



# The AXA Yacht Insurance Contract

## General Provisions

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## GENERAL PROVISIONS

This document sets out the **General Provisions** of the AXA Yacht Insurance Contract provided by **AXA Corporate Solutions Assurance S.A.\*** ("AXA").

The AXA Yacht Insurance Contract will be made up of four sets of documents:

- The **AXA Corporate Solutions Questionnaire** (see pro forma at Annex I of your AXA Yacht Insurance Contract), duly completed and signed by you, and
- These **General Provisions** (see pages 5 to 53) and
- The **Particular Conditions** agreed with AXA and
- Any **Endorsements** or modifications agreed with AXA, after the contract of insurance has been made.

The **Particular Conditions** and the **Endorsements** will take precedence if they conflict in any way with these **General Provisions**.

These **General Provisions** are made up of four main parts:

- Part I **Marine Risks**, see pages 13 to 27 and
- Part II **Terrorism and War Risks**, see pages 28 to 34 and
- Part III **Increased Value Insurance**, see page 35 and
- Part IV **Loss of Hire**, see pages 36 to 40.

Parts II, III and IV are **optional**. You will only have insurance cover under those parts if this has been specifically agreed with AXA in the **Particular Conditions** or in any later **Endorsement**. Insurance for **War Risks**, **Increased Value** and **Loss of Hire** is only available under these **General Provisions** if you have purchased insurance for **Marine Risks**.

***\*AXA Corporate Solutions Assurance S.A. is regulated by l'Autorité de Contrôle des Assurances et des Mutuelles, 61 rue Taitbout, 75436 Paris Cedex 09.***

**PLEASE READ CAREFULLY THE GENERAL PROVISIONS, TOGETHER WITH THE PARTICULAR CONDITIONS AND ANY ENDORSEMENTS YOU HAVE AGREED WITH AXA, AS SOON AS YOU PURCHASE YACHT INSURANCE FROM AXA.**

You can, in addition, purchase from AXA: **Legal Protection Insurance, Assistance Insurance, VIP Assistance Insurance, Crew Medical Insurance and/or Fine Arts Insurance.** These insurances are only available if you have purchased insurance for **Marine Risks.**

## DISCLOSURE OF INFORMATION

**Important:** You must provide all material information to AXA before AXA agrees to provide insurance under the terms of these **General Provisions** and the other documents making up your contract. You must notify AXA of any material information, even if it has not been specifically requested in the **AXA Corporate Solutions Questionnaire**. You must also notify AXA immediately of any material change or increase in risk during the currency of this contract. AXA will be entitled to change the terms of your AXA Yacht Insurance Contract based on such changes, and if you do not agree to such changes AXA may terminate this contract.

**Important:** If any material information is not disclosed or if inaccurate or misleading information is provided to AXA before the contract is made, AXA will be entitled to avoid the contract. This will place you and AXA in the position that you would have been had the contract never been made. If you do not advise us of changes during the currency of this contract your insurance may no longer be valid and claims may not be payable.

## CONDITIONS PRECEDENT AND WARRANTIES

**Important:** We draw your attention to the effect of certain important terms in the **General Provisions** of the AXA Yacht Insurance Contract which are called either “**Conditions Precedent**” or “**Warranties**”.

If you fail to comply with a **Condition Precedent** AXA will be relieved of liability to pay a claim under this contract. However, the contract will remain valid and there will be no entitlement to a return of premium.

If a **Warranty** is not complied with AXA will be relieved from any liability under the contract as from that date and no claims will be payable, as if the contract did not exist from that time, and there will be no entitlement to return of premium.

## ALL NOTIFICATIONS, INCLUDING IN THE EVENT OF LOSS OR DAMAGE

All notifications, including in the event of loss or damage, must be sent immediately to AXA at the address, fax number and/or email address set out in the **Particular Conditions**.

**Important:** There are certain steps which you must take, and some which you must not take, in the event of loss or damage: for example see page 6 and 7, and SECTION B CLAUSE 4. Failure to comply with these obligations can mean that you will be unable to recover any payment under this contract.

## HOTLINE

In the event of loss or damage you can contact us 24 hours a day, 7 days a week at the telephone number set out in the **Particular Conditions**.

## INTRODUCTION AND SCOPE OF CONTRACT

This document sets out the **General Provisions** of the AXA Yacht Insurance Contract, which will operate subject to the **Particular Conditions** and any **Endorsements** agreed with AXA. The terms below form part of your contract with AXA.

### 1. Parties to the Contract

- 1.1 In this contract the term “You” or the “Insured” refers to the insured named in the Particular Conditions.
- 1.2 For loss and damage to the property insured, for theft, cost of *Wreck Removal*, salvage and legal costs cover “You” will include the insured under the contract and the owner of the *Insured Vessel*.
- 1.3 For legal liability insurance “You” will, in addition to the above, include any person (or company) who, occasionally or habitually, has care and custody or use of the *Insured Vessel*, with the authorisation of the insured and/or the owner of the vessel.
- 1.4 For *Personal Effects*, search and rescue expenses, personal accident cover, legal liability (and claims) “You” will, in addition to the above, also include any person on board the *Insured Vessel* (including your guests, charterers and their guests) and the beneficiaries and/or legal assignees of the parties listed above.
- 1.5 The insurer of the AXA Yacht Insurance Contract is **AXA Corporate Solutions Assurance S.A.**, whose registered office is at 4 rue Jules Lefebvre, 75009 Paris, France, referred to in these **General Provisions** as “AXA” or “Us” or “We”.

### 2. Scope

The AXA Yacht Insurance Contract provides insurance cover for a pleasure yacht when it is *In Commission*, laid up afloat, laid up on land (including in a shipyard), and during, refit, repair and maintenance work and during salvage services provided to another vessel in difficulties, subject to the terms of these **General Provisions**, the **Particular Conditions** and any **Endorsements**.

### 3. Lay up, Re-fit, Repairs and Hot Work

**Important:** During any *Lay up*, re-fit, repairs, maintenance or hot work the following are **Conditions Precedent** to AXA's liability:

- 3.1 **You must** obtain AXA's prior written agreement before the vessel is laid up in a shipyard (on land or afloat) before any lifting or shifting within a yard or marina (for which the appropriate equipment must be used), before any refit, repair or maintenance works and before any hot work whatsoever is undertaken on the *Insured Vessel* and its *Tender(s)*.
- 3.2 **You must** ensure that any shipyard and/or other contractors have valid liability insurance covering the shipyard and any others working on the vessel in respect of all liability to you and the *Insured Vessel* and provide evidence of that insurance to AXA in the form of a valid insurance certificate, or other evidence of insurance satisfactory to AXA, before any work starts.
- 3.3 **You must** ensure that any shipyard and/or other contractors do not impose any contractual exclusion or limitation of liability or any other terms which might limit or exclude AXA's rights of subrogation or recovery. If any contractual exclusion or limitation is proposed to you, you must provide full details to AXA and obtain AXA's prior written agreement before any work starts.
- 3.4 **You must** provide 10 days notice to AXA before the *Insured Vessel* enters any shipyard for any refit, repair or maintenance works, setting out full details of the work to be carried out.

### 4. Use and Geographical Limits

This contract will only insure the vessel when it is used in accordance with normal use, in compliance with the applicable regulations and within the geographical limits set out in the **Particular Conditions**.

**Important:** The Terrorism and War Risks cover under these **General Provisions** is subject to particular terms in relation to Areas of Perceived Enhanced Risk (see Section A, Part II, clause 7 et seq).

### 5. Prudent Uninsured

You must always act as a prudent uninsured and take reasonable care of and in the use of the *Insured Vessel* and its *Tender(s)*.

## 6. Premium

- 6.1 Premium is calculated on the basis of the information set out in your completed **AXA Corporate Solutions Questionnaire** and can be payable in one or more instalments at the date and place set out in the **Particular Conditions**.
- 6.2 **Important:** If premium, or an instalment of premium, is not paid within 45 days of the date when it falls due, the contract may be terminated on 7 days notice by AXA.
- 6.3 If your contract provides that a number of persons or companies shall pay premium their liability will be joint and several.
- 6.4 In case of *Total Loss* full premium for the entire period of the contract is deemed earned, if AXA is liable for that loss. If AXA is not liable, the premium is deemed earned on a proportionate daily basis calculated by reference to the time the contract was in force, save where the contract is voidable or void.

## 7. Termination

**Important:** the AXA yacht insurance contract based on these General Provisions can be terminated in certain circumstances either automatically and immediately, or on notice. Termination provisions are set out, notably, in Part II, Part IV, and at paragraph 11 of Section B of this contract on page 45 et seq.

**Important:** there are particular termination provisions in the Terrorism and War Risks Cover (Section A, Part II) in relation to Areas of Perceived Enhanced Risk.

## 8. Claims and Disputes

- 8.1 AXA is committed to a policy of handling all claims under your contract promptly and fairly. In the event that any claim cannot be resolved by discussion or negotiation, the dispute shall be referred to mediation with a view to concluding a rapid and fair settlement, in accordance with clause 19 on page 50.

8.2 The AXA Yacht Insurance Contract is governed by English law and subject to the exclusive jurisdiction of the English High Court of Justice in London.

## 9. Definitions

Certain terms in this contract are defined in Schedule I to this contract and marked *in italics*. Those definitions form part of these contract terms.

## SECTION A

### RISKS COVERED

The AXA Yacht Insurance Contract will be subject to these **General Provisions** as amended by the **Particular Conditions** and any **Endorsements**.

### PART I - MARINE RISKS

#### A. THE INSURED VESSEL (AND ITS ACCESSORIES)

##### 1. Risks Covered

- 1.1 This contract covers **ALL RISKS** of *Accidental* physical loss and physical damage to the **Insured Vessel, its Tender(s) and Accessories**, subject to the Conditions, Restrictions, Limitations and Exclusions set out in these General Provisions.
- 1.2 These risks will include:
  - 1.2.1 Sinking, grounding, collision including collision with fixed and floating objects, docks and harbours.
  - 1.2.2 Fire, explosion.
  - 1.2.3 Perils of the sea, rivers, lakes and navigable waters.
  - 1.2.4 *Accidents* which occur during lifting onto land or lowering into the water, including during the course of maintenance and repair works, but only if the appropriate equipment is used.
  - 1.2.5 Physical loss or damage caused by latent defects, including the cost of repairing or replacing the defective parts.
  - 1.2.6 Ingress of water, provided the probable cause and source is proved by you.
  - 1.2.7 Jettison.
  - 1.2.8 Earthquake, volcanic eruption or lightning.
  - 1.2.9 Breakage of shafts, struts and propellers and loss or damage caused by breakage of standing and running rigging.
  - 1.2.10 Physical damage to the main engine and the attached gearboxes due to any breakdown of any component **PROVIDED** three

conditions are all satisfied: **first** that the engines and gearboxes are less than 5 years old and professionally installed, **second** that the vessel is over 24 metres and **third** that you can verify that the maintenance recommendations of the manufacturer(s) have been fully complied with. Loss or damage caused by any breakdown of any component is otherwise excluded. Loss or damage caused by misuse is always excluded.

- 1.2.11 Loss of or damage to the vessel's propulsion, power generation or other plant, equipment or *Machinery* which - in the opinion of an expert present at the time of dismantling such equipment - has been caused by ingestion of an underwater or floating object.
- 1.2.12 Contact with satellites, aircraft, helicopters or similar objects or objects falling from any of these.
- 1.2.13 Loss of or damage to *Accessories* to the *Insured Vessel*, including to any outboard motors listed in the **Particular Conditions** whilst they are not aboard, but only if caused by fire explosion or theft.

The list of risks covered above illustrates and summarises the principal marine risks for which the insured property is covered, subject always to the Conditions, Restrictions, Limitations and Exclusions set out in this contract, including those in section B.

## 2. Exclusions

- 2.1 There is no cover under this contract for loss and damage caused:
  - 2.1.1 By inherent vice or wear and tear to the *Insured Vessel* and its *Tender(s)*.
  - 2.1.2 By lack of maintenance or lack of repairs to the *Insured Vessel* and its *Tender(s)*.
  - 2.1.3 By or in consequence of ice and/or freezing.
- 2.2 This contract also excludes:
  - 2.2.1 Damage caused by and the consequences of osmosis, corrosion, wicking, blistering, electrolysis, marine borers, insects or other parasites, rotting or other degradation.
  - 2.2.2 The loss over board of an outboard motor, save where this is caused by an *Accident* to the *Insured Vessel* and its *Tender(s)*.

- 2.2.3 Loss of or damage to the *Insured Vessel* whilst under tow, except as customary or when the *Insured Vessel* is in need of assistance or salvage, or whilst undertaking towage or providing salvage services, except in an emergency for the purpose of saving life or property and only where a towage or salvage contract has been agreed in advance.
  - 2.2.4 Loss of or damage to the *Insured Vessel* and its *Tender(s)* during any refit, repair or maintenance or hot work on the *Insured Vessel* and its *Tender(s)*, unless AXA's prior written agreement has been obtained (subject to your compliance with the obligations set out in clause 3 of the Introduction and Scope above). In the absence of such agreement there is no cover under this contract for any loss and damage to the *Insured Vessel* and its *Tender(s)* caused by breach of contract or negligence of any *Third Party* in connection with any refit, repair or maintenance or hot work.
  - 2.2.5 The cost of improvement or alteration in the design or the construction of the *Insured Vessel* and any loss or damage to the *Insured Vessel* caused by any error in the design or construction of the *Insured Vessel* and the cost of remedying any such error.
  - 2.2.6 Loss of use, depreciation to the *Insured Vessel* and any consequential or indirect damages.
- 2.3 There is no cover under this contract:
- 2.3.1 For fees and expenses of surveyor acting for the Classification Society and Classification Society fees after loss and damage.
  - 2.3.2 For the cost of repairs and replacements which are not necessary to put the *Insured Vessel* into a good seaworthy state.
  - 2.3.3 Whilst the *Insured Vessel* is in transit by road, rail, car, ferry or by air, nor during loading and unloading from any land conveyance.

### **3. Theft and Vandalism**

This contract covers loss and damage caused by theft, the malicious acts of *Third Parties* and *Vandalism* including:

- 3.1 Theft of the *Insured Vessel*, including theft of outboard motors if they are stolen at the same time as the *Insured Vessel*.

- 3.2 Loss of or damage to the *Insured Vessel* following theft or attempted theft of the *Insured Vessel*.
- 3.3 Loss of or damage to items listed below by or following theft or attempted theft:
  - 3.3.1 *Accessories*, including outboard motors, when aboard the *Insured Vessel* provided they are securely attached by an authorised, approved industry standard anti-theft device in addition to the normal method of attachment or are stolen by violent or forcible entry into a locked cabin. There must be visible signs of forcible entry.
  - 3.3.2 *Accessories* when on land provided they are stolen by violent and forcible entry into a locked warehouse or locked place of storage. There must be visible signs of forcible entry.
  - 3.3.3 The *Tender(s)* listed in the **Particular Conditions** and/or any life raft required by the applicable regulations.
  - 3.3.4 The main engine of the *Insured Vessel* and/or motors of the *Tender(s)* listed in the **Particular Conditions**, when the latter are attached to *Tender(s)*.
- 3.4 Loss or damage following an act of *Vandalism* committed against the *Insured Vessel* and its *Tender(s)*.

#### 4. Theft Exclusions

There is no cover under this contract for:

- 4.1 *Mysterious Disappearance* or theft without violence or forcible entry.
- 4.2 Theft committed by members of your family or carried out with their complicity.
- 4.3 Theft committed by your employees during the course of their employment or by any independent contractors working on board the *Insured Vessel* in the capacity of crew, hotel or catering personnel, or carried out with the complicity of any of these.
- 4.4 Theft of *Accessories* during transport of the *Insured Vessel* on land.
- 4.5 Theft of provisions and land vehicles.

## 5. War, Strikes and Malicious Acts Exclusions

Cover under this sub-section A excludes loss and damage caused by:

- 5.1 War, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile action by or against a belligerent power.
- 5.2 Capture, seizure, arrest, restraint or detainment and their consequences or any attempt thereat.
- 5.3 Piracy.
- 5.4 Derelict mines, torpedoes, bombs or other derelict weapons of war.
- 5.5 Strikers, locked-out workmen, persons taking part in labour disturbances riots or civil commotions.
- 5.6 Any terrorist or any person acting with a political motive or any person acting maliciously or from a political motive in the use of any weapon of war or in the detonation of any explosive.
- 5.7 Confiscation or expropriation.
- 5.8 Violation of blockade, carriage of contraband, participation in prohibited commerce.

## 6. Bottom Survey

- 6.1 This contract covers the cost of inspection of the hull of the *Insured Vessel* after a stranding, sinking, grounding or striking of submerged object, even if no damage is found, provided AXA's prior written agreement is obtained to the survey.
- 6.2 Cover for bottom survey is provided in addition to any sums to which you may be entitled under these **General Provisions**, but subject to the maximum set out in the **Particular Conditions**.

## B. PERSONAL EFFECTS

### 1. Risks Covered

- 1.1 This contract covers loss and damage to *Personal Effects* on board the *Insured Vessel* or on board the *Tender(s)* arising from:
  - 1.1.1 Loss or theft of the *Insured Vessel* or its *Tender(s)*.

- 1.1.2 Loss of or damage directly sustained by the *Insured Vessel* or its *Tender(s)*.
- 1.1.3 Theft or attempted theft by violent and forcible entry or otherwise with physical violence.
- 1.1.4 Theft of ship's cash, but subject always to a maximum value of Euros 100,000 or the equivalent in other currencies at any one time whilst on the vessel until disbursed, and subject to a sub-limit of Euros 20,000 from time of collection from a local bank and/or ship's agent office at vessel's port of call(s) to vessel and from the vessel until re-deposit in the bank and/or ship's agents office at subsequent port(s) of call. It is a **Condition Precedent** to AXA's liability that such money is held in a recognised locked safe when on board and is in close personal custody of at least two employees/crew members when in transit to or from banks/ship's agents. Loss of ship's cash due to *Mysterious Disappearance* is not covered under this policy.
- 1.2 Cover for *Personal Effects* under clauses 1.1.1 to 1.1.3 inclusive only applies whilst the *Insured Vessel* and/or *Tender(s)* is afloat.
- 1.3 AXA's liability in respect of *Personal Effects* is the cost of repairs. However for objects which are irreplaceable or which have disappeared, AXA's liability is the *Market Value* of those items, provided always that the indemnity for *Personal Effects* cannot exceed the lesser of the *Market Value* per item or the amounts set out in the **Particular Conditions**.

## 2. Exclusions

Cover under this sub-section B in respect of *Personal Effects* excludes:

- 2.1 *Mysterious Disappearance*.
- 2.2 Theft without forcible entry or physical violence.
- 2.3 Theft committed by members of your family or carried out with their complicity.
- 2.4 Theft committed by your employees during the course of their employment or by any independent contractors working on board the *Insured Vessel* in the capacity of crew, hotel or catering personnel, or carried out with the complicity of any of these.
- 2.5 Loss or damage due to immersion or wet damage, unless caused by damage to the *Insured Vessel* or its *Tender(s)*.

- 2.6 Loss or damage arising from ordinary wear and tear or inherent vice.
- 2.7 Loss of or damage to Jewellery, precious stones, natural or cultured pearls, works of art, sculptures or paintings, precious metals, money, bank notes, credit cards, debit or charge cards, documents of title, papers and personal documents, provisions, drinks and land vehicles, computer equipment or software, mobile phones, furs, save in respect of ship's cash at para 1.1.4 above.

### 3. War, Strikes and Malicious Acts Exclusions

Cover under this sub-section B incorporates the war, strikes and malicious acts exclusions set out in Section A, clause 5, on page 17 above.

Where you have purchased **Terrorism and War Risks** cover in accordance with Part II (below), but only while such **Terrorism and War Risks** cover remains in full force and effect, the war, strikes and malicious acts exclusions will be deemed deleted from this Section B.

### C. LEGAL LIABILITIES AND COSTS

This contract only covers those liabilities specifically identified in this section on the terms and conditions set out below and subject to the General Conditions, Restrictions Limitations and Exclusions in Section B, page 41 onwards.

#### 1. Legal Liabilities

- 1.1 This contract covers you for legal liability to pay any sum or sums you may incur arising from physical loss and damage caused by the *Insured Vessel* or its *Tender(s)* (including by its/their chains, anchors and mooring equipment but only when attached to the *Insured Vessel* or its *Tender(s)*) to any *Third Party*, including loss of or damage to another vessel or loss of life or *Personal Injury* to any person.
- 1.2 *Third Parties* under this sub-section C are individuals or companies not defined in this contract as the insured and will include:
  - 1.2.1 Your partner, spouse, elder or younger relatives.
  - 1.2.2 Your guests, charterers or their guests who have embarked on your vessel (but always excluding fare paying passengers).

- 1.2.3 *Water Skiers* and their equipment when they are pulled by the *Insured Vessel* or its *Tender(s)*.
- 1.2.4 *Third Parties* who have suffered physical injury, damage to property or financial losses caused by *Water Skiers* and their equipment, but only whilst *Water Skiers* are towed by or attached to the *Insured Vessel* and its *Tender(s)*.
- 1.3 The number of *Water Skiers* to be towed by the *Insured Vessel* or a *Tender* is subject to a maximum of two persons at any one time. This is a **Condition Precedent** to AXA's liability.
- 1.4 This cover for legal liabilities is provided in addition to any sums to which you may be entitled under these **General Provisions**, but subject to the maximum set out in the **Particular Conditions**.

## 2. Exclusions

- 2.1 Cover under this sub-section C excludes any loss or damage sustained by or caused to:
  - 2.1.1 You.
  - 2.1.2 Your employees during the course of their employment and any independent contractors working on board the *Insured Vessel* in the capacity of crew, hotel or catering personnel.
  - 2.1.3 The *Insured Vessel*.
  - 2.1.4 Goods and merchandise transported by the *Insured Vessel* including *Personal Effects* belonging to any person.
  - 2.1.5 Goods, property and animals which belong to you or which are delivered into your care.
- 2.2 This contract further excludes any loss, damage liability or claim whatsoever:
  - 2.2.1 In the nature of *Pure Economic Loss* which does not arise from physical injury, loss and damage.
  - 2.2.2 Arising from or caused by parasailing or similar activities.
  - 2.2.3 Arising from employment legislation relating to accidents at work or governing seafarers.

2.2.4 Arising from pollution caused by the *Insured Vessel* or its *Tender(s)*, with the exception of pollution from the fuel of the *Insured Vessel* or its *Tender(s)* where such pollution is caused by a risk insured under this contract.

2.2.5 Arising solely under a contract.

### 3. War, Strikes and Malicious Acts Exclusions

Cover under this sub-section C incorporates the war, strikes and malicious acts exclusions set out in Section A, clause 5 on page 17 above.

### 4. Legal Costs

4.1 Save in the event of emergency, you **must** obtain AXA's prior written agreement before appointing or dis-instructing any lawyer and before incurring any legal fees and expenses under clauses 4.2 to 4.4 below inclusive. These are **Conditions Precedent** to AXA's liability under this contract.

4.2 This contract will pay the fees of your lawyers and legal expenses reasonably incurred by you in defending any claim brought against you by a *Third Party* or in seeking to limit liability to a *Third Party* in respect of an *Accident* or occurrence which is covered by this contract.

4.3 This contract will pay the fees of your lawyers and legal expenses reasonably incurred by you in relation to any formal enquiry, investigation or inquest instituted by the relevant authorities in respect of any *Accident* or occurrence involving the *Insured Vessel* and its *Tender(s)* which is covered by this contract.

4.4 **At the absolute discretion of AXA** this contract will pay the fees of your lawyers and legal expenses reasonably incurred by you in your defence following an *Accident* or occurrence which is covered by the AXA contract where criminal proceedings are brought against you.

4.5 This cover for legal costs is provided in addition to any sums to which you may be entitled under these **General Provisions**, but subject to the maximum set out in the **Particular Conditions**.

## 5. Wreck Removal

- 5.1 This contract covers the cost of *Wreck Removal*, of destruction of the wreck or the cost of marking or lighting the wreck, provided such removal, destruction, marking or lighting is imposed on you by the competent authorities following a stranding, grounding or sinking of the *Insured Vessel*.
- 5.2 This *Wreck Removal* cover is provided in addition to any sums to which you may be entitled under these **General Provisions**, but subject to the maximum set out in the **Particular Conditions**.

## 6. Salvage

- 6.1 This contract covers legal liability for salvage charges (together with the value of any property sacrificed in the course of salvage operations), provided they are reasonably and properly incurred to prevent loss and damage to the *Insured Vessel* and/or its *Tender(s)* which would be covered under this contract.
- 6.2 This cover is provided in addition to any sums to which you may be entitled under these **General Conditions**, but subject to the maximum set out in the **Particular Conditions**.

## 7. Search and Rescue

- 7.1 This contract covers search and rescue expenses incurred in relation to the *Insured Vessel* and its *Tender(s)* and/or the persons on board, provided by public or private rescue services or professional salvors who have been approved by the relevant authorities.
- 7.2 This contract excludes the cost of search and rescue expenses which have been incurred following a request for search and rescue which is determined by the rescue services to be either unreasonable or unnecessary.
- 7.3 This cover is provided in addition to any sums to which you may be entitled under these **General Provisions**, but subject to the maximum set out in the **Particular Conditions**.

## 8. Further Exclusions

This contract will not insure:

- 8.1 Any legal liability, cost or expense in relation to any award of non-compensatory, exemplary or punitive damages (however described), nor any fine.
- 8.2 Legal costs which shall be imposed by a Court or Tribunal in respect of criminal or unlawful conduct by the insured.

## 9. Uninsured Boater Provision

- 9.1 This contract will pay damages which, because of bodily injury received on board the *Insured Vessel*, you are legally entitled to recover from an uninsured owner or operator of another vessel. Under this paragraph the terms uninsured boater, owner or operator will include an owner or operator of a vessel, other than the vessel named in this policy, who is legally liable for the *Accident* and who either has no legal liability insurance or who cannot be identified.
- 9.2 This contract will not provide Uninsured Boater coverage for claims:
  - 9.2.1 Settled without AXA's consent.
  - 9.2.2 If the uninsured boater, owner or operator is a governmental agency or unit.
  - 9.2.3 For vessels owned by or furnished for the regular use by you, a member of your immediate family, or a person insured under this policy.
  - 9.2.4 For an insured using a vessel without permission.
  - 9.2.5 Where there is no evidence of physical contact between the *Insured Vessel* and the uninsured vessel.
- 9.3 This coverage will not apply directly or indirectly to the benefit of any insurer under any state or federal compensation law or act. Payment made for this coverage to or for an insured person will reduce the amount that person is entitled to recover from the Liability coverage of this policy (set out in Section C above).

- 9.4 The amount shown for the Uninsured Boater coverage in the **Particular Conditions** is the most AXA will pay under this insurance, regardless of the number of insured persons or claims made for yachts involved in any one *Accident* or series of *Accidents* arising out of the same event.

## D. ADDITIONAL BENEFITS: PERSONAL ACCIDENT COVER

### 1. Cover

- 1.1 This contract will pay certain fixed sums and expenses to cover the consequences of *Accidental* physical injury or death sustained in the following circumstances:

- 1.1.1 When you are on board the *Insured Vessel*.
- 1.1.2 When you are embarking or disembarking from the *Insured Vessel*.
- 1.1.3 When you are using the *Tender(s)* identified in the **Particular Conditions**.
- 1.1.4 When you are water skiing towed by the *Insured Vessel* or its *Tender(s)*.

- 1.2 This cover will only apply where physical injury has caused or resulted in:

- 1.2.1 Death or disappearance at sea.
- 1.2.2 Permanent incapacity.
- 1.2.3 The incurring of medical expenses.

- 1.3 This contract will pay the capital sums stated in the **Particular Conditions** (and related medical expenses, below) whether you, or any other person in charge of navigating or manoeuvring the *Insured Vessel*, are legally liable for the *Accident* or not.

### 2. Death or Disappearance at Sea

In the case of your death or genuine disappearance at sea caused by an *Accident* covered under this contract, AXA will pay to your beneficiaries the capital sum set out in the **Particular Conditions**, provided your death is exclusively caused by such *Accident* and death occurs within a maximum period of twelve months from the date of the *Accident*.

### 3. Permanent Incapacity

In the case of your permanent incapacity caused by an *Accident* or occurrence covered under this contract, AXA will pay to you the capital sum set out in the **Particular Conditions**, in proportion to the incapacity suffered, to be calculated as follows:

- 3.1 If the incapacity is less than 70%, AXA will pay a part of the capital sum in proportion to the actual incapacity suffered.
- 3.2 If the incapacity suffered is 70% or more AXA will pay the total capital sum set out in the **Particular Conditions**.
- 3.3 If an *Accident* covered by this contract causes your death within twelve months, and AXA has already paid the capital sum for permanent incapacity, on your death AXA will pay to your beneficiaries the capital sum payable on death, less the sum previously paid for permanent incapacity.

### 4. Determination of the Permanent Incapacity

- 4.1 Permanent incapacity will be determined by a medical expert appointed by AXA. That determination will be made in accordance with English law on the basis of all available medical evidence and by reference to the Judicial Studies Board Guidelines in the last edition published as at the date of medical examination, such examination to take place at the time of stabilisation of your condition of health as determined by such medical expert.
- 4.2 If the consequences of the *Accident* are aggravated by illness, by a previous injury or by a lack of care on your part, the extent of incapacity will be determined by such medical expert based on the consequences which, in the expert's sole assessment, the *Accident* would have caused to a person in normal good health.

### 5. Medical Expenses

- 5.1 This contract will cover the fees of reasonable medical treatment payable by you based upon the actual expenditure incurred but subject always to the capital limit fixed in the **Particular Conditions**.
- 5.2 If you do not have health insurance this contract will pay without *Deductible*.

- 5.3 If you have health insurance, this contract will pay any sums incurred in excess of your health insurance, but subject always to the limit in the **Particular Conditions**.
- 5.4 Medical expenses covered under this sub-section D of the contract will include:
- 5.4.1 Surgical and operating theatre expenses.
  - 5.4.2 Physiotherapy.
  - 5.4.3 Dental fees.
  - 5.4.4 Hospital fees.
  - 5.4.5 Pharmaceutical expenses, provided medicines are prescribed by a Doctor.
  - 5.4.6 Analysis and laboratory test fees.
  - 5.4.7 The cost of orthopaedic/prosthetics or medical equipment.
  - 5.4.8 The cost of transportation to the nearest hospital, save where transportation to another hospital is medically necessary.
- 5.5 Medical expenses covered under this sub-section D of the contract will include expenses incurred from the date of the *Accident* until treatment is concluded, but subject to a maximum period of twelve months from date of the *Accident*.

## 6. Exclusions

This contract excludes death, permanent incapacity or medical expenses incurred, caused by or in respect of:

- 6.1 Heart attack or stroke.
- 6.2 Suicide or attempted suicide or self harm.
- 6.3 Your participation in physical fights.
- 6.4 *Accidents* or pre-existing physical conditions which pre-date the making of this contract.
- 6.5 Illnesses of whatever cause or type, unless it is established that the illness has been caused by an *Accident* on board the *Insured Vessel* or its *Tender(s)*.

- 6.6 Psychiatric illness, cosmetic, slimming, or rejuvenation treatment or physiotherapy not prescribed by a medical practitioner.
- 6.7 Dietary cures, thermal cures, treatment in solarium, treatment for insomnia or treatment for addiction to alcohol or prescription or non-prescription drugs.
- 6.8 Pregnancy, giving birth and any medically related complications.
- 6.9 The costs of prosthetics, medical equipment and opticians fees not related to physical injury.
- 6.10 Loss of revenue or income in the case of temporary incapacity.

## **7. War, Strikes and Malicious Acts Exclusions**

- 7.1 Cover under this sub-section D incorporates the war, strikes and malicious acts exclusions set out in Section A, clause 5 on page 17 above. This contract therefore excludes death, permanent incapacity or medical expenses incurred or caused by or in respect of any of the perils listed in those exclusions.
- 7.2 Where you have purchased **Terrorism and War Risks** cover in accordance with Part II (below), but only while such **Terrorism and War Risks** cover is in full force and effect, the war, strikes and malicious acts exclusions above will be deemed deleted from this Section D.

## PART II - TERRORISM AND WAR RISKS

This **War Risks** cover is not provided automatically. If you wish to obtain this cover, it must be expressly set out in the **Particular Conditions**. This **War Risks** cover is only available where you have purchased **Marine Risks** insurance as set out in Part I above. The sum insured for **War Risks** and the relevant *Deductibles* will be set out in the **Particular Conditions**.

### 1. Risks Insured

This contract covers loss of or damage to the *Insured Vessel* caused by the following (but always subject to the exclusions set out below):

- 1.1 War, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power.
- 1.2 Capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereat.
- 1.3 Piracy.
- 1.4 Derelict mines, torpedoes, bombs or other derelict weapons of war.
- 1.5 Strikers, locked out workmen, or persons taking part in labour disturbances, riots, or civil commotions.
- 1.6 Any terrorist or any person acting from a political motive.
- 1.7 Confiscation or expropriation.

**The insurance under clause 1 above (with the exception of clause 1.5) shall not apply before the *Insured Vessel* has been launched or whilst the vessel is hauled out ashore.**

### 2. Detainment: Deemed Total Loss

If the *Insured Vessel* is captured, seized, arrested, restrained, detained, confiscated or expropriated and if you are thereby deprived of the free use and disposal of the *Insured Vessel* for a continuous period of 12 months, you will be considered, for the purpose of determining whether there has been a constructive *Total Loss* under this contract, as being deprived of the use of the vessel with no prospect of recovery.

### 3. Liability Extension Cover

- 3.1 This extension provides insurance cover in respect of the claims of *Third Parties* arising from loss and damage caused by War Risks as defined

above, for an independent sum equal to the insured value of the vessel including:

- 3.1.1 Claims brought against your vessel, even if there has been no physical contact with any other vessel or person.
  - 3.1.2 Claims brought against your vessel by co-contractors or *Third Parties* for damages where the owner is liable and arising under a contract for the hire of any lighter or barge or other equipment used during loading or discharging operations from your vessel.
  - 3.1.3 Claims brought against the *Insured Vessel* on the basis of a contract of towage, for payment of the tug(s) in the case of release of the tow or deviation required by the damaged physical condition of your vessel following an *Accident* or occurrence covered by this contract.
  - 3.1.4 Reimbursement of the costs of *Wreck Removal*, destruction of wreck or the cost of marking or lighting the wreck provided such removal, destruction, marking or lighting is imposed on you by the competent authorities following an *Accident* or occurrence covered by this contract.
  - 3.1.5 Salvage charges (together with the value of any property sacrificed in the course of salvage operations), provided they are reasonably and properly incurred to prevent loss and damage to the *Insured Vessel* and/or its *Tender(s)* which would be covered under this contract.
  - 3.1.6 Claims brought against the *Insured Vessel* for loss or damage arising from pollution or contamination caused by the fuel of the *Insured Vessel* or its *Tender(s)*. Pollution/contamination is otherwise excluded absolutely.
- 3.2 The extension of cover set out in clause 3.1 above is subject to the termination provisions set out in paragraphs 5.1 and 5.2 below.
- 3.3 The extension of cover set out in clause 3.1 above extends to claims brought against the *Insured Vessel* for physical loss and damage, but to the exclusion of:
- 3.3.1 Claims under legislation covering *Accidents* at work or seafarers.
  - 3.3.2 Claims of fare paying passengers.

#### 4. Exclusions

- 4.1 This contract excludes loss, damage, liability or expense arising from:
- 4.1.1 Any detonation of any weapon of war employing atomic or nuclear fission or fusion or other like reaction or radioactive force or matter, referred to in this contract as a nuclear weapon of war.
  - 4.1.2 The outbreak of war (whether there is a declaration of war or not) between any of the following countries: United Kingdom, USA, France, The Peoples Republic of China and the Russian Federation.
  - 4.1.3 Requisition or pre-emption.
  - 4.1.4 Capture, seizure, arrest, restraint, detainment, confiscation or expropriation by or under the order of a government or any public or local authority of the country in which the vessel is owned or registered.
  - 4.1.5 Arrest, restraint, detainment, confiscation or expropriation under quarantine regulations or by reason of any infringement of any customs or trading regulations.
  - 4.1.6 The operation of any ordinary judicial process, failure to provide security or to pay a fine or penalty or any financial cause.
- 4.2 This contract also excludes loss, damage, liability or expense which would be recoverable under any other contract of insurance for the vessel or which would be covered if the present contract did not exist.

#### 5. Termination

##### **Termination on notice**

- 5.1 **War Risks** insurance under this Section A, Part II may be terminated by either AXA or the insured giving seven (7) days notice (such termination becoming effective on the expiry of seven (7) days from midnight on the day on which notification is issued by AXA or received by AXA as the case may be). AXA agree however to reinstate this insurance subject to agreement between AXA and the insured of a new rate of premium and conditions, prior to the expiry of such notice of termination. Particular rules apply to termination in relation to Areas of Perceived Enhanced Risk (see below).

### **Automatic termination**

- 5.2 **War Risks** insurance under this Section A, Part II will terminate automatically, whether or not notice of termination has been given, in the following circumstances:
- 5.2.1 Upon the occurrence of any hostile detonation of any nuclear weapon of war as defined in clause 4.1.1 above wheresoever and whensoever such detonation may occur and whether or not the *Insured Vessel* may be involved.
- 5.2.2 On the outbreak of war (whether there is a declaration of war or not) between any of the following nations: United Kingdom, USA, France, The Peoples Republic of China and the Russian Federation.
- 5.2.3 In the event the vessel is requisitioned either for title or use.
- 5.3 A pro rata net return of premium shall be payable to the assured in the event of termination by notice or automatic termination under clause 5 or in the event of the sale of the vessel.

## **6. Incorporation**

This Part II is subject to the General Conditions, Restrictions, Limitations and Exclusions set out in section B of this AXA Yacht Insurance Contract.

## **7. Navigation Limitations and Areas of Perceived Enhanced Risk**

### **Navigation Provisions**

- 7.1 Unless and to the extent otherwise agreed by AXA in accordance with clauses 7.2 to 7.5, the *Insured Vessel* shall not enter sail for or deviate towards the territorial waters of any of the Countries or places, or any other waters described in the current List of Areas of Perceived Enhanced Risk (Listed Areas) as may be published from time to time in London by the Joint War Committee.

### **Breach of Navigation Provisions**

- 7.2 If you wish to secure continuation of coverage under this contract for a voyage which would otherwise breach clause 7.1, you must give notice to

AXA and must only undertake such voyage if you agree with AXA any amended terms of cover and any additional premium which may be required by AXA.

- 7.3 In the event of any breach of any of the provisions of clause 7.1, AXA shall not be liable for any loss, damage, liability or expense arising out of or resulting from an *Accident* or occurrence otherwise covered under this Part II (**Terrorism and War Risks**) during the period of breach, unless notice of such breach is given to AXA as soon as practicable and any amended terms of cover and any additional premium required by AXA are agreed.
- 7.4 The absence of prior notice shall not affect the cover under this insurance but it is a condition of this insurance that you are bound to declare to AXA all breaches of the provisions of clause 7.1.
- 7.5 If clause 7.4 above is deleted, continuation of coverage under this insurance is conditional upon notice to AXA being given prior to the *Insured Vessel* entering the Listed Areas.

#### **Revisions to List of Areas of Perceived Enhanced Risk**

- 7.6 In the event that revisions to the List of Areas of Perceived Enhanced Risk are published by the Joint War Committee in London, these revisions shall not take effect for the purposes of clause 7.1 and clauses 7.2 to 7.5 above unless AXA shall have given seven (7) days notice of termination to you for amendment of the Listed Areas.
- 7.7 If the *Insured Vessel* remains in the territorial waters of a Country or place after such Country or place has been added to the Listed Areas under clause 7.6, AXA shall not be liable for any loss, damage, liability or expense arising out of or resulting from an *Accident* or occurrence otherwise covered under this insurance after expiry of that seven (7) day period, unless notice is given to AXA before the end of that seven (7) day period and any amended terms of cover and any additional premium required by AXA are agreed before the expiry of this period.

#### **8. Notice of Cancellation Administration Clause**

Where AXA wish to give notice of termination in accordance with clause 7 above for the purpose of amending the terms conditions warranties and/or rates, it is agreed as follows:

- 8.1 The Notice shall identify the policy (by number, principal Assured, and Interest insured) to which the Notice applies.
- 8.2 Where the Notice is given through a broker, the Notice shall be deferred by three (3) working days to enable the broker to transmit the Notice to you, mortgagee(s) and other parties to whom the broker has an obligation to transmit the Notice.
- 8.3 If the Notice is given for the purpose of amending the Listed Areas applicable in accordance with clause 7 above:
- 8.3.1 The Notice shall only apply to the **Terrorism and War Risks** cover set out in this Section A, Part II.
- 8.3.2 This insurance will be considered as automatically reinstated upon expiry of the Notice, subject to the said Listed Areas being amended in line with the changes outlined in the Notice.
- 8.3.3 In the absence of notice in writing having been received from you prior to the expiry of the Notice:
- 8.3.3.1 You shall be deemed to have agreed to the amendment of the Listed Areas.
- 8.3.3.2 This insurance will be automatically reinstated upon expiry of the Notice subject to that amendment of the Listed Areas, and
- 8.3.3.3 Such amendment shall be deemed to have been endorsed on and form part of this insurance.
- 8.4 Where the Listed Areas applying to this insurance prior to the Notice have been the subject of any deletion amendment limitation or restriction, such deletion amendment limitation or restriction:
- 8.4.1 Shall continue to apply to the new Listed Areas, but
- 8.4.2 Shall not apply to any port(s) and/or place(s) and/or area added by the Notice.
- 8.5 Notwithstanding the foregoing, should the insurance already be subject to navigation limitations so limiting the area of trading that any port(s) and/or place(s) and/or area to be added in consequence of the Notice would not in any case have been a permitted port(s) of call or area of trading, the insurance shall not be subject to the Notice.

This **War Risks** cover will not come into force if, after acceptance of risk by AXA and before the date agreed for commencement of cover, an event has occurred which would have automatically terminated this cover under the termination provisions above.

## PART III - INCREASED VALUE INSURANCE

This **Increased Value Insurance** is not provided automatically. If you wish to obtain this cover, it must be expressly set out in the **Particular Conditions**. This **Increased Value Insurance** is only available where you have purchased **Marine Risks Insurance** as set out in Part I above. The sum insured for **Increased Value Insurance** must be set out in the **Particular Conditions**.

### 1. Cover

- 1.1 In the event that AXA pays an actual or constructive *Total Loss* under Section A, Part I of this contract, the capital sum stated in the **Particular Conditions** for Increased Value shall be payable in addition to the payment under Part I.
- 1.2 In the event that AXA pays for a *Total Loss* on a compromised basis under Section A, Part I, then the amount payable under this Part III shall be the same percentage of the capital sum set out in the **Particular Conditions** for Increased Value as was paid under Part I in respect of Marine Risks.
- 1.3 In the event that the *Insured Vessel* is a constructive *Total Loss*, but the claim presented by the assured under Part I is made on a *Partial Loss* basis, no claim will be payable under this Part III in respect of **Increased Value Insurance**.

### 2. Deductible

Payment under this Part III is made without *Deductible*.

### 3. Incorporation

This Part III is subject to the terms and conditions set out in Section A, Part I, and to the General Conditions, Restrictions, Limitations and Exclusions set out in Section B of this AXA Yacht Insurance Contract.

## PART IV - LOSS OF HIRE

This **Loss of Hire** insurance is not provided automatically. If you wish to obtain this cover, it must be expressly set out in the **Particular Conditions**. This **Loss of Hire** insurance is only available where you have purchased **Marine Risks insurance** as set out in Part I above. The sum insured for Loss of Hire and the relevant *Deductibles* must be set out in the **Particular Conditions**.

### 1. Cover

- 1.1 **Important:** This cover is only available for vessels chartered on a yacht charter based on the Mediterranean Yacht Brokers Association form, current at the date of inception of this contract. There is no cover where the vessel is not subject to a charter at the time of the *Accident* or occurrence giving rise to a claim under this contract.
- 1.2 Before the commencement of any charter, you **must** advise AXA of the periods during which the vessel is to be chartered, together with any change to the duration of the relevant charterparty, should such change occur. In support of any claim in respect of this loss of hire insurance, you are required to produce to AXA the original charterparty showing the charter terms and the daily indemnity or daily charter rate.
- 1.3 Compliance with clauses 1.1 and 1.2 above is a **Condition Precedent** to AXA's liability under this contract.

### 2. Basis of Indemnity

- 2.1 This contract covers loss of hire caused by the immobilisation of the *Insured Vessel* following an *Accident* or occurrence covered by Part I (**Marine Risks**) or (if you have purchased it) Part II (**Terrorism and War Risks**) of this contract.
- 2.2 The maximum sum payable per *Accident*, per event and per year shall be calculated on the basis of the *Deductible*, the fixed daily amount and the number of days agreed with AXA and set out in the **Particular Conditions**.
- 2.3 The indemnity period will not extend beyond the period for necessary repairs strictly relating to the *Accident* or occurrence giving rise to a claim (which is covered under this contract) under this contract.
- 2.4 The Assured will not be entitled to claim for any indemnity for loss of hire due to loss of time caused by works which are not strictly necessary to repair the

*Insured Vessel* and which arise from an *Accident* or occurrence covered under this insurance.

In the case of simultaneous repairs (that is repairs for damage covered under this contract and for owners' repairs) the insured loss of hire period will be assessed by the surveyors appointed by AXA (upon supporting documentation) at the surveyor's sole discretion.

If simultaneous repairs are carried out for several *Accidents* or occurrences which are covered under this contract, the surveyors appointed by AXA will (on the basis of supporting documentation) assess the number of days required for repairs in relation to each relevant *Accident* or occurrence and, at the surveyor's sole discretion, apportion the time accordingly.

### 3. Geographical Limits

This **Loss of Hire** insurance is subject to the geographical limits set out in the **Particular Conditions** respectively for **Marine Risks** and **Terrorism and War Risks** and, in particular, to the Navigational Limitations and termination provisions set out at Part II, clause 7 et seq above.

### 4. Period of Immobilisation

For the purpose of calculating any claim in respect of this loss of hire insurance, the period of immobilisation of the *Insured Vessel* will be calculated to commence when the vessel arrives in the shipyard for repair and to run until the vessel is put into a condition which permits redelivery under the charterparty.

### 5. Recoveries

Any recovery made from any *Third Parties* for loss of earnings or charter hire will be shared proportionately between AXA and you in proportion to insured and uninsured loss.

### 6. Deferred Repairs

If repair work is deferred, there shall be no claim under this loss of hire insurance unless that deferred work is completed within six (6) months of the date of the relevant *Accident* or occurrence.

## 7. No Reinstatement

For the avoidance of doubt there shall be no reinstatement of Loss of hire cover under this Part IV once the aggregate limit set out in the **Particular Conditions** has been exhausted.

## 8. Exclusions

8.1 **Loss of Hire** insurance under this Section A, Part IV expressly incorporates the exclusions set out in Part I (**Marine Risks**) and Part II (**Terrorism and War Risks**).

8.2 There shall be no claim under this **Loss of Hire** insurance if:

8.2.1 The *Accident* or occurrence which might give rise to a claim causes the vessel to become an actual or constructive *Total Loss*.

8.2.2 If the *Insured Vessel* is delayed or immobilised for humanitarian reasons or in order to provide assistance or salvage to a vessel in danger.

8.3 There shall be no claim under this **Loss of Hire** insurance in respect of loss, damage, liability or expense arising from:

8.3.1 Any detonation of any weapon of war employing atomic or nuclear fission or fusion or other like reaction or radioactive force or matter, referred to in this contract as a nuclear weapon of war.

8.3.2 The outbreak of war (whether there is a declaration of war or not) between any of the following countries: United Kingdom, USA, France, The Peoples Republic of China and the Russian Federation.

8.3.3 Requisition or pre-emption.

8.3.4 Capture, seizure, arrest, restraint, detainment, confiscation or expropriation by or under the order of a government or any public or local authority of the country in which the vessel is owned or registered.

8.3.5 Arrest, restraint, detainment, confiscation or expropriation under quarantine regulations or by reason of any infringement of any customs or trading regulations.

8.3.6 The operation of any ordinary judicial process, failure to provide security or to pay a fine or penalty or any financial cause.

- 8.4 This **Loss of Hire** insurance also excludes loss, damage, liability or expense which would be recoverable under any other contract of insurance for the vessel or which would be covered if the present contract did not exist.

## 9. Termination

### Termination on notice

- 9.1 **Loss of Hire** insurance under this Section A, Part IV may be terminated by either AXA or the insured giving seven (7) days notice (such termination becoming effective on the expiry of seven (7) days from midnight on the day on which notification is issued by or received by AXA as the case may be). AXA agree however to reinstate this insurance subject to agreement between AXA and the insured of a new rate of premium and conditions, prior to the expiry of such notice of termination. Particular rules apply to termination in relation to Areas of Perceived Enhanced Risk set out at Part II, clause 7 above.

### Automatic termination

- 9.2 **Loss of Hire** insurance under this Section A, Part IV will terminate automatically, whether or not notice of termination has been given, in the following circumstances:
- 9.2.1 Upon the occurrence of any hostile detonation of any nuclear weapon of war as defined in clause 8.3.1 above wheresoever and whensoever such detonation may occur and whether or not the *Insured Vessel* may be involved.
- 9.2.2 On the outbreak of war (whether war has been declared or not) between any of the following nations: United Kingdom, USA, France, The Peoples Republic of China and the Russian Federation.
- 9.2.3 In the event the vessel is requisitioned either for title or use.
- 9.3 A pro rata net return of premium shall be payable to the insured in the event of termination by notice or automatic termination under clause 9 or in the event of the sale of the vessel.

## 10. Incorporation

This Part IV is subject to the terms and conditions set out in Section A, Part I (and Part II) and to the General Conditions, Restrictions, Limitations and Exclusions set out in Section B of this AXA Yacht Insurance Contract.

## SECTION B

### GENERAL CONDITIONS, RESTRICTIONS, LIMITATIONS AND EXCLUSIONS

It is the overriding duty of the assured under this policy to act as a prudent uninsured

#### 1. Change of Ownership

- 1.1 Cover under this contract will terminate automatically and this contract will be cancelled with immediate effect without notice if the *Insured Vessel* is:
  - 1.1.1 Sold or transferred to new ownership or, where the *Insured Vessel* is owned by a company, there is a change in the controlling interests in that company.
  - 1.1.2 Managed or partly managed by a party other than the insured and there is a change in the identity of the manager(s).
- 1.2 In either case there will be a net pro rata return of premium, calculated on a daily basis.
- 1.3 Notwithstanding the above, cover under this contract may be extended by prior agreement in writing of AXA if the *Insured Vessel* is at sea when ownership or management is changed or transferred.

#### 2. Class

Where the *Insured Vessel* is classed with a Classification Society at the date of inception of this contract, you **warrant** that it shall remain classed with that Society throughout the duration of this contract and that you will:

- 2.1 Comply with the Rules of that Classification Society and with any requirements, recommendations or restrictions issued or imposed by that Society in accordance with those Rules and within any period or by any date stated by that Society for compliance.
- 2.2 Notify AXA and obtain AXA's prior written agreement to any intended change of Classification Society in respect of the *Insured Vessel*, and when giving such notice stating in full all and any outstanding requirements, recommendations and restrictions issued or imposed by that Society in respect of the *Insured Vessel*.

- 2.3 Notify the Classification Society as soon as practicable of any event or circumstance which might affect the class of the *Insured Vessel*, including (but not limited to) any event or circumstance which might cause that Society to impose or make any requirement, recommendation or restriction under its Rules.

### 3. Flag State and other Rules, Regulations and Requirements

- 3.1 You **warrant** that if the *Insured Vessel* is subject to rules or regulations imposed by the Flag State or any other regulatory body, including any national Coastguard, the *Insured Vessel* will remain subject to those rules and regulations throughout the duration of this contract, whether those rules and regulations apply compulsorily or voluntarily.
- 3.2 You **warrant** that you will comply with any requirement, restriction or recommendation made by the Flag State or such other regulatory body.
- 3.3 You **warrant** that the *Insured Vessel* will remain registered with the same Flag State (as set out in the **Particular Conditions**) throughout the duration of this contract unless AXA agrees in writing in advance to any change of Flag State.

### 4. Duties in the Event of Accident or Occurrence

- 4.1 Subject to paragraph 4.2 below in the event of an *Accident* or an occurrence which might give rise to a claim under this contract:
- 4.1.1 **You must**, on the occurrence of any casualty or event which may give rise to a claim under this contract, take all reasonable steps to avert or minimise losses, damage or liabilities, costs and expenses which might be covered under this contract, whether or not directed to do so by AXA. AXA will reimburse you for sums reasonably incurred taking such steps. This cover is provided in addition to any sums to which you may be entitled under these **General Provisions** but subject to the maximum set out in the **Particular Conditions**. **Important:** If you fail to take such steps, AXA may reject any claim made by you arising out of the casualty or occurrence, or reduce the sum payable under the policy in respect thereof by such amount as AXA shall so decide.
- 4.1.2 **You must** take all necessary steps with the view to preserving possible rights of recovery against persons who may be responsible,

for example by arranging for surveys, obtaining full contact details of *Third Parties* or their brokers, their agents, their insurers details of witnesses and any other relevant documentation. **Important:** If you do not take these steps we will deduct from the amount of the indemnity which we would have paid to you an amount equivalent to the sum which we could have recovered from a *Third Party*.

- 4.1.3 **You must**, as soon as reasonably practicable and at the latest within five (5) working days advise us of any event or claim which might give rise to a claim under your contract. **Important:** If you do not notify AXA within these time limits you may be deprived of a right of payment under this contract if it is established that delay in giving information has caused loss or prejudice to AXA.
- 4.1.4 **You must** provide in such notice the following information: date, circumstances, cause of loss, together with all useful information on the nature and extent of the loss (names and addresses of witnesses and relevant *Third Parties*). You must, in addition, keep us informed of all developments concerning the *Accident* or occurrence and send to us copies of all documents you receive including legal documents, extra judicial demands, letters, notices etc. These are **Conditions Precedent** to AXA's liability.
- 4.1.5 **You must** in the case of theft, *Disappearance*, fire, explosion and/or *Vandalism* within 24 hours file a report with the local police and advise us of the event within 48 hours. These are **Conditions Precedent** to AXA's liability.
- 4.1.6 **You must** co-operate fully with any enquiry undertaken by us or on our account in relation to the *Accident* or occurrence and provide our representatives with full and free access on board the vessel, including the opportunity to examine any damage. This is a **Condition Precedent** to AXA's liability.
- 4.1.7 **You must** disclose to AXA any other insurance in respect of the property insured under this policy.
- 4.1.8 **You must not** without AXA's prior written agreement accept liability nor settle, arbitrate nor negotiate any claim nor concede any rights or time limits which you could otherwise rely on nor concede any claim which you would be entitled to pursue. This is a **Condition Precedent** to AXA's liability.

4.1.9 **You must not** conclude any agreement for the provision of repair work or replacement parts without the prior written agreement of AXA or of the surveyors appointed to act on AXA's behalf. This is a **Condition Precedent** to AXA's liability.

4.2 AXA is entitled (but not obliged) to assume full control of the response to or handling of any *Accident* or occurrence affecting the *Insured Vessel* including, but not limited to: the conduct of the response to be given to any *Third Party*; the conduct of any legal or investigative proceedings; the appointment of a surveyor and/or the adjuster and the assessment of any repair or replacement work required; the selection and appointment of repair yards or contractors and the ordering of replacement parts. Where AXA wishes to assume such control, you are required to co-operate fully with AXA in all respects. Any steps taken by AXA under this clause 4.2 shall not be considered as a waiver nor will they prejudice the position of AXA under this contract or otherwise. Compliance with each of the obligations in this clause 4.2 is a **Condition Precedent** to AXA's liability.

4.3 Save where awarded or ordered by the Competent Court, no interest shall be payable by or recoverable from AXA in respect of any claim payable by AXA under this contract.

## 5. Competent Command

The *Insured Vessel* shall be either under the command of a professionally qualified person at all times, or under the command of a competent person whilst *In Commission*, save when the *Insured Vessel* is safely secured alongside.

## 6. Subrogation

On payment of any loss, damage, liability or expense under this contract AXA will be subrogated to all your rights to the extent of that payment.

## 7. Time Limit

No legal proceedings can be commenced against AXA for the recovery of any claim under this contract **unless commenced within 24 months** from the date of any *Accident* or occurrence from which the claim arises. If legal proceedings are commenced after that date they will be time barred.

## 8. Basis of Settlement

- 8.1 Payment under this contract will be made on the basis of the sums insured and *Deductibles* set out in the **Particular Conditions**.
- 8.2 A *Deductible* will be applied to each *Accident* or occurrence in accordance with the **Particular Conditions**.
- 8.3 An indemnity for loss or damage suffered by your vessel is only payable if it is supported by detailed paid invoices for replacement parts and repairs which are necessary to put your vessel into a good seaworthy condition.
- 8.4 In the case of *Total Loss* or theft of the vessel, the sum payable under this insurance will be the *Agreed Value* set out in the **Particular Conditions** or the *Market Value* of the vessel. The *Insured Vessel* will be deemed to be a constructive *Total Loss* if the cost of repairs to damage covered under this contract exceeds 80% of the sum insured as set out in the **Particular Conditions**.
- 8.5 In the event that a constructive *Total Loss* is paid by AXA, AXA shall be entitled to the benefit of and be given credit by you for the residual or damaged value of the *Insured Vessel* and AXA shall be at liberty to take over all proprietary rights in the *Insured Vessel*.

## 9. Abandonment

You are at liberty to tender to AXA a notice of *Abandonment* in the event of *Total Loss* or *Disappearance* of the *Insured Vessel*. AXA will be under no duty to accept such *Abandonment*.

## 10. Personal Effects

If you claim loss or damage to *Personal Effects*, you must prove their existence and value.

## 11. Termination

- 11.1 In addition to the termination provisions elsewhere in this contract, this contract can be terminated in the following ways:

**11.1.1 Termination will be automatic without notice in the following circumstances:**

11.1.1.1 In the event of change of ownership Classification Society, Country of Registration and Flag.

11.1.1.2 In the event of *Total Loss* or *Disappearance* of the vessel.

11.1.1.3 In the event of requisition of the vessel.

**11.1.2 AXA can terminate this contract on seven (7) days notice in the following circumstances:**

11.1.2.1 If you do not comply voluntarily or otherwise with the terms and conditions of this contract.

11.1.2.2 If you do not pay your premium within 45 days of the agreed date or dates.

11.1.2.3 In the event of an increase in risk during the course of this contract where AXA elects to refuse to continue coverage.

**11.1.3 You or AXA can choose to terminate this contract on fourteen (14) days notice:**

11.1.3.1 After the occurrence of loss or damage covered by this contract.

11.1.3.2 In the event of termination of another contract which has been underwritten by AXA for a similar risk or any other risk after loss.

11.2 Where termination is to be effected on notice, such notice will be effective at midnight on the expiry of seven (7) or fourteen (14) days from the date of issue by AXA or receipt by AXA, as the case may be.

## **12. Rights of Third Parties**

This contract does not and is not intended to confer any right or benefit on any *Third Party* under any applicable legislation including but not limited to the Contracts (Rights of Third Parties) Act 1999; and this contract can be terminated or amended without the consent of any *Third Party* by the agreement between the insured named in the **Particular Conditions** and AXA.

**13. Amendments and Waivers**

There shall be no amendment to these **General Provisions**, the **Particular Conditions** or any **Endorsement** other than by **Endorsement** in writing. AXA will not waive nor be stopped or prevented from relying on any right or entitlement unless AXA expressly agrees to do so in writing.

**14. Limit of Liability**

The maximum liability of AXA under this contract, in respect of any one *Accident* or occurrence and whatever the number of victims, is as stated in the **Particular Conditions**. The liability of AXA shall not exceed in any event the limitation of liability which an owner is entitled to under the applicable law or International Convention. Provided always that AXA shall have no liability under this contract where loss and/or damage is caused wilfully and intentionally or recklessly and with knowledge that such loss would probably result.

**15. Aggregate Limit of Liability**

The maximum liability of AXA under this contract in respect of all legal liabilities including legal costs, *Wreck Removal*, salvage and search and rescue (and bottom survey) shall not exceed the maximum set out in the **Particular Conditions**.

**16. Cyber Attack Exclusion**

16.1 Subject always to clause 16.2 below, in no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from 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 other electronic system.

16.2 Where you have purchased War Risks insurance from AXA under Section A, Part II of this contract, clause 16.1 above shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

17. Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons Exclusion

**This clause shall be paramount and shall override anything contained in this contract inconsistent therewith.**

17.1 In no case shall this contract cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from:

17.1.1 Ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste, or from the combustion of nuclear fuel.

17.1.2 The radioactive, toxic, explosive or other hazardous and contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.

17.1.3 Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

17.1.4 The radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. This exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes.

17.1.5 Any chemical, biological, biochemical or electromagnetic weapon.

18. Further Exclusions

18.1 This contract excludes loss, damage, liability, cost and expense:

18.1.1 Where the *Insured Vessel* is not used in accordance with the use set out in the **Particular Conditions**.

18.1.2 Where the *Insured Vessel* is not used in accordance with normal use nor in compliance with the applicable regulations.

18.1.3 Caused wilfully and intentionally or recklessly and with knowledge that such loss would probably result, by you, or by someone acting on your instructions or with your complicity.

18.1.4 Which arises from failure to abide by legislation and/or regulations in the following circumstances:

- 18.1.4.1 If you do not hold valid documents and/or appropriate navigation certificates or permits.
- 18.1.4.2 If the documents on board the *Insured Vessel* are not in order or not valid.
- 18.1.4.3 If ownership of your vessel is not in accordance with the applicable regulations.
- 18.1.4.4 If the number of persons on board exceeds the maximum stated by either the builders or the relevant legislation, whichever is the lesser.
- 18.1.4.5 If you navigate outside the geographical limits set out in the **Particular Conditions** or outside the limits stipulated by the relevant regulations, save in the case of emergency or in the case of rendering salvage services to another vessel in distress for the purpose of saving life or property. **Important: Areas of Perceived Enhanced Risk are subject to particular rules as per Section A, Part II, clause 7 et seq.**
- 18.1.4.6 If you or the people on board are carrying out any illegal or unlawful activity or act.
- 18.1.4.7 If the *Insured Vessel* is used in such a manner, or engaged on a voyage, that exposes the vessel or the people on board to unreasonable or unnecessary risk or hazard.
- 18.1.5 Where the *Insured Vessel* is under your command and which arise where you are under the influence of alcohol or drugs which have not been medically prescribed.
- 18.1.6 Where the *Insured Vessel* is under the command of another person authorised by you where that person is under the influence of alcohol or drugs which have not been medically prescribed, and where you have failed to prevent such person from exercising command.
- 18.1.7 Which occurs during or on the occasion of participation of the *Insured Vessel* in any display, regatta, competition, speed trial or race and whether the *Insured Vessel* is used alone or as part of a team or in any other similar use, save as otherwise provided in the **Particular Conditions**.

18.1.8 Which arises from, or is caused by, the presence or use of any asbestos or any asbestos related product.

18.2 This contract further excludes loss, liability, damage, cost or expense arising from, caused by or in the nature of:

18.2.1 Confiscation, sequestration or requisition of the *Insured Vessel*.

18.2.2 Fines, together with expenses relating to fines.

18.2.3 Sanitary or disinfection operations.

18.2.4 Legal proceedings save as provided in the liabilities section of Section A, Part I.

18.2.5 Depreciation, *Consequential Loss* (indirect damage) and loss of use. (Loss of use will only be recoverable save to the extent that you have purchased **Loss of Hire** cover under Section A, Part IV, and on the terms set out therein.

## 19. Mediation Clause

In the event of any claim or dispute between you and AXA arising out of or in connection with this contract (including questions of the existence, validity or termination of the contract or any other cause of action whatsoever) other than a claim by AXA under clause 20 below, and where it cannot be resolved by discussion or negotiation, the matter shall in the first instance be referred to mediation in London in accordance with the *LMAA* Mediation Terms 2002 (or any later version of those Terms) or the latest version of the *CEDR* Model Mediation Agreement without prejudice to your right or the right of AXA to commence legal proceedings.

## 20. Recovery of outstanding monies

Any claim by AXA against you in respect of premium or in respect of any other sums due to AXA under this contract shall be referred to the exclusive jurisdiction of the English Court under paragraph 21 below.

## 21. Jurisdiction and Proper Law

This policy shall be governed by and construed in accordance with English law and subject to the exclusive jurisdiction of the English High Court in London.

## SCHEDULE I

### DEFINITIONS

**Abandonment:** Action by which the insured unconditionally tenders transfer of full right and title in the *Insured Vessel* to the insurer against payment in the case of *Total Loss* or *Disappearance* covered by this contract.

**Accessories:** Goods, materials and accessories to navigation, fishing tackle and equipment, diving and sub-aqua equipment, sports equipment used for watersports on board the *Insured Vessel* or on land in a locked warehouse and which are not part of the vessel.

**Accident (Accidental):** A sudden unpredictable, unintended and fortuitous event arising from any external person or cause.

**Agreed Value:** The value agreed between you and AXA, at the time of making the contract and set out in the **Particular Conditions**

Where there is an agreed value, in the case of *Total Loss* or theft of the *Insured Vessel* you are not required to prove its value at the date of loss.

**CEDR:** Centre for Effective Dispute Resolution.

**Consequential Loss following physical loss and damage:** Any loss following physical loss and damage which results in *Total* or *Partial Loss* of use of property or of a benefit; or a loss of clientele or interruption of a service or of an activity.

**Deductible:** The sum which you are required to pay in respect of each *Accident* or occurrence as set out in the **Particular Conditions**.

**Disappearance:** *Total Loss* of the *Insured Vessel* is deemed to have occurred if no news of the *Insured Vessel* is received for a period of 90 days.

**Insured Vessel:** The vessel identified in the **Particular Conditions**, including its *Machinery*, gear, equipment, *Fixtures* and fittings, running and static rigging and sails.

**In Commission:** The *Insured Vessel* is in commission when it has all its normal equipment and gear on board and is fitted out and ready for use.

**Lay up:** The *Insured Vessel* is laid-up when it cannot be navigated and when the equipment necessary to navigation has been removed for storage either afloat or on land.

**LMAA:** London Maritime Arbitration Association.

**Machinery:** The entire principal propulsion equipment and safety equipment of the *Insured Vessel* and of the *Tender(s)*. This will include the main engine, motors, propeller shaft, propellers and all components which are essential to the operation of this equipment.

**Market Value:** The value of the vessel, or other insured property, at the date of any *Accident* or occurrence covered under these **General Provisions**, according to an expert report, but always subject to the limit set out in the **Particular Conditions**.

**Mysterious Disappearance:** Loss in circumstances where the insured cannot demonstrate any cause insured by this contract by which the loss occurred.

**Partial Loss:** Any loss and damage covered by this contract which is not an actual or constructive *Total Loss*.

**Personal Effects:** All objects and equipment, whose existence you can prove, belonging to insured persons and which are not related to life on board nor to navigation of the vessel and which were not part of the original *Insured Vessel*, its *Tender(s)* its *Fixtures*, fittings, gear and equipment including wet weather gear.

**Personal Injury:** Physical injury to persons.

**Pure Economic Loss:** Any financial loss not caused by or arising from physical loss and damage covered under this contract.

**Sue and Labour Expenses:** Reasonable expenditure incurred by the assured for the purpose of averting or minimising loss.

**Tender:** A boat with or without motor which is designed for use with the *Insured Vessel* and is registered in the name of the *Insured Vessel* and named in the **Particular Conditions**.

**Third Parties:** Any person or company which is not defined as an insured in this contract.

**Total Loss (actual and constructive):**

There is an actual total loss where the *Insured Vessel* is destroyed, so damaged as to cease to be a thing of the type insured or irrecoverable.

There is a constructive total loss in the event of a total *Disappearance* of the *Insured Vessel* or where the cost of repair or replacing the vessel exceeds 80% of the *Agreed Value* stated in the **Particular Conditions**.

**Vandalism:** Damage voluntarily caused without motive other than to cause damage to goods.

**Water Skier:** Any person pulled by the *Insured Vessel* or its *Tender(s)*, whether barefoot, on a mono ski, on water skis, on a waterboard and/or wakeboard and the like, on a ski board, on an inflatable or on a ski bus, but excluding any other machinery or accessory and excluding any use of personal watercraft including jet skis and wet bikes.

The number of skiers to be towed by the *Insured Vessel* or a *Tender* is subject to a maximum of two persons.

**Wreck Removal:** Wreck removal ordered by a State or a competent authority.