14.1.2.1 which are covered under the *Yacht's* Hull or Increased Value policies, or
  - 14.1.2.2 where the *Assured* transfers his interest in the wreck or other property saved otherwise than by abandonment.
- 14.1.3 The realised value of the wreck and other property saved shall be credited to *Skuld*.

### 14.2 The standard insurance shall cover liability to third parties in respect of their interest in harbours, wharves, canals or similar structures or vessels arising directly from the *Yacht* causing an obstruction as a result of a *casualty*.

- 14.2.1 which are covered under the *Yacht's* Hull or Increased Value policies, or
- 14.2.2 where the *Assured* transfers his interest in the wreck or other property saved otherwise than by abandonment.

## 15. War risks

Cover for the *Assured's* liabilities, costs and expenses for war risks provided that:

- 15.1 cover under this Clause may be cancelled by *Skuld* giving the *Assured* or the *Assured's* agent seven (7) days' notice of cancellation in writing;
- 15.2 cover under this Clause shall exclude liabilities, costs and expenses for or arising directly or indirectly from chemical, bio-chemical, electromagnetic weapons and computer risks;
- 15.3 cover under this Clause shall exclude liabilities, costs and expenses arising out of the outbreak of war (whether declared or not) between any of the following countries: the United Kingdom, the United States of America, the People's Republic of China, France or the Russian Federation;
- 15.4 cover under this Clause will terminate automatically without notice to the *Assured* should war (whether declared or not) break out between any of the following countries: the United Kingdom, the United States of America, the People's Republic of China, France or the Russian Federation.

## 16. Fines

Liability for fines imposed on the *Assured* or for which the *Assured* is under a legal obligation to reimburse any *crew* for:

- 16.1 breach of any immigration law or regulation;
- 16.2 in respect of the accidental escape or discharge of oil or other polluting substance or threat thereof;



- 16.3.** In exceptional circumstances, *Skuld* may, in its absolute discretion, cover the *Assured's* liability for fines:
- 16.3.1 other than those set out in clauses 16.1 and 16.2 provided that *Skuld* is satisfied that the *Assured* took all reasonable steps to prevent the infringement of the law or regulation giving rise to the fine; or
  - 16.3.2 imposed on any *crew* or any other party in respect of the entered *Yacht*:
    - provided that the *Assured* is under a legal obligation to reimburse the *crew* or other party; or
    - to the extent that *Skuld* determines that it was reasonable for the *Assured* to reimburse the *crew* or other party.

## 17. Article 14 salvage convention compensation

*This insurance* shall cover special compensation payable to a salvor of the *Yacht* 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 (SCOPIIC), except where excluded by the provisions of *this insurance*.

## 18. Piracy

Liabilities expressly covered under *this insurance* arising from acts of piracy against the *Yacht*.

## 19. Towage

- 19.1.** Liabilities expressly covered under *this insurance* arising out of the *Yacht* towing:
- 19.1.1 any other vessel or craft (other than the *Yacht's tender(s)* or *toy(s)*) provided such other vessel or craft is in an emergency situation and requests an immediate tow by the *Yacht* provided that such tow by the *Yacht* is either terminated or handed over by the *Yacht* to a more appropriate towing vessel as soon as reasonably possible; or
  - 19.1.2 the *Yacht's tender(s)* and *toy(s)* provided that the equipment used for towing is appropriate for the weight of the *tender* or *toy* being towed in the prevailing conditions.
- 19.2.** Liabilities expressly covered under *this insurance* arising from the *Yacht* being towed (excluding the cost of the tow itself):
- 19.2.1 for the purpose of entering or leaving port and shifting between berths in port and/or securing the *Yacht* in port;
  - 19.2.2 in an emergency situation; or
  - 19.2.3 for any other purpose, provided that the tow is being conducted in accordance with a written agreement on standard un-amended Towcon or Towhire BIMCO forms, or any other standard form towage contract which affords *the Assured* the equivalent or better protection than the standard forms referred to above, or in accordance with an agreement to which *Skuld* has given its prior written approval.

## 20. Contractual indemnities cover

*The Assured* is insured for any contractual indemnity which would be recoverable under *this insurance* had it not arisen solely by reason of liability under a contract and which arises solely by reason of one of the following written contracts entered into by the *Assured* or by the captain of the *Yacht* on the *Assured's* behalf in connection with the operation of the *Yacht*:

- 20.1.** the following standard form contracts: the MYBA Charter Agreement (Revised 2009 and 2014); Towcon or Towhire, provided that such contract is not amended in any manner which increases the *Assured's* liability;
- 20.2.** an MLC compliant Seafarer's Employment Agreement ("SEA") no wider than the provisions of The Standard Cayman Islands Seafarer Employment Agreement (Revision Date: 27/03/13) unless otherwise agreed;
- 20.3.** a contract which the *Assured* is required to accept under a shipyard's, port's, marina's, club's or supplier's standard terms of business; or



20.4. a contract specified in the Certificate of Insurance or an Endorsement as being approved by *Skuld*;

provided always that the maximum liability of *Skuld* under this Clause 20 for all liability, losses, costs and expenses arising from any one event or series of events shall be USD 5,000,000 any one claim, unless otherwise agreed.

## 21. Watersports liability

Liability to a *third party* arising from the operation of the *Yacht's* tender(s), toy(s) and diving equipment used in conjunction with the insured *Yacht*.

## 22. Helicopters and other airborne craft

22.1. Liability to a *third party* arising from an accident in connection with the *Yacht's* helicopter or airborne craft or a third party's helicopter or airborne craft onboard the *Yacht* during the period commencing from the later of the moment when all the engines of the helicopter or airborne craft are switched off and all its rotors and/or other propulsion mechanisms have ceased to turn and the helicopter or other airborne craft is secured to the deck of the *Yacht* with all its securings until the earlier of the moment when any of the engines of the helicopter or other airborne craft are switched on and any of its rotors and/or other propulsion mechanisms have begun to turn and/or any of the securings holding the helicopter or other airborne craft to the deck of the *Yacht* have been released.

22.2. Liability to a *third party* arising out of the operation of unmanned aerial vehicles (drones) owned and/or operated from on board the *Yacht* or a *tender*.

Excluding cover for fines levied or any financial consequential loss incurred as a result of operating unmanned aerial equipment in breach of any local law or regulation.

22.3. *This insurance* does not cover any liability for loss of or damage to any helicopter, airborne craft or unmanned aerial vehicles (drones) of any nature whatsoever owned or leased by the *Assured*.

## 23. Handguns and shotguns

Liability to a *third party* arising from having handguns and shotguns on board the *Yacht* provided that such handguns and shotguns are carried, stored and used in strict compliance with all applicable local and international laws and regulations.

## 24. Legal and associated costs

Legal and associated costs necessarily and reasonably incurred by the *Assured* with the consent of *Skuld*, in relation to any liability, loss, expense or costs for which the *Assured* is covered under *this insurance*.

## 25. Inquiry costs and expenses

Legal and associated costs necessarily and reasonably incurred by the *Assured* following a *casualty*, with the consent of *Skuld*, to protect the interests of the *Assured* or *crew* before an inquiry or tribunal constituted to investigate that *casualty*.

## 26. Mitigation costs (sue and labour)

*Extra costs* which are necessarily, reasonably and solely incurred by the *Assured* on or after a *casualty* or *event* which may give rise to a claim under *this insurance*, in avoiding or minimising any liability, loss, expense or cost covered under *this insurance*, but this Clause shall not cover costs for work which could have been carried out by the *crew*, by reasonable use of the *Yacht* and her equipment, or which are not approved in writing in advance by *Skuld* where it is practicable to obtain such approval.

## 27. Directions of *skuld*

Liability and costs which the *Assured* incurs in accordance with the written direction of *Skuld* which direction specifically refers to this Clause 27.



## Part 3 Exclusions

28. *This insurance shall not cover the Assured for any liabilities, losses, expenses or costs for:*

- 28.1 any claim resulting from the Assured's deliberate breach of any contract, fraudulent act or *wilful misconduct*;
- 28.2 any claim resulting from the Assured knowingly sending the *Yacht* to sea or operating the *Yacht* in an unseaworthy condition;
- 28.3 claims resulting directly or indirectly from the Assured's failure to keep and/or operate the *Yacht* in compliance with the applicable requirements of her Flag State, Class (if the *Yacht* is classed with a Classification Society at the inception of *this insurance*); Certification (which is mandatory for the size, tonnage and operation of the *Yacht*) as well as all applicable requirements of the *ISM* and *ISPS Codes*, unless such failure was committed without the Assured's knowledge, consent or approval;
- 28.4 any claim involving the *Yacht's tenders, toys and diving equipment (or submarine(s))* provided there is cover under Clause 58) unless they are being operated at the time of the *event* by and/or under the control and/or instruction and/or with the permission of a member of the *crew* who is both adequately qualified (where it is a flag state requirement or legal requirement where the *Yacht* is situated to be so qualified) and is also adequately experienced in the operation of such *tender, toy and/or diving equipment (or submarine)*;
- 28.5 any claim for liquidated damages;
- 28.6 any claim for loss of reputation or for punitive or exemplary damages;
- 28.7 any claim for failure to perform under a contract;
- 28.8 irrecoverable debts or the insolvency of *the Assured* (save for Clause 5.2) or any other party, or fraud of any of *the Assured's* agents, associated companies or employees when acting on behalf of *the Assured*;
- 28.9 the Assured's internal administrative costs or expenses, the daily running costs or expenses of the *Yacht*;
- 28.10 any claim recoverable by the Assured under any other insurance policy;
- 28.11 the loss of or damage to any property owned or leased by the Assured or by any party associated with the Assured;
- 28.12 any claim resulting directly or indirectly from the *Yacht* performing Special Operations;
- 28.13 *personal effects* other than those covered under Clause 5.3;
- 28.14 *nuclear risks*;
- 28.15 *chemical, bio-chemical, electromagnetic weapons and computer risks*;
- 28.16 any default judgment or default award;
- 28.17 operation of the *Yacht* for any illegal activity or purpose, so far as the Assured can control the matter;
- 28.18 any payment in respect of bribery, blackmail, kidnap, ransom or any other illegal payment;
- 28.19 the deductible under *this insurance* or any other deductible or franchise or excess under any other insurance;
- 28.20 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 organization or competent authority;



**28.21** any claim directly or indirectly arising from or in respect of:

28.21.1 an indemnity or liability arising solely by reason of a contract, except where such contract has been approved in writing in advance by *Skuld* or which is otherwise expressly covered by the provisions of *this insurance*;

28.21.2 any claim arising out of the use of the *Yacht's submarines*;

28.21.3 bareboat charter where the charterer provides his own *crew* for the *Yacht*;

28.21.4 any claim while the *Yacht* is participating in a race or is subject to the rules of a race;

28.21.5 pre-delivery *crew* cover;

unless the Certificate of Insurance or an Endorsement expressly specifies that such risk is covered by *this insurance*;

**28.22** any event falling within the Communicable Disease Exclusion Clause.



## Part 4 General provisions

Unless otherwise agreed, all cover under *this insurance*, including any applicable additional cover, shall be subject to the conditions and provisions in this Part 4.

### 29. Fair presentation and change in circumstances

The *Assured* shall make to *Skuld* a fair presentation of the risk in compliance with Part 2 of the UK Insurance Act 2015 including:

- 29.1** full, correct and prompt disclosure of:
  - 29.1.1 every material circumstances which the *Assured* knows or ought to know which might influence *Skuld* in deciding whether and on what terms to provide cover;
  - 29.1.2 every change in circumstance which the *Assured* knows or ought to know alters the risk(s) covered by *Skuld*; and
  - 29.1.3 sufficient information to put *Skuld* on notice that it needs to make further enquiries for the purposes of revealing those circumstances; and
- 29.2** a warranty that every material representation as to a matter of fact is substantially correct, and every material representation as to a matter of expectation or belief is made in good faith;  
failing which Section 8 of the Act shall not apply and 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 irrespective of whether any breach of duty of fair presentation was innocent, deliberate or reckless.

### 30. Premium due by the *assured*

- 30.1** The *Assured's* premium is a fixed premium.
- 30.2** The *Assured* shall pay (without set off) all premium(s) owed to *Skuld* when due and payable, otherwise:
  - 30.2.1 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 any premium to *Skuld*, other than under liabilities arising out of clause 5.2;
  - 30.2.2 *Skuld* shall be entitled to cease handling all or any cases *Skuld* is for the time being handling for the *Assured*; and
  - 30.2.3 *Skuld* may cancel *this insurance* under Clause 38.2.
- 30.3** The *Assured* shall pay *Skuld* on demand the amount of any tax or duty relating to all premium paid or payable by the *Assured* and for which *Skuld* is or may become liable.

### 31. Survey and audit

- 31.1** *Skuld* may at any time and for its sole benefit, conduct a survey of the condition or operation of the *Yacht* or an audit of the *Assured's* management systems.
- 31.2** If the survey or audit demonstrates that the condition or operation of the *Yacht* or her management systems are not satisfactory, *Skuld* in its sole discretion, shall be entitled to restrict cover by way of an Endorsement until the condition, operation and management of the *Yacht* or her management systems are satisfactory or issue a notice of cancellation of *this insurance* under Clause 38.3.



## 32. The assured's obligations following an event

On the happening of an *event* which may give rise to liability, loss, expense or cost which may be recoverable under *this insurance*, the *Assured* shall:

- 32.1 notify *Skuld* promptly;
- 32.2 notify the relevant government authority or agency if the *Assured* considers a crime to have been committed or if required to do so by local practice or law;
- 32.3 take all reasonable steps to avert or minimise any liabilities, losses, expenses and costs which may be covered under *this insurance*;
- 32.4 comply with *Skuld's* request for information, documents, statements or inspection;
- 32.5 refrain from admitting liability, waiving rights, settling any claim or appointing any lawyers or arbitrators without the prior written approval of *Skuld*;
- 32.6 provide *Skuld* as soon as possible with all available information and documentation relating to any claim or to any event which might give rise to a claim;
- 32.7 preserve any right of recourse against third parties;
- 32.8 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*. *This 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 32 to the extent that the failure has materially prejudiced *Skuld's* interests.

## 33. Obligatory crew medical insurance

The *Assured* is required to have in place medical insurance for the *Yacht's crew* with a reputable medical insurer with cover for at least USD 100,000 (or equivalent in any other currency) for each member of *crew* for each accident, occurrence or illness. Where the crew medical does not respond a USD 7,500 deductible will apply, except for claims that arise, are presented or enforced in the United States of America or any of its territories, then this deductible is increased to USD 25,000.

## 34. Limitation

Where an *Assured* is entitled to limit any liability for any marine claim recoverable under *this insurance*, there shall be no recovery in respect of such liability for more than the amount to which liability could have been limited.

## 35. Limit of insurance

- 35.1 There shall be no recovery under *this insurance* in excess of the Limit(s) specified in the Certificate of Insurance or an Endorsement arising out of any one *event* notwithstanding the number of *third parties* claiming against the *Assured(s)* and/or the number of *Assureds* or others claiming an indemnity under *this insurance*.
- 35.2 In the event of shortfall in recovery from *Skuld's* reinsurers by reason of a sanction, prohibition or adverse action against the reinsurers by a state, international organisation or other competent authority or the risk thereof if payment were to be made by such reinsurers, 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*. For the purposes of this provision, the word "shortfall" includes any failure or delay in recovery by *Skuld* by reason of the parties or reinsurers making payment in to a designated account in compliance with the requirements of any state, international organisation or other competent authority.



## 36. Deductibles

- 36.1 The deductible is the amount specified as the Deductible in the Certificate of Insurance and shall be paid to *Skuld* in respect of a claim under *this insurance* for liabilities, losses, expenses and costs arising under any one event.
- 36.2 Where more than one deductible applies in respect of one event, the *Assured* will only be required to pay the largest applicable deductible.
- 36.3 Failure by the *Assured* to pay a deductible which is due will entitle *Skuld* to withhold the indemnity due under *this insurance*.
- 36.4 Any policy limits shall apply to the total amount of any claim, inclusive of deductibles.

## 37. Automatic termination of *this insurance*

*This insurance* shall terminate automatically without notice to the *Assured* or the *Assured's* agent in the following circumstances:

- 37.1 there is a change of ownership of the *Yacht* without notice to and prior written approval of *Skuld*;
- 37.2 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 (or interim protection) from creditors;
- 37.3 the *Yacht* becomes a total loss or the *Yacht's* hull underwriters have accepted that the *Yacht* as a constructive, compromised or arranged total loss (or is deemed by *Skuld* to be so), except in respect of liability arising out of the *casualty* which gives rise to the total loss of the *Yacht*;
- 37.4 the *Yacht* is missing and there has been no news of her for thirty (30) days;
- 37.5 the *Yacht* is requisitioned by a State or Government Authority;
- 37.6 expiration of the *period of insurance*.
- 37.7 where the *Yacht* having been engaged or engaging in any activity whatsoever that may expose *Skuld* to the risk of being or becoming subject to any applicable sanction, prohibition, or adverse action in any form whatsoever by any State, international organisation or competent authority. The cessation of cover will take effect from the date of the commencement of the aforementioned activity.

Notwithstanding the provisions of 37.7 above, where cover ceases or the entry is terminated, *Skuld* may nevertheless, in its absolute discretion, reinstate the cover with effect from such time as it considers appropriate.

## 38. Termination of *this insurance* by notice

*Skuld* may terminate *this insurance* by giving:

- 38.1 immediate notice of cancellation to the *Assured* or the *Assured's* agent, where the *Assured* is in breach of his obligations of duty of fair presentation under Clause 29, breach of the *Assured's* obligations in respect of compliance with all requirements and recommendations of the *Yacht's* Flag State, Class (if the *Yacht* is classed with a Classification society at the inception of this insurance), change of the *Yacht's* Flag State or Class without prior approval of *Skuld*, or, if in the sole opinion of *Skuld*, the *Assured* has acted in a fraudulent manner or with *wilful misconduct* (in which case there shall be no return of premium to the *Assured*); Section 8 and Schedule 1 of the UK Insurance Act 2015 are excluded entirely;
- 38.2 7 (seven) days' notice to the *Assured* or the *Assured's* agent where the *Assured* is in breach of his obligation regarding payment of premium under Clause 30; or following *Skuld's* survey of the *Yacht* or its management systems under Clause 31;
- 38.3 30 (thirty) days' notice to the *Assured* or the *Assured's* agent without giving any reason;
- 38.4 notwithstanding provisions and without prejudice to provisions of in 37.7, 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.



Where *this insurance* is terminated under Clauses 37, 38.2, 38.3 or 38.4, the *Assured* will be entitled to a pro-rata return of the remaining premium for the *period of insurance*.

Where *this insurance* terminates or cover is otherwise restricted or lost under *this insurance*, the *Assured* shall remain liable for all premiums due.

## 39. Time limits

Any claim against *Skuld* shall be time barred unless the *Assured*:

- 39.1 gives written notice to *Skuld* of any *event* which may give rise to a claim under *this insurance* within 6 (six) months of the *Assured* becoming aware of that *event*; and
- 39.2 commences proceedings against *Skuld* in respect of a claim under *this insurance* within 12 (twelve) months of receiving written notice from *Skuld* stating that the claim has been declined.

## 40. Provision of security

*Skuld* shall be under no obligation to provide security on behalf of the *Assured*.

## 41. Waiver and recovery

- 41.1 In the absence of an express written confirmation of cover by *Skuld*, no act (including the provision of security, certificate, 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.
- 41.2 If *Skuld* provides security, certificate or incurs costs, or makes any payment in respect of a claim or dispute which turns out not to be covered, *Skuld's* position under *this insurance* is not waived and the *Assured* shall indemnify *Skuld*.

## 42. Subrogation

Where *Skuld* makes any payment in respect of any liability or costs, it shall be subrogated to the rights of the *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*.

## 43. 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.

## 44. Burden of proof

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

## 45. Savings by *the assured*

Where the *Assured* as a consequence of an *event* which is covered by *this insurance* obtains extra revenue, saves expenses or avoids liability or loss which otherwise would have been incurred and which would not have been covered by *this insurance*, *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*.



## 46. 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.

## 47. Set off

Skuld shall be entitled to set off any amount due by the Assured to Skuld against any amount that may be due to the Assured or Co-assured.

## 48. Interest

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

## 49. Notices

Notices are to be given in writing. Notices to the Assured and to Skuld are to be sent to their addresses set out in the Certificate of Insurance or for the Assured – to the address of the Assured's agent.

## 50. 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.

## 51. Law

The Assured and Skuld are free to choose the law applicable to *this insurance*. Unless the Certificate of Insurance states to the contrary, *this insurance* shall be governed by and construed in accordance with English law.

## 52. Jurisdiction

Unless the Certificate of Insurance states to the contrary, *this insurance* shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

## 53. Mediation

Without prejudice to Clause 52 above, the Assured and Skuld agree to use reasonable endeavours to resolve any dispute amicably and if appropriate, refer the dispute to mediation.

## 54. Rights of third parties

No term of *this insurance* is intended to confer any benefit or right on any *third party* under any applicable legislation including, but not limited to, the Contract (Third Parties) Act 1999.

## 55. Miscellaneous

Headings in these Terms and Conditions are for ease of reference and convenience and the headings shall not affect the meaning and/or interpretation of any of the provisions of *this insurance*.



## Part 5 Additional cover

### 56. Pre-delivery liability

Where the *Assured* has entered into a written contract with:

a yard for the purchase of a new *Yacht* and stations *crew* at the yard or the port where the *Assured's Yacht* is being constructed and/or completed prior to handover and delivery of the *Yacht* by the yard to the *Assured*; or

the Seller for the purchase of a second hand *Yacht* and stations *crew* onboard the *Yacht* for the purpose of inspection, work, familiarisation or hand-over;

the *Assured* will be insured for liabilities, costs and expenses covered under Part 2 of *this insurance* for:

- 56.1 the actions or omissions of such *crew* while performing their duties in the course of their employment; and
- 56.2 claims brought against the *Assured* by such *crew* for liabilities under Clauses 3, 4 and 5.1, 5.3, 5.5 and 5.6 of *this insurance*;
- 56.3 claims from the *Assured's* contractors or third parties provided always that the contract has been approved by *Skuld* in advance and that the maximum liability of *Skuld* under this Clause 56.3 arising from any one *event* or series of *events* shall be USD 5,000,000 any one claim, unless otherwise agreed;  
  
provided always that:
  - 56.4 the Certificate of Insurance or an Endorsement specifies that the *Assured* is insured for "Pre-Delivery Cover";
  - 56.5 cover under this Clause shall only cover such liabilities, costs and expenses insofar as there is no cover under any other insurance; and exclude any claims which are recoverable under any builder's risk insurance or would have been recoverable had the *Assured* taken out builder's risk insurance on standard terms; and
  - 56.6 no claim for damage caused to the *Yacht* or any equipment allocated to the *Yacht* shall be recoverable under *this insurance*.

### 57. Racing

Liabilities covered under *this insurance* incurred while the *Yacht* is participating in a race or is subject to the rules of the race provided that the Certificate of Insurance or an Endorsement specifies that the *Assured* is insured for "Racing".

### 58. Submarines

Liabilities covered under *this insurance* incurred in respect of the *Yacht's submarine(s)* provided that:

- 58.1 the Certificate of Insurance or an Endorsement specifies that the *Assured* is insured in respect of the "*Yacht's Submarines*"; and
- 58.2 the *Yacht's submarine(s)* is/are constructed, surveyed, certificated and operated in conformity with the applicable requirements, rules and regulations of the *Yacht's* Classification Society and her Flag State



# Appendix 1

## Definitions

### **Affiliate**

A person or company affiliated with the *Assured* including but, not limited to, the beneficial owner of the *Yacht* and his/her immediate family.

### **Assured**

A member of *Skuld* named as the *Assured* in the *Certificate of Insurance*, including any *Co-Assured* or *Affiliate*.

### **Casualty**

An incident affecting the physical condition of the *Yacht* which renders the *Yacht* incapable of safe navigation to her intended destination or which creates a threat to the life or safety of her *crew* or guests.

### **Chemical, bio-chemical, electromagnetic weapons and computer risks**

Loss, damage, liability or expense directly or indirectly caused by or contributed to 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, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

### **Co-assured**

A person or company named as the *Co-assured* in the *Certificate of Insurance*.

### **Communicable Disease Exclusion Clause**

1. Any and all liabilities, losses, damages, costs and expenses in excess of USD10,000,000 for one event directly arising from any transmission or alleged transmission of the Declared Communicable Disease in the event that the World Health Organization ('WHO') has determined an outbreak of a Communicable Disease to be a Public Health Emergency of International Concern (a 'Declared Communicable Disease') are excluded.

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

2. However even if the requirements of paragraph 1 of this exclusion are met, no cover will be provided for any:
  - A. liability, cost or expense to identify, clean up, detoxify, remove, monitor, or test for the Declared Communicable Disease whether the measures are preventative or remedial;
  - B. liability for or loss, cost or expense arising out of any loss of revenue, loss of hire, business interruption, loss of market, delay or any indirect financial loss, howsoever described, as a result of the Declared Communicable Disease;
  - C. loss, damage, liability, cost or expense caused by or arising out of fear of or the threat of the Declared Communicable Disease.
3. For the purpose of this exclusion, Communicable Disease means any disease, known or unknown, which can be transmitted by means of any substance or agent from any organism to another organism where:
  - A. the substance or agent includes but is not limited to a virus, bacterium, parasite or other organism or any variation or mutation of any of the foregoing, whether deemed living or not, and
  - B. the method of transmission, whether direct or indirect, includes but is not limited to human touch or contact, airborne transmission, bodily fluid transmission, transmission to or from or via any solid object or surface or liquid or gas, and
  - C. the disease, substance or agent may, acting alone or in conjunction with other co-morbidities, conditions, genetic susceptibilities, or with the human immune system, cause death, illness or bodily harm or temporarily or permanently impair human physical or mental health or adversely affect the value of or safe use of property of any kind.
4. This exclusion shall not extend to cover any liability which would not have been covered hereunder had this exclusion not been included.

### **Crew**

A person employed or engaged to serve on board the *Yacht* in accordance with a *crew* agreement or contract of employment, including a substitute for such a person.

**Dayworker**

A person, not being a member of the crew, employed by or on behalf of the Assured to carry out casual work onboard the Yacht on a temporary basis.

**Event**

A *casualty*, incident, accident or occurrence arising from the operation or use of the Yacht which may give rise to a claim under *this insurance*. A series of events which have the same cause will be treated as one event for the purpose of deductibles.

**Extra Costs**

Those additional costs necessarily and reasonably incurred by the Assured over and above the costs that would have been incurred by the Assured had the event giving rise to the claim under *this insurance* not occurred.

**ISM Code**

International Safety Management Code.

**ISPS Code**

The International Ship and Port Facility Security Code.

**MLC**

The Maritime Labour Convention.

**MLC Certificates**

Certificates issued by Skuld in compliance with The Maritime Labour Convention 2006 (as amended) Regulation 2.5., Standard A2.5.2. and Regulation 4.2., Standard A4.2.1., paragraph 1 (b).

**Nuclear Risks**

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

- (a) ionising radiations 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.

**Period of Insurance**

The period of cover under *this insurance* commencing unless otherwise agreed at 00:00 hours GMT on the date prescribed in the Certificate of Insurance and ending at the time and date set out in the Certificate of Insurance, unless amended by way of an Endorsement or terminated in accordance with the provisions of *this insurance*.

**Personal Effects**

Items of a personal and portable nature which are taken onboard the Yacht and which would not normally be sold with the Yacht.

**Sister Vessel Clause**

The Assured shall be entitled to recover from Skuld and Skuld shall have the same rights as if the Yacht and the other Vessel had belonged to different owners. Unless otherwise agreed between the Assured and Skuld, if both the Yacht and the other Vessel involved in a collision are to blame, then where the liability of either or both of the Yacht and the other Vessel 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 cross liabilities, 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).

**Special Operations**

Commercial operations involving research and the activities of professional divers, where the Assured is responsible for such activities.

**Submarine**

A craft that is designed to travel under the surface of the water and where its occupant(s) is/are fully enclosed inside such craft or vessel.

**Tender**

Any watercraft owned by *the Assured* which is either stowed onboard the *Yacht* and/or towed by the *Yacht* when she is underway and which is used in connection with the *Yacht* to transfer the owner, guests and crew of the *Yacht* or to provide support to the *Yacht* and/or entertainment to the owner, guests and crew of the *Yacht*.

**Toys**

Any personal watercraft (PWC), jetski and other watercraft (other than the *Yacht* or *tender*), para-sailers, para-gliders, bananas, doughnuts or other watersports equipment and unmanned aerial vehicles (drones) owned and/or operated by the *Assured* and stored onboard the *Yacht* when underway.

**Third Party**

Any person or company other than the *Assured*.

**This insurance**

These Terms and Conditions, the Certificate of Insurance and any Endorsement issued by *Skuld* (together "*this insurance*").

**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.

**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 resultant civil strife or any hostile act by or against a belligerent power or by any person acting maliciously or from a political motive or by 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 *Skuld* shall be final;
- (b) capture, seizure, arrest, restraint, detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;
- (c) mines, torpedoes, bombs, rockets, shells, explosions or other similar weapons of war.

**Wilful Misconduct**

An act intentionally done, or a deliberate omission by the *Assured*, with the 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.

**Yacht**

The *yacht* named on the Certificate of Insurance as *the Yacht* insured under *this insurance*, including her *tender(s)*, *toy(s)*, watersports equipment and other equipment on board. This does not include any shadow vessel in support of *the Yacht* or the shadow vessel's *tender(s)*, *toy(s)* and equipment.



## 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.
2. The cover shall extend only to risks, liabilities and expenses which are within the scope of cover afforded by *this insurance*.
3. 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.
4. Where *Skuld* makes any payment to any *Co-assured* in respect of any liability or costs, it shall be subrogated to the rights of the *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 *Co-assured*.
5. 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*.
6. 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*.
7. 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*.
8. *Skuld* shall not cover any liability, loss, expense or costs in respect of any dispute between the *Assured* and any *Co-assured*.
9. 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*.
10. In the event that the total liability of *Skuld* is less than the total sum claimed by the *Assured* and by any *Co-assured*, *Skuld* shall be entitled to apportion payment in proportion to the respective amounts claimed.

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