



Nautilus Marine Yacht Brokers Liability

Policy Wording



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1. Our Agreement

This Yacht Brokers Liability insurance Policy is a contract between You and Us:

Insuring Agreement

In consideration of **You** paying **Us** the **Premium** and in reliance upon the information **You** provided to **Us** in your application for insurance and its attachments, **We** shall cover **You** for the liabilities, costs and expenses that are covered by this **Policy**.

About Your Policy

This **Policy** is made up of this document, the **Certificate** and any **Endorsements** and they should all be read as one document.

If **You** think that any details contained in these documents are not correct or if **You** need to change anything, **You** should tell **Us** or ask **Your** insurance intermediary to tell **Us**.

Unless expressly stated to the contrary, words that are emphasised by the use of capitalisation and bold print have the meaning given to them in the Section 6 – ‘Definitions’ of this **Policy**.

This **Policy** is a legal contract between **You** and **Us**.

Based on the information provided by **You** when **You** applied for this insurance and subject to **You** having paid the required **Premium**, **We** agree to insure **You** during the **Period of Insurance**.

Your Duty of Disclosure

Before **You** enter into an insurance contract, **You** have a duty to tell **Us** anything that **You** know, or could reasonably be expected to know, may affect **Our** decision to insure **You** and on what terms.

You have this duty until **We** agree to insure **You**.

You have the same duty before **You** renew, extend, vary or reinstate an insurance contract.

You do not need to tell **Us** anything that:

- reduces the risk **We** insure **You** for; or
- is common knowledge; or
- **We** know or should know as an insurer; or
- **We** waive **Your** duty to tell **Us** about.

If You Do Not Tell Us Something

If **You** do not tell **Us** anything you are required to, **We** may cancel **Your** contract or reduce the amount **We** will pay **You** if **You** make a claim under this **Policy**, or both.

If **Your** failure to tell **Us** is fraudulent, **We** may refuse to pay **Your** claim under this **Policy** and treat the contract as if it never existed.

Cooling Off Period

Once cover has commenced **You** have 21 (twenty one) calendar days to decide whether this **Policy** meets **Your** needs. This is called the “cooling off period”.

If during this time, **You** decide **You** are not completely satisfied with this **Policy**, and provided **You** have not made a claim under this **Policy**, **You** can cancel this **Policy** by notifying **Us** in writing. **We** will refund in full any **Premium** **You** have paid.

Privacy Statement

NM Insurance Agency Pty Ltd, ABN 34 100 633 038, trading as Nautilus Marine are committed to protecting **Your** privacy in accordance with the Privacy Act 1988 (Cth) (Privacy Act) and the Australian Privacy Principles (APPs). This Privacy Statement outlines how **We** collect, disclose and handle **Your** personal information (including sensitive information) as defined in the Act.

Why We Collect Your Personal Information

We collect **Your** personal information (including sensitive information) so **We** can:

- identify **You** and conduct necessary checks;
- determine what service or products **We** can provide to **You** e.g. offer our insurance products;
- issue, manage and administer services and products provided to **You** or others, including claims investigation, handling and settlement;
- improve **Our** services and products e.g. training and development of **Our** representatives, product and service research and data analysis and business strategy development, and
- make special offers of other services and products provided by **Us** or those **We** have an association with, that might be of interest to **You**.

What Happens If You Don't Give Us Your Personal Information?

If **You** choose not to provide us with the information **We** have requested, **We** may not be able to provide **You** with **Our** services or products or properly manage and administer services and products provided to **You** or others.

How We Collect Your Personal Information

Collection can take place by telephone email, or in writing and through websites (from data **You** input directly or through cookies and other web analytic tools).

We collect it directly from **You** unless **You** have consented to collection from someone other than **You**, it is unreasonable or impracticable for **Us** to do so or the law permits us to.

If **You** provide us with personal information about another person **You** must only do so with their consent and agree to make them aware of this privacy notice.

Who We Disclose Your Personal Information To

We share **Your** personal information with third parties for the collection purposes noted above.

The third parties include: **Our** related companies and **Our** representatives who provide services for **Us**, the **Insurer**, other insurers and reinsurers, **Your** agents, **Our** legal, accounting and other professional advisers, data warehouses and consultants, social media and other similar sites and networks, membership, loyalty and rewards programs or partners, providers of medical and non-medical assistance and services, investigators, loss assessors and adjusters, other parties **We** may be able to claim or recover against, and anyone either of us appoint to review and handle complaints or disputes and any other parties where permitted or required by law.

We may need to disclose information to persons located overseas. Who they are may change from time to time. **You** can contact us for details or refer to our Privacy Policy available at our website www.nautilusinsurance.com.au. In some cases **We** may not be able to take reasonable steps to ensure they do not breach the Privacy Act and they may not be subject to the same level of protection or obligations that are offered by the Act. By proceeding to acquire **Our** services and products **You** agree that **You** cannot seek redress under the Act or against **Us** (to the extent permitted by law) and may not be able to seek redress overseas.

More Information, Access, Correction or Complaints

For more information about our privacy practices including how **We** collect, use or disclose information, how to access or seek correction to **Your** information or how to complain in relation to a breach of the Australian Privacy Principles and how such a complaint will be handled, please refer to our Privacy Policy available at **Our** website www.nautilusinsurance.com.au or by contacting **Us** (**Our** contact details are below).

Contact Us & Opting Out

By proceeding with **Your** application or submitting **Your** claim under this **Policy**, **You** and any other person included on this **Policy**, consent to this use and these disclosures unless **You** tell us otherwise. If **You** wish to withdraw **Your** consent, including for things such as receiving information on products and offers by **Us** or persons **We** have an association with, please contact **Us**

By phone: 1300 780 533
By email: customerservice@nautilusinsurance.com.au
In writing: 28-32 George Street, Sandringham VIC 3191

Dispute & Complaints Process

Both **We** and the **Insurer** are committed to handling any complaints about **Our** products or services efficiently and fairly. Any enquiry or complaint relating to this insurance should be referred to **Us** in the first instance. Please contact **Us**

By phone: 1300 780 533
By email: customerservice@nautilusinsurance.com.au
In writing: 28-32 George Street, Sandringham VIC 3191

If this does not resolve the matter or **You** are not satisfied with the way a complaint has been dealt with, **You** can contact the **Insurer** on their dedicated complaints line – 1800 339 669 and/or in writing to

Head of Compliance
AIG
Level 12, 717 Bourke Street
Docklands VIC 3008

If **Your** complaint is not satisfactorily resolved, **You** may request that the matter be reviewed by the **Insurer's** Internal Dispute Resolution Committee ('Committee') by writing to the person who signed the response letter or alternatively, **You** can contact the **Insurer** on their dedicated complaints line – 1800 339 669 and request to be referred to the Chairperson of IDRC. The **Insurer** will respond to **You** with the Committee's findings within 15 (fifteen) working days. **You** can also write directly to the Chairperson of the IDRC

The Chairperson IDRC
AIG
Level 12, 717 Bourke Street
Docklands VIC 3008

If **You** are not satisfied with the finding of the Committee, **You** may be able to take **Your** matter to an independent dispute resolution body, Financial Ombudsman Service. This external dispute resolution body can make decisions with which the **Insurer** is obliged to comply. Contact details are

Financial Ombudsman Service
Phone: 1300 78 08 08 (local call free applies)
Email: info@fos.org.au
Internet: <http://www.fos.org.au>
GPO Box 3, Melbourne, VIC 3001

General Insurance Code of Practice

The **Insurer** is a signatory to the General Insurance Code of Practice. This aims to raise the standards of practice and service in the insurance industry, improve the way that claims and complaints are handled and help people better understand how general insurance works. Information brochures on the General Insurance Code of Practice are available upon request.

The Insurer

This insurance is issued/insured by:

AIG Australia Limited (AIG)

ABN 93 004 727 753

AFSL 381686

Level 12, 717 Bourke Street

Docklands, VIC 3008

AIG issues/insures this product pursuant to an Australian Financial Services Licence granted to them by the Australian Securities and Investments Commission.

AIG is the marketing name for the worldwide property-casualty, life and retirement, and general insurance operations of American International Group, Inc.

American International Group, Inc. (AIG) is a leading international insurance organisation serving customers in more than 100 countries and jurisdictions. AIG companies serve commercial, institutional, and individual customers through one of the most extensive worldwide property-casualty networks of any insurer. In addition, AIG companies are leading providers of life insurance and retirement services in the United States. AIG common stock is listed on the New York Stock Exchange and the Tokyo Stock Exchange.

2. What We Cover You For - Standard Benefits

You are covered for:

General Liability

Subject to the terms and conditions of this **Policy**, **You** are covered for **General Liability**

- caused by or arising from an **Occurrence**;
- in the ordinary course of **Your Business**, and
- happening during the **Period of Insurance**.

Product Liability

Subject to the terms and conditions of this **Policy**, **You** are covered for **Product Liability**

- caused by or arising from an **Occurrence**;
- in the ordinary course of **Your Business**, and
- happening during the **Period of Insurance**.

Costs & Expenses

Subject to the terms and conditions of this **Policy**, **You** are covered for **Costs & Expenses** relating directly to a **General Liability** or **Product Liability** covered under this **Policy**.

If to dispose of or settle a **Claim**, **Compensation** is payable in excess of the **Limit of Liability**, then **Our** liability for **Costs & Expenses** will be limited to the same proportion of the **Costs & Expenses** as the **Limit of Liability** bears to the total **Compensation** payable to dispose of or settle the **Claim**.

Our liability to pay **Costs & Expenses** is in addition to the **Limit of Liability** but in no case to exceed an amount equivalent to the **Limit of Liability**.

Removal of Wreck Expenses

Subject to the terms and conditions of this **Policy**, **You** are covered for **Removal of Wreck Expenses** incurred

- in the ordinary course of **Your Business**, and
- where the removal order is first served on **You** during the **Period of Insurance**.

If the **Occurrence** causing or giving rise to **Removal of Wreck Expenses** also gives rise to **General Liability** and/or **Product Liability** then **Our** liability to pay for **Removal of Wreck Expenses** is in addition to the **Limit of Liability** but in no case to exceed an amount equivalent to the **Limit of Liability**.

3. What We Cover You For - Additional Benefits

You are also covered for:

Physical or Legal Control Extension

The 'Physical or Legal Control' exclusion clause contained in Section 5 'What is Not Covered' of this **Policy** shall not apply to **Property Damage** to

- (1) **Watercraft** provided that (a) such **Watercraft** is in **Your** physical or legal control for reward in the ordinary course of **Your Business** and (b) that **You** have accepted or assumed legal liability for such **Watercraft**;
- (2) any of the items specified in sub-clauses (i) – (v) below, provided that such items are (a) in **Your** physical or legal control in the ordinary course of **Your Business**, and (b) that **You** have accepted or assumed legal liability for them:
 - (i) **Watercraft** other than that specifically provided for in sub-clause (1) above;
 - (ii) the personal tools, clothing or effects of **Your** directors, partners, proprietors, officers, executives or **Employees**, or the clothing and personal effects of any of **Your** visitors;
 - (iii) a premises (including its contents) leased or rented to or temporarily occupied by **You**;
 - (iv) a **Vehicle** (including its contents, spare parts and accessories while they are in or on such **Vehicle**) provided that such **Vehicle** is
 - not hired, leased by or loaned to **You**, and
 - is in a car park that is owned or operated by **You**, and
 - that **You** do not operate such car park for reward as a principal part of **Your Business**, and
 - (v) any **Property** not more specifically provided for in sub-clauses (i) to (iv) above.

Unless stated to the contrary on the **Certificate**, the **Limit of Liability** applicable to the cover provided by the provisions of sub-clause (2) of this 'Physical or Legal Control Extension' clause is AUD500,000 (five hundred thousand Australian Dollars) for all amounts payable in respect of each claim or a series of claims under this **Policy** caused by or arising from one **Occurrence** and in the aggregate during the **Period of Insurance**.

Pollution Liability Extension

The 'Pollution' exclusion clause contained in Section 5 'What is Not Covered' of this **Policy**, shall not apply to the extent of the provisions of this 'Pollution Liability Extension' clause.

Subject to the terms and conditions of this **Policy**, **You** are covered for **Pollution Liability**

- caused by or arising from an **Occurrence**;
- in the ordinary course of **Your Business**, and
- happening during the **Period of Insurance**.

Unless stated to the contrary on the **Certificate**

- (1) the **Excess** applicable to this 'Pollution Liability Extension' clause is AUD5,000 (five thousand Australian Dollars), and
- (2) the **Limit of Liability** applicable to this 'Pollution Liability Extension' clause is the 'Pollution Liability' amount stated in the 'Limits of Liability' section of the **Certificate**.

Professional Services Liability Extension

The 'Professional Services' exclusion clause contained in Section 5 'What is Not Covered' of this **Policy**, shall not apply to the extent of the provisions of this 'Professional Services Liability Extension' clause.

Subject to the terms and conditions of this **Policy**, **You** are covered for **Professional Services Liability**

- caused by or arising from an **Occurrence**;
- in the ordinary course of **Your Business**;
- where the **Property Damage** and/or **Personal Injury** happens after the relevant **Retrospective Inception Date**, and
- the **Claim** is first made against **You** during the **Period of Insurance**.

Notwithstanding the above, **You** are not covered for **Professional Services Liability** unless

- **Watercraft** inspections and/or issuing of reports are undertaken by suitably qualified and experienced **Employees**;
- reports are only released after being reviewed and approved by suitably qualified and experienced **Employees**, and
- a disclaimer of any liability arising out of the undertaking of **Watercraft** inspections and issuing of reports is included in all reports issued. Such disclaimer must have been provided to and agreed by **Us** prior to the commencement of this **Policy**.

Unless stated to the contrary on the **Certificate**

- (1) the **Excess** applicable to this 'Professional Services Liability Extension' clause is AUD5,000 (five thousand Australian Dollars), and
- (2) the **Limit of Liability** applicable to this 'Professional Services Liability Extension' clause is AUD500,000 (five hundred thousand Australian Dollars) for all amounts payable in respect of each claim or a series of claims under this **Policy** caused by or arising from one **Occurrence** and in the aggregate during the **Period of Insurance**.

Statutory Liability Extension

The 'Fines & Penalties' exclusion clause contained in Section 5 'What is Not Covered' of this **Policy**, shall not apply to the extent of the provisions of this 'Statutory Liability Extension' clause.

Subject to the terms and conditions of this **Policy**, **You** are covered for **Statutory Liability**

- caused by or arising from an **Occurrence**;
- in the ordinary course of **Your Business**;
- that happens after the relevant **Retrospective Inception Date**;
- the **Claim** is first made against **You** during the **Period of Insurance**, and
- **We** are not legally prohibited from disposing of or settling the **Claim**.

We do not cover any liability caused by or arising from any breach, contravention or violation of sections 182, 183, 601FD, 601FE or 601JD of the Corporations Act 2001 (Cth) and any amendment, consolidation or re-enactment of any of those sections.

Unless stated to the contrary on the **Certificate**

- (1) the **Excess** applicable to this 'Statutory Liability Extension' clause is AUD5,000 (five thousand Australian Dollars), and
- (2) the **Limit of Liability** applicable to this 'Statutory Liability Extension' clause is AUD1,000,000 (one million Australian Dollars) for all amounts payable in respect of each claim or a series of claims under this **Policy** caused by or arising from one **Occurrence** and in the aggregate during the **Period of Insurance**.

4. What We Cover You For - Optional Benefits

Provided a corresponding **Limit of Liability** and an additional **Premium** are stated on the **Certificate**, then **You** are also covered for:

Environmental Impairment Liability Extension

Provided a **Limit of Liability** and an additional **Premium** for **Environmental Impairment Liability** are shown on the **Certificate** then the 'Pollution' exclusion clause contained in Section 5 'What is Not Covered' of this **Policy** shall not apply to the extent of the provisions of this 'Environmental Impairment Liability Extension' clause.

- (1) Subject to the terms and conditions of this **Policy**, **You** are covered for **Environmental Impairment Liability**
 - caused by or arising from an **Occurrence**;
 - in the ordinary course of **Your Business**;
 - where the discharge, dispersal, release or escape of **Pollutants** into or upon land, the atmosphere or any watercourse or body of water take place after the relevant **Retrospective Inception Date**, and
 - the **Claim** is first made against **You** during the **Period of Insurance**.
- (2) Notwithstanding the above, **We** do not cover any liability
 - (2.1) caused by or arising from any voluntary environmental investigation that is not required by **Environmental Laws** including, but not limited to, intrusive investigations or the taking or testing of soil and/or water samples from any of **Your** premises or the purposes of establishing the presence of **Pollutants**;
 - (2.2) caused by or arising from any **Underground Storage Tank** unless such tank
 - (2.2.1) is under 20 (twenty) years of age. The age of the tank shall be the period of time elapsed between the completion of manufacture of the tank and the inception date of this **Policy**;
 - (2.2.2) complies with any relevant local, state and federal legislation;
 - (2.2.3) has monthly monitoring by way of automatic tank gauging and/or monitoring wells and/or interstitial monitoring and/or statistical inventory analysis; and
 - (2.2.4) has been specifically declared to and accepted by **Us** and such acceptance is stated on the **Certificate**;
 - (2.3) caused by or arising from the excavation or movement of any ground material, including but not limited to surface soils and subsurface soils, from any construction, redevelopment, or refurbishment on or at any of **Your** premises;
 - (2.4) caused by or arising from the voluntary or forced reconstruction, repair, replacement, removal, decommissioning, upgrading or rebuilding of any **Underground Storage Tank** or for any other improvements, site enhancements or routine maintenance on, within or under the site at which **Underground Storage Tank** is located, and/or
 - (2.5) that is the subject of indemnity under any other section of this **Policy**, or would be but for the **Limit of Liability** applicable thereto.
- (3) If to dispose of or settle a **Claim**, the amount payable in excess of the **Limit of Liability** applicable to **Environmental Impairment Liability**, then **Our** liability for **Environmental Impairment Costs & Expenses** will be limited to the same proportion of the **Environmental Impairment Costs & Expenses** as the **Limit of Liability** applicable to **Environmental Impairment Liability** bears to the total amount payable to dispose of or settle the **Claim**.

- (4) **Our** liability to pay applicable to **Environmental Impairment Costs & Expenses** is included within the **Limit of Liability** applicable to **Environmental Impairment Liability** and in no case shall be in addition to such **Limit of Liability**.
- (5) Unless stated to the contrary on the **Certificate**
- (5.1) the **Excess** applicable to this 'Environmental Impairment Liability Extension' clause is AUD5,000 (five thousand Australian Dollars), and
- (5.2) the **Limit of Liability** applicable to this 'Environmental Impairment Liability Extension' clause is AUD1,000,000 (one million Australian Dollars) for all amounts payable in respect of each claim or a series of claims under this **Policy** caused by or arising from one **Occurrence** and in the aggregate during the **Period of Insurance**.

5. What Is Not Covered

You are not covered for:

Aircraft & Hovercraft

We do not cover any liability caused by or arising from

- (1) the use or ownership or operation by **You** of any **Aircraft** or **Hovercraft**;
- (2) the construction, maintenance or servicing by **You** of any **Aircraft** or **Hovercraft**, or
- (3) the use of any **Watercraft** or **Property** or structure owned, occupied or controlled by **You** as a landing area for **Aircraft**. The term “landing area” includes any area on which **Aircraft** taxi, land, take-off, are housed, maintained or operated.

Asbestos

We do not cover any liability caused by or arising from exposure to asbestos or materials containing asbestos.

Assault & Battery

Except to the extent provided for in sub-clause (5) of the ‘Personal Injury’ definition contained in Section 6 ‘Definitions’ of this **Policy**, **We** do not cover any liability caused by or arising from assault and battery committed by **You** or at **Your** direction.

Confiscation

We do not cover any liability caused by or arising from confiscation, nationalisation, requisition, embargo or destruction of or damage to **Property** or **Watercraft** by order of any government, public or local authority.

Contractors

Unless **You** have informed us that **You** engage **Contractors** and this is stated in the ‘Your Business’ section of the **Certificate**, **We** do not cover any liability caused by or arising from the acts or omissions of **Contractors**.

Contractual Liability

We do not cover any liability which has been assumed by **You** under any contract or agreement that requires **You** to

- (1) effect insurance over **Property** or **Watercraft**, and/or
- (2) assume liability for **Personal Injury** and/or **Property Damage** regardless of fault.

This sub-clause (2) shall not apply with regard to liabilities

- (i) which would have been implied by law in the absence of such contract or agreement;
- (ii) assumed under **Incidental Contracts**;
- (iii) assumed with regard to the merchantability, quality, fitness or care of **Products** which are implied by law or statute, or
- (iv) assumed under contracts shown to and accepted by **Us** and which are specifically stated in the ‘Contractual Liability’ section of the **Certificate** or in any **Endorsement** to this **Policy**.

Cyber Attack

We do not cover any liability caused 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 any other electronic system.

This exclusion is paramount and shall override anything contained in this **Policy** inconsistent therewith.

Default Judgment

We do not cover any liability under or arising from a judgment against **You** by reason of **Your** failure to defend a **Claim**.

This exclusion shall not apply if **We** give **You** prior written consent to this course of action.

Electronic Data

We do not cover any liability caused by or arising from loss of or damage to **Electronic Data**.

This exclusion shall not apply if such loss or damage arises from

- (1) the theft of any computer or computer hardware, firmware or any device containing a microchip or integrated circuit containing **Electronic Data**;
- (2) water and/or other liquids or any other substances being discharged from or leaking or overflowing from any apparatus or appliance or pipes;
- (3) the breakage of glass;
- (4) impact;
- (5) storm, tempest, rainwater, wind, hail, fire, lightning, earthquake, explosion, implosion, sonic boom or volcanic eruption, or
- (6) **Aircraft** or other aerial devices or articles dropped from them.

Embargo & Sanctions

We are not liable to make any payments for liability under any coverage sections of this **Policy** or make any payments under any extension for any loss or claim arising in, or where the insured person or any beneficiary under this **Policy** is a citizen or instrumental in the government of, any country(ies) against which any laws and/or regulations governing this **Policy** and/or **Us, Our** parent company or its ultimate controlling entity have established an embargo or other form of economic sanction which have the effect of prohibiting the insurer to provide insurance coverage transacting business with or otherwise offering economic benefits to the insured person or any other beneficiary under this **Policy**.

Employer's Liability

- (1) **We** do not cover any liability for bodily injury to any worker in respect of which **You** are or would be entitled to indemnity under any policy of insurance, fund, scheme or self insurance pursuant to or required by any legislation relating to workers compensation or accident compensation whether or not such policy, fund, scheme or self insurance has been effected.

Notwithstanding the foregoing, this **Policy** will respond to the extent that **Your** liability would not be covered under any such policy, fund, scheme or self insurance arrangement had **You** complied with its obligations pursuant to such law.

For the purpose of this sub-clause (1)

- (i) the term 'worker' means any person deemed to be employed by **You** pursuant to any workers compensation law. Voluntary workers, secondees and work experience students (if any) shall not be deemed to be **Your** employees.
 - (ii) the term 'bodily injury' means bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish and/or mental injury, including loss of consortium or services resulting therefrom.
- (2) **We** do not cover any liability imposed by
 - (i) the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination or contract of employment or workplace agreement.
 - (ii) any law relating to **Employment Practices**.

Faulty Design

We do not cover any liability for the costs incurred in repairing, modifying or replacing any part by reason of faulty design.

Faulty Workmanship

We do not cover any liability for the costs incurred in performing, completing, correcting or improving any work undertaken by **You**.

Fines & Penalties

Except to the extent provided for in the 'Statutory Liability Extension' clause contained in Section 3 'What We Cover You For - Additional Benefits' of this **Policy**, **We** do not cover any liability for any fines, penalties, punitive, exemplary, aggravated damages, and additional damages resulting from the multiplication of compensatory damages.

Hot Work

Unless **You** have told **Us** that **You** undertake **Hot Work** and this is stated in the 'Your Business' section of the **Certificate**, **We** do not cover any liability caused by or arising from **Hot Work** whatsoever.

Notwithstanding that **You may** have told to **Us** that **You** undertake **Hot Work**, in no case do **We** cover liabilities caused by or arising from **Hot Work**

- (1) performed on or in **Watercraft** previously engaged in carrying explosives or flammable liquids or gases;
- (2) performed on or near any fuel tank, pipeline or fuel bunker space, and/or
- (3) not performed in accordance with the provisions of Australian Standard 1674.1-1997 – Safety in Welding and Allied Process – Fire Precautions.

Intentional Acts

We do not cover any liability caused by or arising from any intentional, reckless or willful act or omission, or any fraudulent or dishonest acts committed by **You** or any person acting with **Your** knowledge, consent or connivance.

Libel & Slander

We do not cover any liability for libel and slander resulting from statements made or published

- (1) prior to the commencement of the **Period of Insurance**, and/or
- (2) at **Your** direction with knowledge that such statements are false.

Liquidated Damages

We do not cover any liability arising out of liquidated damages clauses, penalty clauses or performance warranties except to the extent that such liability would have attached in the absence of such clauses or warranties.

Loss of Use

We do not cover any liability for loss of use of **Property** or **Watercraft** which has not been physically lost, destroyed or damaged when such loss of use arises directly from

- (1) a delay in or lack of performance by **You** or on **Your** behalf of any contract or agreement, or
- (2) failure of any **Product** or work performed by **You** or on **Your** behalf to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by **You**.

This sub-clause (2) shall not apply to **Your** liability for loss of use of other **Property** or **Watercraft** resulting from sudden and accidental physical loss, destruction of or damage to any **Product** or work performed by **You** or on **Your** behalf after such **Product** or work have been put to use by any person or organisation other than **You**.

Movement of Watercraft

Except to the extent provided for below, **We** do not cover any liability caused by or arising from the shifting, movement or operation of **Watercraft** in **Your** physical or legal control.

This exclusion shall not apply to shifting, movement or operation of **Watercraft** in **Your** physical or legal control where such **Watercraft** is in **Your** physical or legal control

- (1) for a fee in the ordinary course of **Your Business** as a **Marina Operator**, or
- (2) for the purposes of being worked upon in the ordinary course of **Your Business** as a **Ship Repairer** or a **Boat Builder**, or
- (3) for marketing and sales purposes in the ordinary course of **Your Business** as a **Yacht Broker**, or
- (4) in the ordinary course of it being hired, chartered or leased by or loaned to **You**,

and provided that such shifting, movement or operation is for the purpose of trial trips or other movements incidental to **Your Business**.

Personal Injury to Contractors

We do not cover any liability for **Personal Injury** to **Contractors**.

Physical or Legal Control

Except to the extent provided for in the 'Physical or Legal Control Extension' clause contained in Section 3 'What We Cover You For - Additional Benefits' of this **Policy**, **We** do not cover any liability for **Property Damage** to any **Property** or **Watercraft** in **Your** physical or legal control.

Pollution

Except to the extent provided for in the 'Pollution Liability Extension' clause contained in Section 3 'What We Cover You For - Additional Benefits' and, where applicable, the 'Environmental Impairment Liability Extension' contained in Section 4 'What We Cover You For - Optional Benefits', of this **Policy**, **We** do not cover any liability caused by or arising from the discharge, dispersal, release or escape of **Pollutants** into or upon land, the atmosphere or any watercourse or body of water, and/or for the cost of testing and monitoring for, removing, nullifying, or cleaning up of **Pollutants**.

Product Guarantee

We do not cover any liability for any **Product** warranty or guarantee given by **You** or on **Your** behalf, but this exclusion shall not apply to the requirements of any Federal, State or Territory legislation as to **Product** safety and information.

Product Recall

We do not cover any liability for damages, costs or expenses arising out of the withdrawal, recall, inspection, repair, reconditioning, modification, reinstallation, replacement or loss of use of any **Product** where such **Product** is withdrawn or recalled from the market or from use by any person or organisation because of any known, alleged or suspected defect or deficiency in such **Product**.

Professional Services

- (1) **We** do not cover any liability caused by or arising from the provision of or failure to provide professional advice or service by **You**, or any error or omission connected therewith.
- (2) This exclusion shall not apply to liability caused by or arising from
 - (a) **Medical Persons** providing, or failing to provide, first aid, medical advice or other medical services, or
 - (b) **You** providing professional advice or service (except those specifically provided for in (3) below) without fee or charge and whether within the overall cost of services or as a separate amount.
- (3) To the extent provided under the 'Professional Services Extension' clause contained in Section 3 'What We Cover You For - Additional Benefits' of this **Policy**, this exclusion shall not apply to liability caused by or arising from **You** performing an inspection of a **Watercraft** and/or issuing a report relating to such inspection in the ordinary course of **Your Business** and regardless of whether a fee is charged.

Radioactive Contamination, Chemical, Biological, Bio-Chemical & Electromagnetic Weapons

We do not cover any liability caused by or arising from

- (1) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- (2) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor, or other nuclear assembly or nuclear component thereof;
- (3) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- (4) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause (4) 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, or
- (5) any chemical, biological, bio-chemical, or electromagnetic weapon.

This exclusion is paramount and shall override anything contained in this **Policy** inconsistent therewith.

Territorial Limits

- (1) Except as provided for in (2) below, **We** do not cover any liability, costs or expenses relating to any **Claim**
 - (i) brought against **You** in any country, state or jurisdiction other than the Commonwealth of Australia and its external territories;
 - (ii) arising as a consequence of **You** entering into contractual obligations submitting to the jurisdiction of a court other than a court of a State or Territory of the Commonwealth of Australia, or
 - (iii) arising as a consequence of any agreement by **You** to indemnify any other party in respect of awards, judgments or settlements made under the jurisdiction of a court other than a court of a State or Territory of the Commonwealth of Australia.
- (2) The exclusion contained in (1)(i) above shall not apply to any liability, costs or expenses relating to any **Claim** brought against **You** in any country, state or jurisdiction other than the Commonwealth of Australia and its external territories provided that the **Occurrence** giving rise to the **Claim**
 - (i) happens in the ordinary course of overseas business travel by **You** but not if **You** perform manual work in **North America**;
 - (ii) relates to **Products** supplied from the Commonwealth of Australia to anywhere in the world except **North America**, or
 - (iii) relates to **Products** supplied from the Commonwealth of Australia to **North America** but not if such **Products** were supplied to **North America** with **Your** knowledge.

Vehicles

We do not cover any liability arising from of the ownership, possession or use by **You** of any **Vehicle** (which includes but is not limited to a **Watercraft** trailer)

- (1) which is registered or which is required under any legislation to be registered, or
- (2) in respect of which compulsory liability insurance or statutory indemnity is required by virtue of legislation (whether or not that insurance is effected).

These sub-clauses (1) and (2) above shall not apply to

- (3) **Personal Injury** where
 - (i) that compulsory liability insurance or statutory indemnity does not provide indemnity, and
 - (ii) the reason why that compulsory liability or statutory indemnity does not provide indemnity do not involve a breach by **You** of any legislation relating to **Vehicles**;
- (4) any **Vehicle** (including any tool or plant forming part of or attached to or used in connection with such **Vehicle**) whilst being operated or used by **You** or on **Your** behalf as a tool of trade at **Your** premises or on any work site;
- (5) the delivery or collection of goods to or from any **Vehicle**;
- (6) the loading or unloading of any **Vehicle**;
- (7) any **Vehicle** temporarily in **Your** custody or control for the purpose of parking, or
- (8) **Property Damage** caused by or arising from the movement of any **Vehicle** (which is required to be conditionally registered in accordance with the law of any state or territory in the Commonwealth of Australia) in the event of **Your** inadvertent and unintentional failure to effect conditional registration.

War, Strikes, Riots, Civil Commotions & Terrorism

We do not cover any liability caused by or arising from any

- (1) strike, lockout, labour disturbance, riot, civil commotion or act of any person taking part in any such event;
- (2) person acting from a political, ideological or religious motive;
- (3) act of **Terrorism**;
- (4) action in controlling, preventing, suppressing, retaliating against or responding to or in way relating to **Terrorism**;
- (5) act of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power;
- (6) capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereat, or
- (7) derelict mines, torpedoes, bombs or other derelict weapons of war.

Your Own Property & Watercraft

We do not cover any **Property Damage** to any **Property** or **Product** or **Watercraft** that is owned by **You**.

6. General Conditions

Your insurance is subject to the following general conditions:

Alteration of Risk

If **You** become aware of any changes to the facts or circumstances which existed at the commencement of this **Policy**, **You** must notify us in writing within 30 (thirty) calendar days.

If **We** agree to the change **We** will do so in writing and **You** must pay us any additional **Premium We** require.

Examples of changes **You** should tell us about include but are not limited to

- (1) a change in the type of or nature of **Your Business**;
- (2) of damage or losses; or
- (3) **Your Business** is wound up or carried on by an insolvency practitioner or permanently discontinued.

Your failure to notify **Us** of the change could result in us declining a claim made under this **Policy** and/or cancelling or avoiding this **Policy**.

Assignment

This **Policy**, the proceeds under this **Policy** and any rights hereunder cannot be assigned without **Our** prior written consent.

Australian Law & Practice

All disputes arising out of or under this **Policy** shall be subject to determination by any court of competent jurisdiction within the Commonwealth of Australia according to the law which applies to that jurisdiction.

Bankruptcy or Insolvency

In the event that **You** should become bankrupt or insolvent, **We** shall not be relieved thereby of the settlement of any **Claim** because of such bankruptcy or insolvency.

In case of execution against **You** of any final judgment covered by this **Policy** being returned 'unsatisfied' by reason of such bankruptcy or insolvency, then an action may be maintained by the injured party or their representative against **Us** in the same manner, and to the same extent as **You** but not in excess of any **Limit of Liability**.

Cancellation

- (1) **You** may cancel this **Policy** at any time by giving **Us** notice in writing.

If no claim is made under this **Policy**, **We** will refund to **You** the pro-rata **Premium** less a cancellation fee.

If a claim is made under this **Policy**, then **You** will be liable to **Us** for the **Premium**.

- (2) **We** may cancel this **Policy** in any of the circumstances detailed in the Insurance Contracts Act 1984.

In the event that **We** cancel this **Policy**, **We** will refund to **You** the pro-rata **Premium** calculated for the unexpired **Period of Insurance** from the date of cancellation.

Changes to this Policy

No change in this **Policy** will be valid unless agreed in writing by **Us** nor shall the requirements of this **Policy** be waived unless agreed in writing by **Us**.

Claims Procedure

You will

- (1) give **Us** immediate notice in writing with full particulars of every **Occurrence**, circumstance, **Claim**, writ, summons, proceedings, impending prosecution, inquest and the like which may give rise to a claim recoverable under this **Policy**;
- (2) use **Your** best endeavours to preserve any damaged or defective **Property, Products** or **Watercraft** which may be necessary or useful by way of evidence in connection with any **Claim** and, so far as may be reasonably practicable, no alteration or repair shall be made to any **Property, Product** or **Watercraft** until **We** have had an opportunity to inspect it and given **Our** prior written consent;
- (3) not make any admission, offer, promise or payment in connection with any **Occurrence** or **Claim** without **Our** prior written consent, and
- (4) give **Us** all information and assistance as **We** may reasonably require in the prosecution, defence or settlement of any **Claim**.

We will

- (5) be entitled to take over and conduct in **Your** name the defence or settlement of any **Claim**, and
- (6) have full discretion in the conduct of any negotiations or proceedings in connection with any **Claim**.

"Claims Made" Coverage

The cover provided under

- (1) the 'Statutory Liability Extension' and 'Professional Services Liability Extension' clauses contained in Section 3 'What We Cover You For - Additional Benefits' of this **Policy**, and
- (2) the 'Environmental Impairment Liability Extension' clause contained in Section 4 'What We Cover You For - Optional Benefits' of this **Policy**

is only provided if

- (3) **You** notify **Us** in writing immediately **You** first receive a **Claim** and in no case notify **Us** later than 30 (thirty) calendar days after the termination of the **Period of Insurance**, and
- (4) at the commencement of this **Policy**
 - (i) **You** were not aware of, or in the ordinary course of **Your Business** could not have been aware of, any **Occurrence** that happened after the relevant **Retrospective Inception Date** which may give rise to a **Claim**, and
 - (ii) **You** had not received any **Claim** from any party or person.

If during the **Period of Insurance** **You** become aware of an **Occurrence** which may give rise to a **Claim** being made against **You**, and **You** give immediate written notice of such **Occurrence** to **Us** before the termination date of the **Period of Insurance**, then if a **Claim** is subsequently made against **You** within the 3 (three) calendar months immediately following the end of the **Period of Insurance** then such **Claim** shall be deemed to have first been made against **You** during the **Period of Insurance**.

Cross Liability

Where "You" is comprised of more than one party, each party shall be considered as a separate legal entity and the words "You" and "Your" shall be considered as applying to each party in the same manner as if this **Policy** had been issued separately to each party except in respect of **Limits of Liability**.

Nothing herein shall serve to increase any **Limit of Liability**.

Discharge of Liabilities

We may at any time pay to **You** in respect of **Compensation** payable as a result of any **Occurrence** the amount of the **Limit of Liability** or such limit stated in this **Policy** in respect thereof (after deduction of any amount or amounts already paid) or any lesser amount for which the **Claim** can be settled.

Upon such payment **We** shall relinquish conduct or control of and be under no further liability under this **Policy** in connection with such **Claim** except for costs or expenses incurred by **Us** or by **You** with **Our** written consent prior to the date of such payment.

Excess

The **Excess** applies to all amounts for which **We** shall be liable, including but not limited to **Costs & Expenses** and **Environmental Impairment Costs & Expenses**.

If more than one **Excess** can be applied to an **Occurrence**, then **You** will only need to pay the highest **Excess**.

Gender

Words importing any gender includes all genders.

GST

All of the amounts insured by this **Policy** exclude **GST**.

Any settlements under this **Policy**, up to the total of all amounts insured, will exclude **GST**. However, if there is a shortfall between the **GST** component of the settlement and the amount of input tax credit **You** are entitled to, **We** will pay this shortfall in addition to the settlement.

We will not be liable to pay any **GST**, or any fine, penalty or charge that **You** are liable for arising out of **Your** misrepresentation of, or failure to disclose, **Your** proper input tax credit entitlement in the settlement of any claim under this **Policy** or **Premium** relating to this **Policy**.

Headings

Descriptions in the headings and titles of this **Policy** are solely for reference and convenience and do not lend any meaning to this **Policy** or form any part of the terms and conditions of coverage.

Inspection & Audit

We shall be permitted, but are not obligated, to inspect **Your** premises and operations at any reasonable time.

Neither **Our** right to make inspections, nor **Our** failure to make inspections, nor the making of any inspections, nor any report of an inspection shall constitute an undertaking, on behalf of or for the benefit of **You** or others, to determine or warrant that such premises or operations are safe or healthful or are in compliance with any law, rule or regulation.

We may examine and audit **Your** books and records at any time during the currency of this **Policy** and within 3 (three) years after the termination of this **Policy** but only with regard to matters which in **Our** opinion are relevant to this **Policy**.

Joint Insureds

Where 'You' is comprised of more than one party

- (1) all information provided to **Us**, and
- (2) any failure to provide information to **Us** or misrepresentation made to **Us**

shall be deemed to have been by or on behalf of all the parties.

Other Insurance

You must give **Us** full particulars of any other insurance which provides indemnity, in full or in part, for any of the liabilities or costs or expenses covered under this **Policy** within 21 (twenty one) calendar days of entering into any such insurance or at the time of making a claim under this **Policy**, whichever date shall first occur.

Persons

Words importing persons shall include individuals, partnerships, corporations and associations.

The word "person" includes a corporation and vice versa.

A reference to a 'person' or 'party' includes a reference to that party or person and its successors, substitutes (including, but not limited to, any person or party taking by novation), executors, administrators and assigns.

Premium Adjustment

Where the **Premium** paid by **You** at the inception of this **Policy** is calculated on **Your** estimated **Gross Revenue** or other estimated amount provided by **You** to **Us**, **You** must, within 30 (thirty) calendar days after the termination of the **Period of Insurance**, provide **Us** the actual amount realised during the **Period of Insurance** so that **We** may calculate any adjustment **Premium** that may be payable.

Prevention of Accidents

You must take reasonable precautions to prevent **Personal Injury** or **Property Damage** as if **You** were not covered by this **Policy**. Such precautions include but are not limited to

- (1) if **You** discover **Products** may be defective and such defect may give rise to a **Claim**, at **Your** expense **You** must take reasonable steps to restrict, trace, recall, modify, replace or repair the **Products**;
- (2) maintaining and looking after other person's or organisation's **Property** used or occupied by **You**, in accordance with **Your** agreement with them;
- (3) comply and ensure that **You** and any **Contractors** comply with all statutory obligations, by-laws or regulations imposed by any public authority for the safety of persons or **Property** or **Watercraft**;
- (4) ensure that **You** and any **Contractors** do not exceed the registered or rated capacity of any lift device, marine railway or dry-dock;
- (5) if **You** intend digging below ground or water level, the location of underground or underwater services must be obtained from the owners of the services by **You** before the work is commenced, and
- (6) using and storing all hazardous materials as required by law.

If **You** do not take reasonable precautions **We** may decline to pay part or all of a claim under this **Policy**.

Reconstruction or Conversion

You must notify **Us** prior to commencing work on a **Watercraft** that will result in any change in the dimension, tonnage or type of **Watercraft** and pay an additional **Premium** if requested by **Us**.

Release of Liability

Where **You** are required by contractual agreement to release any government authority or any landlord or any other person or parties from liability for loss, destruction or damage or legal liability covered by this **Policy**, such release is allowed without prejudice to this insurance.

We agree to waive all **Our** rights of subrogation against any such authority or persons or parties in the event of any **Occurrence** for which a claim may be made under this **Policy**.

Singular & Plural

Words and expressions in the singular shall include the plural and vice versa.

Subrogation & Allocation of the Proceeds of Recoveries

Subject to the provisions of the 'Subrogation Waiver' and 'Release of Liability' clauses contained in this Section 5 'General Conditions' of this **Policy**, any corporation, organisation or person claiming under this **Policy** shall, at **Our** request and at **Our** expense, do and concur in doing and permit to be done all such acts and things that may be necessary or may reasonably be required by **Us** for the purpose of enforcing any rights and remedies, or for obtaining relief or indemnity from any other organisations or persons, to which **We** shall be or would become entitled upon us paying for or indemnifying **You** in respect of legal liability under this **Policy**.

Should **You** incur any legal liability which is not covered under this **Policy**

- (1) due to the application of an **Excess**, and/or
- (2) where the amounts of any judgments or settlements exceed the applicable **Limit of Liability**

You will be entitled to the first call on the proceeds of all recoveries made, by either **You** or **Us**, on account of such legal liability until fully reimbursed for such uninsured amount (less the actual costs of making such recoveries where those costs are incurred by **Us**) and any remaining amounts will be applied to reimburse **Us**.

Subrogation Waiver

We waive all our rights of subrogation under this **Policy** against

- (1) each of the parties described as an **Insured**, and
- (2) any corporation, organisation or person which or who owns or controls the majority of the capital stock of any corporation or organisation to which or to whom protection is afforded under this **Policy**.

If such corporation, organisation or person is protected from liability covered under this **Policy** by another policy of indemnity or insurance, then **Our** right of subrogation is not waived to the extent and up to the amount of such other policy.

7. Definitions

Some words have special meaning wherever they appear in this Policy:

Aircraft

“Aircraft” means any craft or object designed to travel through air, atmosphere or space.

Boat Builder

“Boat Builder” means a person or company whose business activities and operations include

- (1) the design, construction and modification of **Watercraft** for reward;
- (2) the purchase, sale, supply, re-supply, distribution, import or export related chandlery and equipment, and
- (3) **Watercraft** inspections and the issuing of inspection reports.

Boat Dealer

“Boat Dealer” means a person or company whose business activities and operations include

- (1) the purchase, sale, supply, distribution, delivery, import and export of **Watercraft** and other **Products**;
- (2) the testing and/or demonstration of **Watercraft** in the ordinary course of marketing and/or selling of **Watercraft**.
Demonstration of **Watercraft** may include towing of water skiers or aquaplanes or other similar water tow sports but in no case para-sailing, kite surfing, kite boarding, teak surfing or other similarly dangerous activities;
- (3) the exhibiting of **Watercraft** at trade shows in the ordinary course of marketing and/or selling of **Watercraft**;
- (4) the collection of **Watercraft** from sellers or consignors and/or the delivery of **Watercraft** to buyers;
- (5) pre-delivery detailing, repairing and/or servicing of **Watercraft** in the ordinary course of preparing **Watercraft** for sale;
- (6) pre-delivery sale, supply and/or installation of motors, sails and rigging, trailers, equipment, contents and accessories attaching to and/or forming part of **Watercraft** in the ordinary course of preparing **Watercraft** for sale;
- (7) **Watercraft** inspections and the issuing of inspection reports, and
- (8) the purchase, sale, supply, re-supply, distribution, import or export related chandlery and equipment.

Business

“Business” means the activities and operations **You** have declared to **Us** and which are stated in the “Your Business” section of the **Certificate**.

‘Business’ does not mean any activities or operations expressly excluded under this **Policy**.

Certificate

“Certificate” means the most current ‘Certificate of Insurance’ issued by **Us** which specifies details relating to this **Policy**.

Claim

“Claim” means a written demand received by **You** alleging liability or responsibility for an **Occurrence** and seeking a remedy from **You**.

Compensation

“Compensation” means monies paid or agreed to be paid by judgment, award, settlement for **Personal Injury** and/or **Property Damage** which is the subject of a **Claim** that is covered under this **Policy**.

Contractor

“Contractor” means an independent contractor with whom **You** enter into a service contract for the performance of work by them.

‘Contractor’ includes any sub-contractor engaged by a **Contractor** with whom **You** enter into such service contract for the performance of work.

‘Contractor’ does not mean **You** or **Insured**.

Costs & Expenses

“Costs & Expenses” means

- (1) costs or expenses that **We** incur in the investigation, defence or settlement of a **Claim** for which cover is available or could be available under this **Policy**;
- (2) costs awarded against **You** and all interest accruing after judgment until **We** have paid, tendered or deposited in court that part of any judgment which does not exceed the **Limit of Liability**;
- (3) reasonable costs or expenses incurred by **You** with prior **Our** written consent, and
- (4) reasonable costs or expenses incurred by **You** for providing first aid to others at the time of **Personal Injury**.

‘Costs & Expenses’ does not include loss of earnings.

‘Costs & Expenses’ does not include any amounts incurred after **We** have paid or agreed to pay an amount equal to the **Limit of Liability**.

‘Costs & Expenses’ does not mean **Environmental Impairment Costs & Expenses**.

Electronic Data

“Electronic Data” means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programs, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

Employee

“Employee” means any person while employed by **You** in **Your Business** who **You** compensate by salary, wages, or commission and have the right at all times to govern, control and direct in the performance of their work.

‘Employee’ includes volunteers and students on work experience.

‘Employee’ does not include

- (1) any broker, factor, consignee or **Contractor**;
- (2) any member of **Your Family**, unless that person is also an **Employee**, or
- (3) any partner, director or trustee unless that person is also an **Employee**.

Employment Practices

“Employment Practices” means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination in respect of **Your Employees**.

Endorsement

“Endorsement” means documentary evidence of an alteration to this **Policy** which forms part of this **Policy**.

Environmental Impairment Costs & Expenses

“Environmental Impairment Costs & Expenses” means

- (1) costs or expenses that **We** incur in the investigation, defence of settlement of a **Claim** for which cover is available or could be available under the provisions of the ‘Environmental Impairment Liability Extension’ contained in Section 4 ‘What We Cover You For - Optional Benefits’ of this **Policy**;
- (2) costs awarded against **You** and all interest accruing after judgment until **We** have paid, tendered or deposited in court that part of any judgment which does not exceed the **Limit of Liability** applicable to **Environmental Impairment Liability**;
- (3) reasonable costs or expenses incurred
 - (3.1) by **You** with **Our** prior written consent and/or to the extent required by **Environmental Laws**;
 - (3.2) by a government, statutory body or agency, and/or
 - (3.3) by a third party and forming part of a **Claim** made against **You**for the investigation, removal, remediation, associated monitoring, disposal of soil, surface water, groundwater or other contamination;
- (4) reasonable costs or expenses incurred by **You** for providing first aid to others at the time of **Personal Injury**.

‘Environmental Impairment Costs & Expenses’ does not include loss of earnings.

‘Environmental Impairment Costs & Expenses’ does not include any amounts incurred after **We** have paid or agreed to pay an amount equal to the **Limit of Liability** applicable to **Environmental Impairment Liability**.

‘Environmental Impairment Costs & Expenses’ does not mean **Costs & Expenses**.

Environmental Impairment Liability

“Environmental Impairment Liability” means amounts that **You** become legally liable to pay for

- (1) **Environmental Impairment Costs & Expenses**;
- (2) **Personal Injury**, and/or
- (3) **Property Damage**

directly or indirectly arising out of the discharge, dispersal, release or escape of **Pollutants** into or upon land, the atmosphere or any watercourse or body of water.

Environmental Laws

“Environmental Laws” means any federal, state, or local laws including, but not limited to, statutes, rules, regulations, ordinances, guidance documents, and governmental, judicial or administrative orders and directives, that are applicable to **Pollutants**.

Excess

“Excess” means the first amount of each claim or a series of claims under this **Policy** caused by or arising out of any one **Occurrence** which **You** must contribute.

The **Excess** applicable to each claim under this **Policy** is stated in the “Excess” section of the **Certificate**.

Family

“Family” means any member of **Your** family who lives permanently with **You**, including **Your** partner.

General Liability

“General Liability” means amounts that **You** become legally liable to pay by way of **Compensation** for **Property Damage** and/or **Personal Injury**.

‘General Liability’ includes **Property Damage** and/or **Personal Injury** caused by or arising from a **Product** but only when such **Product** forms part of repair, installation, assembly or maintenance work carried out by **You** on **Watercraft**.

‘General Liability’ does not mean **Product Liability** or **Pollution Liability** or **Statutory Liability** or **Professional Services Liability** or **Environmental Impairment Liability**.

Gross Revenue

“Gross Revenue” means the total gross revenue arising from **Your Business** during the **Period of Insurance**.

‘Gross Revenue’ does not include **GST**.

The estimated **Gross Revenue You** declare to us is stated in the ‘Gross Revenue’ section of the **Certificate**.

GST

“GST” means Goods and Services Tax as such term is defined in a New Tax System (Goods and Services Tax) Act 1999 and A New Tax System (Goods and Services Transition) Act 1999.

Hot Work

“Hot Work” means the performance of welding, thermal or oxygen cutting, grinding, flame heating or any other activities of a similar nature.

Hovercraft

“Hovercraft” means any vessel, craft or device made or intended to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.

Incidental Contracts

“Incidental Contracts” means

- (1) any written rental agreement or lease of **Property** or **Watercraft** other than with respect to any term or condition contained in such rental, lease and/or hiring agreement that requires **You** to insure such **Property** or **Watercraft**;
- (2) any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities;
- (3) any written contract with any railway authority for the loading, unloading and/or transport of **Products**, including contracts relating to the operation of railway sidings, and
- (4) those contracts designated in the ‘Contractual Liability’ section of the **Certificate**.

Insured

“Insured” has the same meaning as **You** and **Your**.

Insurer

“Insurer” means AIG Australia Limited, ABN 93 004 727 753, AFSL 381686

Limit of Liability

“Limit of Liability” means the maximum amounts that **We** will pay.

A **Limit of Liability** is not reduced by the amount of any **Excess** payable by **You**.

Limits of Liability are stated in the ‘Limits of Liability’ section of the **Certificate** and/or elsewhere in this **Policy**.

Marina Operator

“Marina Operator” means the owner, operator, lessor, or sub-lessor of a place located on or adjacent to a body of water or a watercourse and whose business is the provision and/or supply of moorings, wet and/or dry storage, repairs, marine fuel and/or vessel wastewater pump-out facilities to **Watercraft** for a fee.

Medical Persons

“Medical Persons” means qualified medical practitioners, nurses, dentists and first aid attendants that are **Your Employees**.

North America

“North America” means

- (1) the United States of America and the Dominion of Canada;
- (2) any state, territory or protectorate incorporated in, or administered by, the United States of America or the Dominion of Canada, and
- (3) any country or territory subject to the laws of the United States of America or the Dominion of Canada.

Occurrence

“Occurrence” means an event, including continuous or repeated exposure to substantially the same general conditions, which results in **Personal Injury** and/or **Property Damage** and/or **Removal of Wreck Expenses** and/or **Environmental Impairment Liability** that is neither expected nor intended (except for assault and battery as provided for in the ‘Personal Injury’ definition below) from **Your** standpoint.

All events of a series consequent upon or attributable to one source or original cause shall be deemed to be one **Occurrence**.

Period of Insurance

“Period of Insurance” means the time cover commenced to the time cover expires. The dates are stated in the ‘Period of Insurance’ section of the **Certificate**.

Unless stated otherwise, cover shall commence and expire at 4.00pm local time at **Your** registered business address.

Personal Injury

“Personal Injury” means

- (1) bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish and mental injury;
- (2) false arrest, false imprisonment, wrongful detention, malicious prosecution and humiliation;
- (3) libel, slander or defamation of character;
- (4) wrongful entry, wrongful eviction or other invasion of privacy;
- (5) assault and battery not committed by **You** or at **Your** direction, unless committed for the purpose of preventing or eliminating danger to persons or **Watercraft, Property or Products**, and
- (6) discrimination as a result of race, religion, sex, gender, marital status, age, intellectual impairment, disability or otherwise (unless insurance thereof is prohibited by law) not committed by **You** or at **Your** direction, but only with respect to liability other than fines and penalties imposed by law.

Policy

“Policy” means this document, the most recent **Certificate We** give **You** and any **Endorsements**.

Pollutant

“Pollutant” means any solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance, or contaminant, whether occurring naturally or otherwise including, but not limited to, asbestos, lead, smoke, vapour, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. Such waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed and nuclear materials.

Pollution Liability

“Pollution Liability” means amounts that **You** become legally liable to pay by way of **Compensation**

- (1) for **Personal Injury** and/or **Property Damage** directly or indirectly arising out of the discharge, dispersal, release or escape of **Pollutants** into or upon land, the atmosphere or any watercourse or body of water, and/or
- (2) for the cost of testing and monitoring for, removing, nullifying, or cleaning up of **Pollutants**

provided that such discharge, dispersal, release or escape is caused by a sudden, identifiable, unintended and unexpected event from **Your** standpoint which takes place in its entirety at a specific time and place.

‘Pollution Liability’ does not mean **General Liability** or **Product Liability** or **Statutory Liability** or **Professional Services Liability** or **Environmental Impairment Liability**.

Premium

“Premium” means the amount which is payable by **You** to **Us**, and any adjustment due in accordance with the terms of this **Policy**.

Premium is stated in the ‘Premium’ section of the **Certificate**.

Product

“Product” means anything manufactured, constructed, erected, assembled, installed, grown, extracted, produced or processed, treated, altered, modified, repaired, serviced, bottled, labelled, handled, sold, supplied, re-supplied or distributed, imported or exported, by **You** or on **Your** behalf and including **Your** predecessors in **Your Business**.

‘Product’ includes

- (1) any packaging or containers in connection with the above;
- (2) the design, formula or specification, directions, markings, instructions, advice or warnings given or omitted to be given in connection with the above;
- (3) anything which, by law or otherwise, **You** are deemed to have manufactured in the ordinary course of **Your Business**, and
- (4) discontinued items.

If **You** have declared to **Us** (and it is stated in the ‘Your Business’ section of the **Certificate**) that **Your Business** includes the manufacture, construction, sale, supply, re-supply, distribution, import or export of **Watercraft** by **You** or on **Your** behalf, then ‘Product’ includes such **Watercraft**.

Product does not mean **Aircraft**, **Hovercraft** or **Vehicle** or parts thereof or any items of any kind incidental thereto.

Product Liability

“Product Liability” means amounts that **You** become legally liable to pay by way of **Compensation** for **Property Damage** and/or **Personal Injury** caused by or arising from a **Product** or the reliance upon a representation or warranty made at any time with respect to such **Product**.

‘Product Liability’ does not include **Personal Injury** and/or **Property Damage** that occurs prior to physical possession of **Product** being relinquished to others.

‘Product Liability’ does not mean **General Liability** or **Pollution Liability** or **Statutory Liability** or **Professional Services Liability** or **Environmental Impairment Liability**.

Professional Services Liability

“Professional Services Liability” means amounts that **You** become legally liable to pay by way of **Compensation** for **Personal Injury** and/or **Property Damage** caused by or arising from **Your** error or omission in the performing of an inspection of a **Watercraft** and/or in the issuing of a report relating to such inspection in the ordinary course of **Your Business** and regardless of whether a fee is charged.

‘Professional Services Liability’ does not mean **General Liability** or **Products Liability** or **Pollution Liability** or **Statutory Liability** or **Environmental Impairment Liability**.

Property

“Property” means the whole or any part of buildings and other immovable structures such as bridges, wharves and piers, and all other forms of **Tangible Property**.

‘Property’ does not mean

- (1) **Watercraft**;
- (2) **Products**, or
- (3) intangible property.

Property Damage

“Property Damage” means physical loss, destruction of or damage to **Property** or **Watercraft** including the resultant loss of use.

‘Property Damage’ also means the loss of use of **Property** or **Watercraft** which has not been physically lost, destroyed or damaged provided that such loss of use is caused by or arises from an **Occurrence**.

Removal of Wreck Expenses

“Removal of Wreck Expenses” means reasonable expenses incurred by **You** in the removal and/or disposal of a physically damaged **Watercraft** that a recognised Maritime, Port or Harbour Authority has ordered **You** to remove and/or dispose of.

‘Removal of Wreck Expenses’ does not include any expenses incurred in the removal and/or disposal of a **Watercraft** owned, hired, chartered or leased by or loaned to **You**.

Retrospective Inception Date

“Retrospective Inception Date” means the commencement date of this **Policy** or the relevant Retrospective Inception Date (if any) stated in the ‘Retrospective Inception Dates’ section of the **Certificate**, whichever date is the earlier date.

Ship Repairer

“Ship Repairer” means a person or company whose business activities and operations include

- (1) the maintenance and repair of **Watercraft** for reward;
- (2) the purchase, sale, supply, re-supply, distribution, import or export related chandlery and equipment, and
- (3) **Watercraft** inspections and the issuing of inspection reports.

A **Ship Repairer** may have a principal place of business or provide a mobile service.

Shipwright

“Shipwright” has the same meaning as **Boat Builder**.

Statutory Liability

“Statutory Liability” means a pecuniary penalty awarded against **You** in and under any Federal, State or Territory laws of the Commonwealth of Australia for a

- (1) civil offence in connection with the discharge, dispersal, release or escape of a **Pollutant**;
- (2) strict liability offence in connection with the discharge, dispersal, release or escape of a **Pollutant**, or
- (3) strict liability offence in connection with a breach of any Federal, State or Territory occupational health and safety law or regulation of the Commonwealth of Australia.

‘Statutory Liability’ does not mean **General Liability** or **Product Liability** or **Pollution Liability** or **Professional Services Liability** or **Environmental Impairment Liability**.

Subsidiary Company

Subsidiary Company means any company in which **You** have a controlling interest and which are stated in the 'Subsidiary Companies' section of the **Certificate**.

For the purpose of this definition the term 'controlling interest' means the beneficial ownership of shares carrying more than 50% (fifty percent) of votes capable of being cast at a general meeting of all shareholders of the Subsidiary Company.

Tangible Property

"Tangible Property" means property which has physical substance and which can be touched, physically assessed for its dimensions, weight and location and is capable of being physically moved from one location to other.

'Tangible Property' does not mean money (in the form of coins and notes, cheques and electronic forms of money) and incorporeal property such as a license, copyright, trade mark and other forms of intellectual property.

Terrorism

"Terrorism" or an act of Terrorism means an act, or preparation in respect of action or threat of action designed to influence any government of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purpose to intimidate the public or a section of the public of any nation by any person or groups of persons whether acting alone or on behalf of or in connection with any organisations or governments and which

- (1) involves violence against one or more persons;
- (2) endangers life other than that of the person committing the action;
- (3) creates a risk to health or safety of the public or a section of the public;
- (4) involves damage to **Property** or **Watercraft** or **Products**, or
- (5) is designed to interfere with or disrupt an electronic system.

Underground Storage Tank

"Underground Storage Tank" means any one or combination of tanks, including underground pipes connected thereto, that has at least 10% (ten percent) of its volume beneath the surface of the ground.

'Underground Storage Tank' does not include

- (1) a septic tank, sump pump or oil/water separator;
- (2) a tank that is enclosed within a basement, cellar, shaft or tunnel, if the tank is upon or above the surface of the floor; or
- (3) a storm-water or wastewater collection system.

Vehicle

"Vehicle" means any type of machine on wheels or on self laid tracks made or intended to be propelled by other than manual or animal power, and any trailer or other attachment to be utilised in conjunction with or drawn by any such machine.

Vehicle does not mean ship-lifters, marine travel lifts, slipways, cradles or any other mobile **Watercraft** lifting devices.

Watercraft

"Watercraft" means any vessel, craft or thing made or intended to float on or in or travel through water, other than model boats.

'Watercraft' does not mean pontoons, berths, jetties or **Property**.

We / Us / Our

“We” means Nautilus Marine Insurance Agency ABN 34 100 633 038 acting as agent for the **Insurer**.

‘Us’ and ‘Our’ have the same meaning as **We**.

Yacht Broker

“Yacht Broker” means a person or company whose business is representing buyers and/or sellers in the buying and/or selling of **Watercraft** for a fee and includes undertaking **Watercraft** inspections and the issuing of inspection reports.

You & Your

“You” means

- (1) the person or company stated in the ‘Insured’ section of the **Certificate**;
- (2) any **Subsidiary Company** whose place of incorporation is within the Commonwealth of Australia;
- (3) the directors, **Employees**, executive officers or partners of the **Insured** or of a company designated in (2) above, but only whilst acting within the scope of their duties in such capacity;
- (4) every principal of the **Insured** or of a company designated in (2) above in respect of the liability of such principal arising out of the performance by the **Insured** or by a company designated in (2) above of any contract or agreement for the performance of work for such principal, to the extent required by such contract or agreement, but limited to the coverage provided by this **Policy**, and
- (5) every office bearer or member of social or sporting club or welfare organisation formed with the **Insured’s** consent (other than an **Insured** designated in (4) above) in respect of **Claims** arising from the duties of, or connected with the activities of, any such club or organisation.

‘You’ does not mean **Contractor**.

‘Your’ has the same meaning as **You**.



NAUTILUS MARINE

INSURANCE

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