



# Nautilus Marine

## Marinas, Wharves, Piles, Jetties & pontoons Insurance

Policy Wording



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# Table of Contents

Section 1 - Our Agreement .....	3
Section 2 - Material Damage to Your Marina .....	6
• Section 2.1 - What We Cover You For - Standard Benefits .....	6
• Section 2.2 - What We Cover You For - Additional Benefits .....	6
• Section 2.3 - How Much We Will Pay You .....	8
• Section 2.4 - Exclusions Specific to this Section .....	9
• Section 2.5 - Conditions Specific to this Section .....	11
Section 3 - Marina Liability .....	13
• Section 3.1 - What We Cover You For - Standard Benefits .....	13
• Section 3.2 - What We Cover You For - Optional Benefits .....	14
• Section 3.3 - Exclusions Specific to this Section .....	15
• Section 3.4 - Conditions Specific to this Section .....	19
Section 4 - General Conditions .....	20
Section 5 - Definitions .....	23

Throughout this document, words appearing capitalised will have special meanings. These meanings are set out in the Policy section below headed “Definitions”.

# 1. Our Agreement

This **Marinas, Wharves, Piles, Jetties and Pontoons 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 Section 5 '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, **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](http://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](http://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** 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](mailto: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 780533

By email: [customerservice@nautilusinsurance.com.au](mailto:customerservice@nautilusinsurance.com.au)

In writing: 28-32 George Street, Sandringham VIC3191

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 Australia Limited ("AIG")  
Level 12, 717 Bourke Street, Docklands VIC 3008

As soon as AIG receives **Your** complaint they will take all possible steps to resolve it. **You** will receive a written response to **Your** complaint within 15 working days, unless they agree a longer timeframe with **You**.

If **You** are still unhappy, there are certain circumstances in which **You** may request that the matter be reviewed by the AIG Internal Dispute Resolution Committee ("Committee").

The Committee is comprised of either a Senior Management or three Senior Managers of AIG with the experience and authority to decide on matters brought before it.

The circumstances in which **You** may request the matter to be reviewed by the Committee are where the external dispute resolution body referenced below has jurisdiction to hear **Your** complaint under their terms of reference ("eligible complaint").

At the time of **You** making the initial complaint, AIG will advise **You** if **Your** complaint can or cannot be referred to the Committee.

If **You** wish to have **Your** complaint reviewed by the Committee and provided the complaint is an eligible complaint, please telephone or write to the person who has signed the response letter to **Your** complaint and provide them with detailed reasons for requesting the review. **You** may also make a request for a review by the Committee by contacting:

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

For eligible complaints which can be heard by the Committee a written response setting out the final decision of the IDRC Committee and the reasons for this decision will be provided to **You** within 15 working days of the date **You** advise AIG **You** wish to take **Your** eligible complaint to IDRC.

If AIG are unable to provide such written response setting out the final decision AIG will keep **You** informed of progress at least every 10 days.

If **You** are not satisfied that the Committee has no jurisdiction to hear **Your** complaint, the finding of the Committee in relation to the eligible complaint or if AIG have been unable to resolve the eligible complaint within 45 calendar days, **You** may be able to take **Your** matter to an independent dispute resolution body, the Australian Financial Complaints Authority ("AFCA").

Please note that in relation to this policy there are circumstances in which AFCA may not have jurisdiction under their terms of reference. Their jurisdiction or terms of reference of AFCA are set out in the AFCA Rules available on the AFCA website (<http://www.afca.org.au>).

If the eligible complaint falls within AFCA jurisdiction or their terms of reference, this external dispute resolution body can make decisions with which AIG are obliged to comply. Contact details of AFCA are:

Australian Financial Complaints Authority  
GPO Box 3 Melbourne, VIC 3001  
Tel: 1800 931 678 (local call fee applies)  
Email: [info@afca.org.au](mailto:info@afca.org.au). Internet: <http://www.afca.org.au>

Please note if **Your** complaint cannot be heard by the Committee or does not fall within AFCA's jurisdiction or terms of reference, **You** may consider seeking independent legal advice or taking the complaint to another external dispute resolution forum (if any) that may be available to **You**.

## 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. Material Damage to Your Marina

You are only covered for **Damage to Your Marina** when this is stated on the Certificate.

If the **Certificate** states that this 'Material **Damage to Your Marina**' Section does not apply then **You** are not covered for any **Damage to Your Marina**.

## 2.1 What We Cover You For - Standard Benefits

This 'Material **Damage to Your Marina**' Section of this **Policy** covers **You** for:

### Loss of or Damage to Your Marina

Subject to the terms and conditions of this **Policy**, **You** are covered for **Damage to Your Marina** provided that such **Damage** is caused by or arises from an **Occurrence** and happens during the **Period of Insurance**.

## 2.2 What We Cover You For - Additional Benefits

This 'Material **Damage to Your Marina**' Section of this **Policy** also covers **You** for:

### Precautionary Measures Extension

Subject to the terms and conditions of this **Policy**, **You** are covered for expenses that **You** reasonably and properly incur for the sole purpose of moving any removable parts of **Your Marina** and/or its equipment that are under threat of being **Damaged** by a

- Named Cyclone;
- **Flood**;
- windstorm;

- tidal surge or wave, or
- fire at or approaching the location of **Your Marina** to a place of safety.

**You** are only covered for such expenses where such movement happens during the **Period of Insurance**.

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

1. no **Excess** shall apply to any amount that **We** becomes liable to pay under the provisions of this 'Precautionary Measures **Extension**' clause, and
2. the **Limit of Liability** applicable to this 'Precautionary Measures **Extension**' clause is the lesser of the **Declared Sum Insured** of **Your Marina** or AUD5,000 (five thousand Australian Dollars) for all amounts payable in respect of each claim or a series of claims caused by or arising from one **Occurrence**.

The amount payable by **Us** under this 'Precautionary Measures **Extension**' clause shall be in addition to any amount payable by **Us** under the provisions of Section 2.3 'How Much **We** Will Pay **You**' of this **Policy**.

## Removal of Wreck Extension

Subject to the terms and conditions of this **Policy**, **You** are covered for expenses that **You** reasonably and properly incur in raising and/or removing and/or disposing of **Your Marina** if it becomes **Damaged** provided that

1. the **Damage** to **Your Marina** is caused by or arises from an **Occurrence** covered by this **Policy**, and
2. **You** are ordered to raise and/or remove and/or dispose thereof by a recognised Maritime, Port or Harbour Authority, or as otherwise may be agreed to by **Us**.

Unless stated to the contrary on the **Certificate**, the **Limit of Liability** applicable to this 'Removal of Wreck **Extension**' clause is the lesser of the **Declared Sum Insured** of **Your Marina** or AUD5,000 (five thousand Australian Dollars) for all amounts payable in respect of any claim or a series of claims caused by or arising from one **Occurrence**.

The amount payable by **Us** under this 'Removal of Wreck **Extension**' clause shall be in addition to any amount payable by **Us** under the provisions of Section 2.3 'How Much **We** Will Pay **You**' of this **Policy**.

## Safeguarding Your Damaged Marina Extension

If **Your Marina** becomes **Damaged** then, subject to the terms and conditions of this **Policy**, **You** are covered for expenses that **You** reasonably and properly incurred in taking measures to prevent **Your Damaged Marina** from sustaining further **Damage** such as, but without limitation, expenses incurred in effecting temporary repairs or emergency towing.

**You** are only covered for such expenses where the **Damage** to **Your Marina** is caused by or arises from an **Occurrence** covered by this **Policy**.

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

1. no **Excess** shall apply to any amount that **We** become liable to pay under the provisions of this 'Safeguarding **Your Damaged Marina Extension**' clause, and
2. the **Limit of Liability** applicable to this 'Safeguarding **Your Damaged Marina Extension**' clause is the lesser of the **Declared Sum Insured** of **Your Marina** or AUD5,000 (five thousand Australian Dollars) for all amounts payable in respect of each claim or a series of claims caused by or arising from one **Occurrence**.

The amount payable by **Us** under this 'Safeguarding **Your Damaged Marina Extension**' clause shall be in addition to any amount payable by **Us** under the provisions of Section 2.3 'How Much **We** Will Pay **You**' of this **Policy**.

## Loss of Gross Revenue Extension

If **You** have declared to **Us** that **Your Marina** is used by **You** for commercial business purposes and this is stated in the 'Commercial Purposes' section of the **Certificate**, then subject to the terms and conditions of this **Policy**, **You** are covered for

- a loss of **Your Gross Revenue** that is solely and directly attributable to the temporary loss of use of **Your Marina**
- that arises as a result of partial **Damage** to **Your Marina** that is covered by this **Policy**.

Notwithstanding the foregoing, **You** are not covered for any loss of **Gross Revenue**

1. if **Your Marina** is a total loss or a **Constructive Total Loss**;
2. if the partial **Damage** to **Your Marina** is caused by or arises from the faulty repair of **Your Marina**;
3. unless **You** maintain and make available to **Us** a complete and accurate record of **Your** daily **Gross Revenue** in order to substantiate **Your** loss of **Gross Revenue**;
4. occurring during the first 30 (thirty) calendar days immediately following the **Occurrence** causing or giving rise to the partial **Damage** of **Your Marina**;

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

5. except to the extent of (4) above, no **Excess** shall apply to any amount that **We** become liable to pay under the provisions of this 'Loss of **Gross Revenue Extension**' clause;
6. the amount that **We** will pay **You** under the provisions of this 'Loss of **Gross Revenue Extension**' clause is
  - i. one third of **Your** normal daily **Gross Revenue** up to a maximum amount of AUD1,000 (one thousand Australian Dollars) per day that **You** would ordinarily conduct **Your** business, for the period that **Your Marina** is temporarily unavailable to use for its ordinary commercial business purpose,
  - ii. less a deduction for any expenses not actually incurred that would ordinarily have been incurred, and
7. the **Limit of Liability** applicable to this 'Loss of **Gross Revenue Extension**' clause is AUD10,000 (ten thousand Australian Dollars) for all amounts payable in respect of each claim or a series of claims caused by or arising from one **Occurrence** and in the aggregate during the **Period of Insurance**.

The amount payable by **Us** under this 'Loss of **Gross Revenue Extension**' clause shall be in addition to any amount payable by **Us** under the provisions of Section 2.3 'How Much **We** Will Pay **You**' of this **Policy**.

## 2.3 How Much We Will Pay You

Under this 'Material Damage to **Your Marina**' Section of the Policy, **We** will Pay **You**:

### Total Loss of Your Marina

If **Your Marina** is lost or **Damaged** and, in **Our** opinion, cannot be economically repaired, **We** will pay **You** either

1. the cost of replacing **Your Marina** with a new **Marina**, or
  2. the **Declared Sum Insured** of **Your Marina**
- whichever amount is the lower amount.
3. **We** will not pay for any improvement or betterment to **Your Marina**.

### Partial Loss of Your Marina

1. If **Your Marina** is **Damaged** and, in **Our** opinion, can be economically repaired, **We** will pay **You** either
  - i. the cost of repairing or reinstating **Your Marina** to a condition equal to but no better or more extensive than when it was new;
  - ii. the cost of replacing **Your Marina** with a new **Marina**;
  - iii. the **Declared Sum Insured** of **Your Marina**whichever amount is the lower amount.
2. **We** will not pay for any improvement or betterment to **Your Marina**.

### Unrepaired Damage

**We** will not pay for any **Damage** not repaired if **Your Marina** is subsequently lost, destroyed or declared a constructive total loss, whether or not such unrepaired **Damage** is caused by or arises from an **Occurrence** covered by this **Policy** or any prior insurance policy issued by **Us**.

## Limit of Liability

If **You** have more than one **Marina** covered by this **Policy** then in no case shall **Our** liability for all amounts payable in respect of any claim or a series of claims caused by or arising from one **Occurrence** over all **Your Marina**'s exceed the **Limit of Liability**.

## 2.4 Exclusions Specific to this Section

This 'Material Damage to Your Marina' Section of this Policy does not cover You for:

### Confiscation

**We** do not cover any **Damage** to **Your Marina** caused by or arising from confiscation, nationalisation, requisition or embargo by order of any government, public or local authority.

### Cyber Attack

**We** do not cover any **Damage** to **Your Marina** 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.

### Electrical Derangement

**We** do not cover any electrical or electronic or mechanical breakdown or derangement of electrical or electronic equipment of **Your Marina** unless resulting from an **Occurrence** covered by this **Policy**.

### 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**.

### Faulty Workmanship

**We** do not cover any **Damage** to **Your Marina** caused by or arising from **Your** faulty workmanship.

### Hot Work

**We** do not cover any **Damage** to **Your Marina** caused by or arising from **You** performing **Hot Work**.

### Improvements & Modifications

**We** do not cover any **Damage** to **Your Marina** caused by or arising from any improvements or modifications or alterations made to **Your Marina** which result in deviation from the original design and/or construction of **Your Marina**.

This exclusion shall not apply if such improvements or modifications or alterations are declared to **Us** and **We** have accepted them as may be stated in the 'Improvements & Modifications' section of the **Certificate**.

### Inherent Vice & Ordinary Loss

**We** do not cover any **Damage** to **Your Marina** caused by or arising from

1. inherent vice, osmosis, blistering, fiberglass or surface coat blistering, electrolysis, delamination, rust, corrosion or oxidation, warping or shrinkage, change of temperature or humidity;
2. ordinary wear and tear or gradual deterioration, or

3. marine growth, marine life, marine borers, moths, insects, rats or other or vermin, rot, fungi, mould or infestation.

## Intentional & Illegal Acts

**We** do not cover any **Damage** to **Your Marina** caused by or arising from

1. 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, and/or
2. the use of **Your Marina** for any unlawful or illegal purpose.

## Lack of Maintenance

**We** do not cover any **Damage** to **Your Marina** caused by or arising from **Your** failure to maintain **Your Marina**

1. in good order and repair;
2. in a proper state of seaworthiness, and
3. in full compliance with any statutory requirements.

## Latent Defect

**We** do not cover any expenses incurred in the repair or replacement of any **Latent Defect** in **Your Marina**.

## Loss of Use & Pecuniary Loss

Except to the extent provided for in the 'Loss of **Gross Revenue Extension**' clause contained in Section 2.2 'What **We** Cover **Your** For – Additional Benefits' of this **Policy**, **We** do not cover any loss caused by or arising from the loss of use of **Your Marina** or any loss of profit, loss of market, or any other pecuniary damages of any kind.

## Manufacturing & Design Defects

**We** do not cover any **Damage** to **Your Marina** caused by

or arising from defect in design or defect in manufacture or construction of **Your Marina** or its infrastructure or any additional or replacement part, component or system, and including unsuitable siting of **Your Marina**.

## Mechanical Parts

**We** do not cover any **Damage** to **Your Marina** caused by or arising from any mechanical part that is not in accordance with the manufacturer's original specifications.

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

**We** do not cover any **Damage** to **Your Marina** 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.

## Reasonable Care

**We** do not cover any **Damage** to **Your Marina** caused by or arising from the lack of reasonable care or protection of and/or security at **Your Marina**.

'Reasonable care' extends to include **You** exercising reasonable care, skill and judgment

1. in the appointment of suitable and reputable repairers or other **Contractors** to undertake work upon or incidental to **Your Marina**, and
2. to whom **You** grant right of access and/or use of **Your Marina**.

## Unauthorised Use

**We** do not cover any **Damage** to **Your Marina** caused by or arising from **Your Marina** being used for any purpose that **You** have not declared to **Us**. The use of **Your Marina** that **You** have declared to **Us** is stated in the 'Use of **Your Marina**' section of the **Certificate**.

## War, Strikes & Terrorism

**We** do not cover any **Damage** to **Your Marina** 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.

## 2.5 Conditions Specific to this Section

This 'Material **Damage** to **Your Marina**' Section of the Policy is subject to the following conditions:

### Abandonment

No action which either **You** or **We** take to save, protect or recover **Your Marina** will be regarded as a waiver or acceptance of abandonment nor will it prejudice the rights of either **You** or **Us**.

### Automatic Reinstatement

When **We** pay a claim under this Section 2 'Material **Damage** to **Your Marina**' of this **Policy**, the **Declared Sum Insured** of **Your Marina** will be automatically reinstated to the same amount stated in the '**Declared Sum Insured**' section of the **Certificate** unless **We** tell **You** otherwise in writing.

### 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 loss recoverable under this **Policy**;
2. use **Your** best endeavours to preserve **Your Damaged Marina** or any parts thereof 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 **Your Marina** 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**.

## Cost of Dismantling, Diagnosis & Reassembly

If **You** make a claim for **Damage** to **Your Marina**, **We** may require **You** to dismantle it, or authorise **Us** to dismantle it, so **We** can assess **Your** claim. **We** may refuse to assess or pay **Your** claim if **You** do not agree to this.

If **We** determine that the **Damage** is not covered by this **Policy**, **You** will be liable for the payment of the expenses incurred in such dismantling as well as any expenses associated with it, including but not limited to any diagnosis, reassembly, repair and/or replacement costs.

If **We** determine that the **Damage** is covered by this **Policy**, **We** will settle **Your** claim in accordance with the terms and conditions of this **Policy**.

Notwithstanding the foregoing, in no case will **We** pay more than the **Declared Sum Insured** stated in the '**Declared Sum Insured**' section of the **Certificate**.

## Licensing & Operation of Your Marina

**Your Marina** must at all times be operated in strict compliance with and within the limits of any licence or government authority restrictions or conditions.

If **You** do not comply with this requirement **We** may decline to pay part or all of a claim.

## Prevention of Damage

**You** must take reasonable precautions to prevent **Damage** to **Your Marina** as if **You** were not covered by this **Policy**.

Such precautions include but are not limited to ensuring that

1. adequate security measures are in force to reasonably prevent theft of **Your Marina** or any parts thereof or unauthorised access to **Your Marina**, and
2. adequate protective measures are in force to reasonably prevent **Damage** to **Your Marina**.

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

## Salvage

Where the amount **We** pay in the event of a claim is based on

1. a total loss or **Constructive Total Loss** of a **Your Marina**, **We** shall be entitled, but not obligated, to take legal ownership of **Your Marina** and/or keep the proceeds of sale, for which **We** have paid the claim, irrespective of their condition.

When **We** elect to take legal ownership of the of **Your Marina**, **You** agree to provide to **Us** all legal rights and title in **Your Marina** if requested by **Us**.

2. a partial loss of a **Your Marina**, **We** shall be entitled, but not obligated, to take legal ownership of any **Damaged** parts of **Your Marina** and/or keep the proceeds of sale, for which **We** have paid the claim, irrespective of their condition.

## Subrogation & Allocation of the Proceeds of Recoveries

Any corporation, organisation or person claiming under this insurance 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 claim under this **Policy**.

Should **You** incur any **Damage** which is not covered by this **Policy**

1. due to the application of an **Excess**, and/or
2. where the amount of any loss exceeds the applicable **Declared Sum Insured** or **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 **Damage** 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**.

## 3. Marina Liability

You are only covered for legal liabilities arising from **Your Marina** Policy when this is stated on the **Certificate**.

If the **Certificate** states that this 'Marina Liability' Section does not apply then **You** are not covered for any legal liabilities arising from **Your Marina**.

### 3.1 What We Cover You For - Standard Benefits

This 'Marina Liability' Section of this Policy covers You 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**;
- involving **Your Marina**, 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** claim 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**.

#### Pollution Liability Extension

The 'Pollution' exclusion clause contained in Section 3.3 'Exclusions Specific to this Section' 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**.

## 3.2 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 3.3 'Exclusions Specific to this Section' 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**.

## 3.3 Exclusions Specific to this Section

This 'Marina Liability' Section of this Policy does not cover You 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 **Your Marina** as a landing or berthing or storage area for any **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 5 '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** by order of any government, public or local authority.

## Contractors

**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 **Your Marina**, 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

3. which would have been implied by law in the absence of such contract or agreement;
4. assumed under **Incidental Contracts**, or
5. 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, and that involves **Your Marina**.

## 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. 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**.

## Exceeding Capacity

**We** do not cover any liability caused by or arising from **You** exceeding the registered or rated capacity of **Your Marina** or any item of equipment incidental to **Your Marina**.

## Faulty Design

**We** do not cover any liability for expenses incurred in repairing, modifying or replacing any part of **Your Marina** by reason of faulty design.

## Faulty Workmanship

**We** do not cover any liability for expenses incurred in performing, completing, correcting or improving any work undertaken by **You** on **Your Marina**.

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## Fines & Penalties

**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

**We** do not cover any liability caused by or arising from **Hot Work**.

## 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.

## Licensing & Operation of Your Marina

**We** do not cover any liability arising out of **Your** failure to operate **Your Marina** in strict compliance with and within the limits of any licence or government authority restrictions or conditions.

## 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** which has not been physically lost, destroyed or damaged when such loss of use arises directly from a delay in or lack of performance by **You** or on **Your** behalf of any contract or agreement.

## Personal Injury to Contractors

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

## Physical or Legal Control

**We** do not cover any liability for **Property Damage** to any **Property** in **Your** physical or legal control whatsoever.

## Pollution

Except to the extent provided for in the '**Pollution Liability Extension**' clause contained in Section 3.1 'What **We** Cover **You** For' and where applicable; the '**Environmental Impairment Liability Extension**' contained in Section 3.2 '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**.

## Professional Services

**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.

## 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**

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).

## 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 detention, and the consequences thereof or any attempt thereat, or
7. derelict mines, torpedoes, bombs or other derelict weapons of war.

## Your Marina & Other Property

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

## 3.4 Conditions Specific to this Section

This 'Marina Liability' Section of this Policy is subject to the following conditions:

### 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 loss recoverable under this **Policy**;
2. use **Your** best endeavours to preserve any damaged or defective **Property** 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** 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 the 'Environmental Impairment Liability Extension' clause contained in Section 3.2 'What **We** Cover **You** For - Optional Benefits' of this **Policy** is only provided if

1. **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
2. 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 by the claimant 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.

## 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. 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**;
2. 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
3. using and storing all hazardous materials as required by law.
4. ensure that **You** and any **Contractors** do not exceed the registered or rated capacity of any lift device; marine railway or dry dock;

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

## 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**.

## Subrogation & Allocation of the Proceeds of Recoveries

Subject to the provisions of the ‘Subrogation Waiver’ and ‘Release of Liability’ clauses contained in this Section 3.4 ‘Conditions Specific to this Section’ 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.

# 4. General Conditions

Your insurance is subject to the following **General Conditions** which apply to all **Sections** of this **Policy**:

## 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**

## 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 settlement 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.

## Singular & Plural

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

# 5. 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.

### 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**.

### Constructive Total Loss

"**Constructive Total Loss**" means that in **Our** opinion the **Damage** to **Your Marina** cannot be economically repaired.

### 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 the **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. cost 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**.

### Damage

"**Damage**" means sudden and accidental physical loss, damage or destruction of **Your Marina** or permanent loss by theft caused by or arising from an **Occurrence**.

'Damage' includes

1. physical loss, damage or destruction of **Your Marina** caused by or arising from the actions of any government authority in an attempt to mitigate or prevent an actual or potential pollution hazard or otherwise acting within their authority for the public good;
2. sudden and accidental physical loss, damage or destruction of **Your Marina** caused by or arising from **Latent Defect**;
3. sudden and accidental physical loss, damage or destruction of **Your Marina** caused by or arising from the negligence of a repairer or other **Contractor** engaged by **You** carry out repairs or maintenance activities or otherwise work upon on **Your Marina**;
4. sudden and accidental physical loss, damage or destruction of any parts of **Your Marina**, caused by or arising from an **Occurrence** covered by this **Policy**, whilst such parts are ashore for the purpose of being repaired or overhauled and whilst being refitted and in transit from and to **Your Marina** for this purpose.

### Declared Sum Insured

"**Declared Sum Insured**" means the amount that **You** have declared to **Us** as the insured value of **Your Marina** and is the maximum amount that **We** will Pay **You** following **Damage** to **Your Marina**.

The **Declared Sum Insured** is not reduced by the amount of any **Excess** payable by **You**.

The **Declared Sum Insured** is stated in the '**Declared Sum Insured**' section of the **Certificate**.

### 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 an **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 3.2 '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 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.

### Flood

"**Flood**" means the covering of normally dry land by water that has escaped or been released from the normal confines of any of

the following

1. a lake (whether or not it has been altered or modified);
2. a river (whether or not it has been altered or modified);
3. a creek (whether or not it has been altered or modified);
4. another natural watercourse (whether or not it has been altered or modified);
5. a reservoir;
6. a canal, or
7. a dam.

### 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**' does not mean **Pollution Liability** or **Environmental Impairment Liability**.

### Gross Revenue

"**Gross Revenue**" means the total gross revenue arising from any business operations and activities incidental to

**Your Marina** during the **Period of Insurance**. '**Gross Revenue**' does not include **GST**.

The estimated **Gross Revenue** that **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.

### Insured

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

### Insurer

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

### Incidental Contracts

“**Incidental Contracts**” means

1. any written rental agreement or lease of **Your Marina** other than with respect to any term or condition contained in such rental, lease and/or hiring agreement that requires **You** to insure **Your Marina**;
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. those contracts designated in the ‘Contractual Liability’ section of the **Certificate**.

### Latent Defect

“**Latent Defect**” means a hidden flaw

4. in the material of construction existing at the time of original construction of **Your Marina**, or

5. any additional or replacement parts, components or systems of **Your Marina**

which is not discoverable by ordinary observation or known methods of testing or inspection.

### 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’ and ‘Sub-Limits of Liability’ sections of the **Certificate** and/or elsewhere in this **Policy**.

### Marina

“**Marina**” means an over water structure designed and constructed to facilitate berthing and storage of **Watercraft** and the provision of over water facilities and service to **Watercraft** such as, but without limitation, the over water provision of fuel, fresh water, power and waste discharge facilities and services.

‘**Marina**’ extends to include

1. supporting piles and any other supporting infrastructure of the over water structure, and
2. any over water tanks and ancillary tools and equipment incidental to the over water structure and/or its associated over water facilities and services

For the purposes of this **Policy**, wharves, piles, jetties, floating breakwater and pontoons shall have the same meaning as ‘**Marina**’.

### Market Value

“**Market Value**” means the market value of **Your Marina** in **Your** local area taking into account, amongst other things, depreciation and wear and tear, but excludes any stamp duty or other similar costs on transfers, and dealer warranty costs and charges.

### Medical Persons

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

## Named Cyclone

"Named Cyclone" means a cyclone that has been given a name by the Bureau of Meteorology in the Commonwealth of Australia, or equivalent authority if the cyclone is named outside of the Commonwealth of Australia.

## 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

4. In so far as it relates to Section 2 'Material **Damage to Your Marina**' of this **Policy**, "**Occurrence**" means an event, including continuous or repeated exposure to substantially the same general conditions, which causes or gives rise to **Damage to Your Marina** that is neither expected nor intended from **Your** standpoint.
5. In so far as it relates to Section 3 '**Marina Liability**' of this **Policy**, "**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 **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 **Your Marina**, 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 **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**' includes **Watercraft**.

'**Property**' does not mean **Your Marina** or intangible property.

### Property Damage

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

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

### Premium

"**Premium**" means the amount which is payable by **You** to **Us**, and any adjustment due in accordance with this

**Policy**.

**Premium** is stated in the '**Premium**' section of the **Certificate**.

### 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.

### 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
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 ten (10) 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

1. a vessel, craft or thing made or intended to float on or in or travel through water, other than model boats, and
2. motors, sails and rigging, trailers, equipment, accessories and contents attaching to and/or forming part thereof.

### 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**.

### 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**.

### Your Marina

"Your Marina" means the **Marina** that **You** have declared to **Us** which is stated in the '**Your Marina**' section of the **Certificate** and which **Marina** is either

1. owned by **You**, or
2. hired or leased by **You** or loaned to **You**, and which **You** have assumed the responsibility to insure.

Except as provided for in (2) above, '**Your Marina**' does not include any item of any description that is owned by any other person.



## Nautilus Marine Underwriting Agency Ltd

Speak to the experts that give you the best solutions, Nautilus Marine.

Cover arranged by Nautilus Marine and Underwritten by AIG.

**ABN:** 34 100 633 038 **AFSL:** 227186

**P:** 02 8920 1157 **F:** 02 8920 1275

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