

January 2017

COVER CIRCULAR

Skuld Owners' Fixed P&I cover Terms & Conditions - Amendments for 2017/18 policy year

The following changes to Owners' Fixed P&I Terms and Conditions for 2017/18 policy year were approved by the Board of Directors of Assuranceforeningen Skuld (Gjensidig) at its Meeting in November 2016.

Skuld Owners' Fixed P&I Terms and Conditions are published on our website. Hard copies will be available upon request.

New text appears **in red** and deletions are ~~struck through~~.

6.1. COVER

The Assured's liability arising in respect of crew for

6.1.2. costs of **wages**, repatriation and maintenance ashore

b) under **MLC Certificates** a statutory obligation, including the Maritime Labour Convention 2006 or equivalent domestic legislation by a State Party to MLC, or

12. POLLUTION

12.2. EXCEPTIONS

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

12.2.3.

which would be recoverable in general average if the Assured had incorporated the **un-amended** York-Antwerp Rules ~~1994~~.

Commentary: Changes reflect new version of York Antwerp Rules adopted in 2016 by the Comité Maritime International.

~~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.~~

20. TOWAGE

20.1

The Assured's liability arising out of towage of the Vessel

20.1.1 under a contract entered into in the ordinary course of trading

- (a) for the purpose of entering, leaving or manoeuvring within a port when customary; or
- (b) when the Vessel is entered as a barge or other vessel which is habitually towed from port to port or from place to place.

20.1.2 under a contract which has been approved by Skuld (as referred to in Appendix 4) and upon such terms Skuld may require.

20.2.

The Assured's liability arising out of the towage of another vessel or floating object by the Vessel on contractual terms which have been approved by Skuld (as referred to in Appendix 4) provided that the Vessel is insured as a tug or other vessel engaged in towage in the ordinary course of business.

Commentary: Change aimed to better distinguish between covers provided for towage **of** the insured Vessel vs. towage **by** the insured vessel; reflects current market practice and wording in Skuld's Rules.

24.2. PREMIUMS AND OTHER SUMS DUE

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 **other than liabilities under 6.1.2 b).**

24.5. OBLIGATIONS

The Assured shall,

24.5.5.

reimburse Skuld for any ~~repatriation costs~~ **claims paid** under **certificates issued under Regulation 2.5, Standard A2.5.2. of Clause 6.1.2(b)** in respect of the Maritime Labour Convention 2006 **(as amended)** ~~unless liability for such costs arose under Guideline B2.5 (b)(i) and (ii) of Regulation 2.5 of the Convention.~~

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,

25.1.11.

irrecoverable debts or the insolvency of the Assured (save for Clause 6.1.2.2.4.b) or any other party, or fraud of any agents or an associated company or of employees of the Assured acting as agent,

37. CERTIFICATES

Where liabilities arise under a *CLC Certificate, Bunkers Convention Certificate, MLC Certificates, 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,

Commentary: Changes to clauses 6.1.2, 24.2.3, 24.5.5., 25.1.11, 37 above reflect amendments to the Maritime Labour Convention entering into force on January 18, 2017. These liabilities will be covered under standard Terms & Conditions.

42. LAW AND JURISDICTION

42.1.

This insurance shall be governed by and construed in accordance with English law provided always that the sections of the English Marine Insurance Act 2015 as set out below shall not apply.

42.2.

Section 8 of the Marine Insurance Act 2015 is excluded. As a result of any breach of duty of fair presentation shall entitle Skuld to avoid the contract of insurance, regardless of whether the breach of the duty of fair presentation is innocent, deliberate or reckless.

42.3.

Section 10 of the Marine Insurance Act 2015 is excluded. As a result, if the Assured fails to comply with any warranty in this insurance Skuld shall be discharged from liability from the date of breach even if the breach is subsequently remedied.

42.4.

Section 11 of the Marine Insurance Act 2015 is excluded. As a result, if the Assured fails to comply with any term in this insurance, Skuld's liability may be excluded, limited or discharged in accordance with these rules notwithstanding that the breach could not have increased the risk of loss which actually occurred.

42.5.

Section 13 of the Marine Insurance Act 2015 is excluded. As a result, Skuld shall be entitled to exercise its right to terminate this insurance in respect of the Assured and any party afforded the benefit of cover by Skuld in the event that a fraudulent claim is submitted by or on behalf of the Assured or any party afforded the benefit of cover by Skuld.

42.6.

Section 13a of the Marine Insurance Act 2015 is excluded. As a result, no claim shall be brought against Skuld for breach of the implied term that Skuld will pay to the Assured any sums due in respect of a claim within a reasonable time save where or to the extent that any breach is deliberate or reckless.

42.7.

Section 14 of the Marine Insurance Act 2015 is excluded. As a result, this insurance, shall be deemed to be a contract of the utmost good faith, and any breach of the duty of the utmost good faith by the Assured or any party afforded the benefit of cover shall entitle Skuld to avoid this insurance.

42.8.

This insurance shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

Commentary: The UK Marine Insurance Act 2015 (entered into force August 12, 2016) automatically applies to Fixed T&Cs since they are subject to English law. In line with market practice and to ensure that established approach to a.o. remedies for failure to make a fair presentation of the risk, breach of warranties, etc. will continue, certain aspects of the Act are contracted out.

Appendix 1 Definitions

ASSURED

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

Commentary: Changes align wording with other non-mutual covers in Skuld.

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)

Commentary: Change above reflects amendments to the Maritime Labour Convention entering into force on January 18, 2017.

PERSONAL EFFECTS

Items of a personal and portable nature which are taken onboard the vessel by crew or passengers.

Commentary: Definition of personal effects was missing and now introduced in line with other covers in Skuld.

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 by any person acting maliciously or from a political motive**, 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);

Commentary: Definition aligned with the one in Yacht T&C.

APPENDIX 4

3.1 Towage of the entered vessel

It is a requirement of approval under Clause 20.4~~2~~ 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.

Commentary: Change required to align with amended wording of Article 20 (Towage).