

## Towage of an Insured Vessel Insurance

As a member of the International Group of P&I Clubs, Skuld offers insurance to ship operators within the scope of the Pooling Agreement. The Pooling agreement (2003) has the following wordings under App V-16 for Excluded Losses:

### **(I) TOWAGE OF AN INSURED VESSEL**

Liabilities, costs and expenses incurred under or pursuant to the terms of a contract for the towage of an Insured Vessel other than

(a) a contract entered into for the purpose of entering or leaving port, or manoeuvring within the port, during the ordinary course of trading; and

(b) a contract entered into in the ordinary course of trading of the insured Vessel, being a vessel which is habitually towed from port to port or from place to place provided always that

(i) such liabilities, costs and expenses shall only be capable of giving rise to Pool Claims to the extent that the Insured Owner is not insured against such liabilities, costs and

expenses under the hull policies on the Insured Vessel, and

(ii) such Insured Vessel has been so declared to the Association with which it is entered; and

(c) towage under Lloyd's Open Form of Salvage Agreement (1980, 1990 or 1995, whether or not incorporating SCOPIC) or any other form of salvage contract approved by the Association with which the Insured Vessel is entered; and

(d) a contract incorporating a term to the effect that each of the Insured Owner of the Insured Vessel and the owner of the towing vessel shall 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.

(Note also that certain towage operations may constitute specialist operation excluded by Appendix V-17)



### **Definition for 'knock for knock' as in the Pooling Agreement:**

A provision or provisions stipulating that

(i) each party to a contract shall be similarly responsible for loss of or damage to, and/or death of or injury to, any of its own property or personnel, and/or property or personnel of its contractors and/or of its and their sub-contractors and/or of other third parties, and that

(ii) such responsibility shall be without recourse to other party and arise

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notwithstanding any fault or neglect of any party and that

(iii) each party shall, in respect of those losses, damages or other liabilities for which it has assumed responsibility, correspondingly indemnify the other against any liability that that party shall incur in relation thereto.

Skuld has incorporated this in rule 23.1 (Towage of the entered vessel) and 22.1 (Salvage)

### **(II) THE TOWAGE OPERATION – WHEN IT IS NOT CUSTOMARY**

Each tow will tend to have its own set of circumstances and it is important for Skuld to establish these, in particular when the towage is not customary. For example, does it follow some form of casualty (in which case there might be some overlap with salvage); or is it for the purposes of relocation (a dead ship being towed to a yard, a rig being towed to its new site)? In either circumstance Skuld will warrant and request that a surveyor approves the tow - that is to verify that both the insured

vessel and the tow are fit for the towage operation.

Furthermore, Skuld will need to find out the configuration of the tow. There are a number of permutations: single tow, double tow, tandem tow etc. Single tows are generally considered the most straightforward but there may be good reasons why another configuration is chosen: ratio of the pulling power of the tug(s) to the size of the tow; the nature of the waterways /shipping lanes through which the tow will pass etc. The more complex the configuration / passage, the more will Skuld consider warranting the methodology of the tow be approved by a competent third party (naval architect / surveyor).

If the tow is passing through territorial waters, Skuld will require that all the necessary governmental / authority approvals have been obtained.

### **(III) EXTENDED CONTRACTUAL LIABILITY (ECL) FOR TOWAGE**

In the circumstance where member has to enter a towage contract that does not comply

with the knock-for-knock principle, Skuld is prepared to offer ECL for those liabilities that fall outside the standard scope of cover. Standard ECL will respond to third party person and property damage and/or loss that member is held liable as per the relevant contract, even if it is arising out of his contractual partner's negligence. Other items to consider and could be covered subject to separate agreement and consideration are, e.g. Coverage including RDC / FFO liabilities; liability to cargo on board the tow; bailee liabilities for cargo put ashore; or full P&I liabilities.