SuMoth CHALLENGE

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SuMoth Association

2027 SuMoth Challenge

Statement n.1

Team declaration and liability issues

Date: 07/11/2026

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11TH HOUR RACING

Dear Professors,
Dear Team Managers,

On behalf of the SuMoth Association Committee, we thank you for your thorough review of the 2027 Rulebook and your continuous dedication to the SuMoth Challenge. We deeply value your commitment to both the safety of the participants and the educational integrity of the project.

While the thirty-year history of student sailing regattas has fortunately been free of tragic incidents—recording only minor injuries typical of the sport—we are fully aligned with your premise that any accident carries significant gravity and must be actively prevented.

Regarding your concerns about Rule 5.5.1 and the Safety of Navigation Certificate (SNC), we wish to clarify the regulatory and liability frameworks that inform this requirement.

Pursuant to Directive 2013/53/EU and Regulation (EC) No 765/2008, hydrofoils and experimental prototypes are explicitly excluded from standard recreational craft regulations due to their inherent risks and the complexity of their structural assessment. In foiling competitions, structural failures carry a substantially higher risk profile than in displacement sailing; a collision involving a foiling vessel at speed presents severe, potentially fatal risks to crews, notwithstanding the use of helmets and personal flotation devices.

Because specific harmonised standards do not cover these prototypes, the legal responsibility to assess and mitigate operational risks falls entirely to the manufacturer. In the context of this competition, the manufacturer and the end-user are the same legal entity: the University or the specific student juridical association.

Consequently, under standard legal principles, both civil and criminal liabilities inherently reside with the legal representative of that entity (e.g., the Head of Department or the Association President). This liability exists by operation of law, regardless of whether a formal declaration is signed for the competition.

- **Civil liability** can generally be transferred or mitigated through appropriate insurance policies.
- **Criminal liability**, however, can only be limited or excluded by demonstrating that all necessary technical and procedural instruments were adopted to mitigate risk. For comparative reference, the Formula Student competition (FSAE 2026 Rulebook, Rule AD 5.3) employs a similar framework, requiring a designated university official to verify that components are designed and constructed "using good engineering practices."

In drafting the new SuMoth Rulebook, the Committee deliberately adopted broad and flexible phrasing. This approach is designed to avoid stifling innovation, ensuring teams have the freedom to explore novel engineering solutions. By formally executing the SNC, the University documents its internal risk assessment. This demonstration of due diligence effectively limits potential criminal liability to instances of gross negligence (*colpa grave*), a threshold we trust remains entirely foreign to the rigorous academic and engineering standards of your institutions.

If the flexibility and operational freedom granted by the Committee are not deemed suitable by the Team Managers, we wish to explicitly outline a clear pathway available to the teams: A team may engage a Notified Body (NB) in accordance with the aforementioned regulations, at their own expense. This request may also be made jointly by multiple teams to consolidate efforts, provided that a distinct safety certificate is issued for each individual vessel. The NB will issue a declaration certifying the structural integrity and safety of navigation of the Concept, thereby authorising the boat to race. At present, the Committee considers this the most appropriate

option, as it guarantees the technical safety of the vessels and prevents the emergence of potentially unpleasant legal or operational situations.

Furthermore, please be advised that in the coming days, the Committee will issue an amendment to the Rulebook pursuant to Rule 1.5. This amendment will introduce the provision for every skipper to sign a formal liability waiver. Operating under the legal principle of the consent of the entitled party (*consenso dell'avente diritto* / assumption of risk), this waiver is designed to explicitly exclude the liability of both the competition organisers and the team owning the vessel in the event of an incident. **Crucially, this consent must be fully informed; therefore, the legal obligation to provide all necessary safety and operational information to the skipper will rest solely with the legal owner of the vessel.**

Finally, we would like to gently remind you that the deadline for submitting the Team Declaration is this coming Tuesday November 10th closing the 60 day registration window since the Rulebook publication. Please note that signing the Team Declaration does not impose any additional obligations on the team beyond the fundamental requirement to comply with the Rulebook.

We hope this clarifies the distribution of responsibilities among the Team, the University, and the Committee, and reassures you that this framework is designed to legally protect the institutions while maintaining the highest safety standards. We remain at your disposal for any further necessary clarifications.

The SuMoth Committee