



# Nautilus Marine Boat Dealers & Builders

Policy Wording



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# 1. Our Agreement

**This Boat Dealers & Builders 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 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](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**, **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. Material Damage

You are only covered for Damage to Watercraft when this is stated on the Certificate.

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

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

This 'Material Damage' Section of this Policy covers You for:

#### Loss of or Damage to Watercraft

Subject to the terms and conditions of this Policy, You are covered for Damage to Watercraft that is

- either owned by You or Consigned to You, or
- neither owned by You nor Consigned to You but for which You have accepted responsibility to arrange material damage insurance

occurring either in the ordinary course of Your Business or during private pleasure use by You or Your principals or Employees, and provided that such Damage

- is caused by or arises from an Occurrence, and
- happens during the Period of Insurance.

#### Loss of or Damage to Chandlery & Equipment

Subject to the terms and conditions of this Policy, You are covered for Damage to chandlery and equipment owned by You provided that such Damage

- is caused by or arises from an Occurrence;
- in the ordinary course of Your Business, and
- happens during the Period of Insurance.

## 2.2 What We Cover You For - Additional Benefits

This 'Material Damage' Section of this Policy also covers You for:

### Inspection Following Grounding Extension

In the event of the grounding of a **Watercraft You** are, subject to the terms and conditions of this **Policy**, covered for reasonable expenses incurred by **You** in having the grounded **Watercraft** inspected for the sole purpose of establishing whether the **Watercraft** sustained **Damaged** during grounding.

**You** are only covered for such expenses if

- (1) the grounding occurs in the ordinary course of **Your Business**;
- (2) the grounding occurs during the **Period of Insurance**;
- (3) the grounding is caused by or arises from an **Occurrence** covered by this **Policy**, and
- (4) there is a reasonable expectation that **Damage** to the **Watercraft** may have been sustained during grounding.

If covered by this **Policy**, the expenses **You** incur shall be payable by **Us** whether **Damage** is established or not.

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

- (5) no **Excess** shall apply to any amount that **We** become liable to pay under the provisions of this 'Inspection Following Grounding Extension' clause, and
- (6) the **Limit of Liability** applicable to this 'Inspection Following Grounding Extension' clause is the lesser of the insured value of the **Watercraft** or AUD50,000 (fifty 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 'Inspection Following Grounding 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**.

### Precautionary Measures Extension

Subject to the terms and conditions of this **Policy**, **You** are covered for expenses that **You** reasonably and properly incur in the ordinary course of **Your Business** for the sole purpose of moving **Watercraft** that are under threat of being **Damaged** by a

- **Named Cyclone**;
- **Flood**;
- windstorm;
- tidal surge or wave, or
- fire

to a place of safety.

**You** are only covered for such expenses where such movement of **Watercraft** 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 insured value of the **Watercraft** or AUD50,000 (fifty 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 a **Damaged Watercraft** provided that

- (1) the **Damage** to the **Watercraft** 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 of the **Damaged Watercraft** by a recognised Road, Maritime, Port or Harbour Authority, or as otherwise may be agreed to by **Us**.

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 Damaged Watercraft Extension

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 a **Damaged Watercraft** from sustaining further **Damage** such as, but without limitation, expenses incurred

- (1) in effecting temporary repairs, or
- (2) for salvage and towage services provided to **You** under a written contract fixing the amount of compensation for such services.

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

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

- (3) no **Excess** shall apply to any amount that **We** become liable to pay under the provisions of this 'Safeguarding Damaged Watercraft Extension' clause, and
- (4) the **Limit of Liability** applicable to this 'Safeguarding Damaged Watercraft Extension' clause is the lesser of the insured value of the **Watercraft** or AUD50,000 (fifty 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 Damaged Watercraft 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**.

### Voluntary Salvage

If **Damage** to a **Watercraft** happens and such **Damage** is caused by or arises from an **Occurrence** covered by this **Policy**, then subject to the terms and conditions of this **Policy**, **You** are covered for

- (1) all sums awarded by a Court of competent jurisdiction to voluntary salvors, or
- (2) salvors acting under a salvage agreement providing for a salvage award on a no cure, no pay basis.

Any amount that **We** pay under the provisions of this 'Voluntary Salvage' clause shall be deducted from the 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' Section of this Policy, We will Pay You:

### Boat Dealer

In respect of **Your Business** as a **Boat Dealer**:

- (1) Where **Watercraft** owned by **You** is **Damaged** and in **Our** opinion cannot be economically repaired, **We** will pay **You**
  - (i) the actual purchase price that **You** paid for the **Watercraft**, plus
  - (ii) the actual invoice cost of amounts **You** paid to third party vendors in the ordinary course of preparing the **Watercraft** for sale upto a maximum of 10% (ten per cent) of the actual invoice cost that **You** paid for the **Watercraft**.
- (2) Where **Watercraft Consigned** to **You** is **Damaged** and in **Our** opinion cannot be economically repaired, **We** will pay the **Market Value** of the **Watercraft** immediately before the **Damage** happened.
- (3) Notwithstanding the foregoing, if **You** satisfactorily prove to **Us** that the **Watercraft** had been sold by **You** before the **Damage** happened but delivery to the new owner had not yet occurred, then **We** will pay **You** either
  - (i) the actual invoice selling price of the **Watercraft**, or
  - (ii) 110% (one hundred and ten percent) of the amount payable under (1) abovewhichever amount is the lower amount.
- (4) Where **Watercraft** owned by **You** is **Damaged** and in **Our** opinion can be economically repaired, **We** will pay **You** either
  - (i) the cost of repairing or reinstating the **Watercraft** to a condition equal to but no better or more extensive than its condition immediately before the **Damage** happened;
  - (ii) the cost of replacing the **Watercraft** with a similar item of the same age and condition or as near as possible to the age and condition immediately before the **Damage** happened, or
  - (iii) the **Market Value** of the **Watercraft** immediately before the **Damage** happenedwhichever amount is the lower amount.

**We will not pay for any improvement or betterment to **Watercraft**.**
- (5) Where chandlery and equipment is **Damaged**, **We** will pay **You** the actual purchase price that **You** paid for the chandlery and equipment.

## Boat Builder

In respect of **Your Business** as a **Boat Builder**:

- (1) Where **Watercraft** is **Damaged** and in **Our** opinion cannot be economically repaired, **We** will pay **You** the actual cost of the **Watercraft** immediately before the **Damage** happened.

If **You** are an “owner builder” then the actual cost of the **Watercraft** shall not include the cost of **Your** own labour but shall include amounts paid by **You** to third party vendors in the ordinary course of building **Watercraft**.

If **You** are a commercial **Boat Builder** then the actual cost of the **Watercraft** shall include the cost of **Your** own labour, other business costs and amounts paid by **You** to third party vendors in the ordinary course of building **Watercraft**. Where as a direct consequence of the **Damage** the contract to build the **Watercraft** is cancelled then **We** shall also pay **You** the original margin of profit.

- (2) Where **Watercraft** is **Damaged** and in **Our** opinion can be economically repaired, **We** will pay **You** the cost of repairing or reinstating the **Watercraft** to a condition equal to but no better or more extensive than its condition immediately before the **Damage** happened.

If **You** are an “owner builder” then the cost of repairing or reinstating the **Watercraft** shall not include the cost of **Your** own labour but shall include amounts paid by **You** to third party vendors in the ordinary course of repairing or reinstating the **Watercraft**. **We** will not pay for any improvement or betterment to **Watercraft**.

If **You** are a commercial **Boat Builder** then the cost of repairing or reinstating the **Watercraft** shall include the cost of **Your** own labour, other business costs and amounts paid by **You** to third party vendors in the ordinary course of building **Watercraft**. **We** will not pay for any improvement or betterment to **Watercraft**.

## Unrepaired Damage

**We** will not pay for any **Damage** not repaired if **Your Watercraft** 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

In no case shall **We** pay an amount exceeding the **Limit of Liability** stated on the **Certificate**.

## 2.4 Exclusions Specific to this Material Damage Section

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

### Computer Software

We do not cover any **Damage to Watercraft** caused by or arising from computer software, programs or data unless forming part of the **Watercraft's** marine electronics.

### Confiscation

We do not cover any **Damage to Watercraft** 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 Watercraft** 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 **Watercraft** 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**.

### Engine Power

We do not cover any **Damage to Watercraft** caused by arising from **Watercraft** being fitted with a motor that exceeds the manufacturer's power and/or weight specifications.

### 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 **Damage to Watercraft** 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 **Damage to Watercraft** 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.

### Faulty Workmanship

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

### Inherent Vice & Ordinary Loss

**We** do not cover any **Damage** to **Watercraft** 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 life, marine borers, moths, insects, rats or other or vermin, rot, fungi, mould or infestation.

### Intentional Acts

**We** do not cover any **Damage** to **Watercraft** 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.

### Inventory Shrinkage

**We** do not cover any loss of chandlery and equipment directly or indirectly caused by or attributable to any inventory shrinkage or unexplained loss or mysterious disappearance, such as, but not limited to, any unexplained discrepancy between any records made or kept by **You** and any produced by a warehouse keeper, or any loss subsisting only in a profit and loss comparison, or shortage discovered upon taking inventory or preparing chandlery and equipment for transit which is not traceable to an identifiable event.

### Latent Defect

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

### Loss of Use & Pecuniary Loss

- (1) In respect of **Your Business** as a **Boat Dealer**, except to the extent provided for in Section 2.3 'How Much We Will Pay You' of this **Policy**, **We** do not cover any loss caused by or arising from the loss of use of **Watercraft** or any loss of profit, loss of market, or any other pecuniary damages of any kind.
- (2) In respect of **Your Business** as a **Boat Builder**, **We** do not cover any loss caused by or arising from the loss of use of **Watercraft** 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 **Watercraft** caused by or arising from defect in design or defect in manufacture of **Watercraft** or any additional or replacement part, component or system.

### Mechanical Parts

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

### Modification or Alteration of Watercraft

**We** do not cover any **Damage** to **Watercraft** caused by or arising from modification or alterations made to **Watercraft**.

This exclusion shall not apply if such modifications or alterations are

- (1) made by **You** if **You** are authorised by the **Watercraft** manufacturer to make such modifications or alterations;
- (2) made by a party appointed by **You** and **You** have taken reasonable steps to establish that such party is authorised by the **Watercraft** manufacturer to make such modifications or alterations, and
- (3) in respect of **Your Business** as a **Boat Dealer**, this exclusion shall not apply if such modifications or alterations are made prior to **You** owning the **Watercraft**, or the **Watercraft** being **Consigned** to **You** and **You** have notified **Us** of such modifications or alterations and **We** have issued an **Endorsement** noting **Our** acceptance thereof.

**We** shall not rely on this sub-clause (3) to reduce or decline liability under this **Policy** if **You** were not aware, and in the ordinary course of **Your Business** as a **Boat Dealer** could reasonably not have known of the existence of such modifications or alterations.

### Motors Secured to Watercraft

We do not cover any **Damage** to **Watercraft** caused by or arising from motors being secured to **Watercraft** in a manner contrary to the manner specified by the manufacturer of the motors or of the **Watercraft**.

### Overheating

We do not cover any **Damage** to **Watercraft** or motors of **Watercraft** caused by or arising from the overheating and/or seizure of a **Watercraft's** motors unless such overheating and/or seizure is caused by an **Occurrence** covered by this **Policy**.

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

We do not cover any **Damage** to **Watercraft** 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.

### Sails

We do not cover any **Damage** to sails of a **Watercraft** caused by or arising from the action of wind or water.

This exclusion shall not apply where water damage arises from a **Flood** covered by this **Policy**.

### Seaworthiness

We do not cover any **Damage** to **Watercraft** that is in an unseaworthy or defective condition.

This exclusion shall not apply if **You** were not aware, and in the ordinary course of **Your Business** as a **Boat Dealer** could reasonably not have known that the **Watercraft** was not seaworthy.

### Speed

We do not cover any **Damage** to **Watercraft** that happens when **Watercraft** exceeds a speed of 60 (sixty) knots.

### Territorial Limits

We do not cover any **Damage** to **Watercraft** caused by or arising from an **Occurrence** that happens more than 250 (two hundred and fifty) nautical miles off mainland Australia or Tasmania.

### Towing of Other Vessels

We do not cover any **Damage** to **Watercraft** caused by or arising from the towing of another vessel or watercraft.

This exclusion shall not apply to the towing of a **Watercraft's** own tender or when providing emergency assistance to a distressed vessel or watercraft.

### Transport of Watercraft

**We** do not cover any **Damage** to **Watercraft** happening whilst being transported or during loading or unloading operations incidental to transport.

This exclusion shall not apply to

- (1) trailered **Watercraft** being towed by **You** on its own trailer, or
- (2) trailered or non-trailered **Watercraft** being transported by a third party carrier of good repute and specialising in the transportation of **Watercraft**.

### Unsuitable Mooring

**We** do not cover any **Damage** to **Watercraft** caused by or arising from it being secured to a mooring that is not

- (1) of a suitable design and weighting for the **Watercraft**;
- (2) appropriately sited, and
- (3) in good order and regularly maintained on at least an annual basis.

### War, Strikes & Terrorism

**We** do not cover any **Damage** to **Watercraft** 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.

### Water Ingress - Personal Watercraft

**We** do not cover **Damage** to motors of a **Personal Watercraft** caused by or arising from water ingress unless the water ingress results directly from an **Occurrence** that results in **Damage** the hull of the **Personal Watercraft** and such **Damage** to the hull is the cause of the water ingress.

### Watercraft Owned by Others

**We** do not cover any **Damage** to **Watercraft** that are neither owned by **You** nor **Consigned** to **You**.

This exclusion shall not apply if **You** have accepted responsibility to arrange material damage insurance for **Watercraft** that are neither owned by **You** nor **Consigned** to **You** and **You** have told **Us** of this.

## 2.5 Conditions Specific to this Material Damage Section

This 'Material Damage' Section of this Policy is subject to the following conditions:

### Abandonment

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

### Prevention of Damage

**You** must take reasonable precautions to prevent **Damage** to **Watercraft** as if **You** were not covered by this **Policy**. Such precautions include but are not limited to ensuring that

- (1) the carrying capacity of a trailer, as rated by its manufacturer, is sufficient to carry the **Watercraft**;
- (2) the towing capacity of a tow vehicle, as rated by its manufacturer, is sufficient to tow the **Watercraft** and its trailer;
- (3) the load capacity of the tow hitch of a tow vehicle, as rated by its manufacturer, is sufficient for the weight of the **Watercraft** and its trailer;
- (4) trailers are fitted with the legally required braking system
- (5) trailers and tow vehicles are roadworthy;
- (6) oversize signage, flags and lighting are used in accordance with any road regulations that may apply;
- (7) adequate security measures are in force to reasonably prevent theft of **Watercraft**, such as but not limited to a commercially available trailer wheel lock or tow hitch locking device, or unauthorised access to **Watercraft**;
- (8) adequate protective measures are in force to reasonably prevent **Damage** to **Watercraft**, and
- (9) any person in command and control of **Watercraft**
  - (i) is accompanied by **You** in so far as is practicable;
  - (ii) holds the appropriate license to operate the **Watercraft**;
  - (iii) has adequate experience to reasonably control the **Watercraft**;
  - (iv) is not under the influence of alcohol or drugs, and
  - (v) has not been refused boating insurance within the last 5 (five) calendar years,
- (10) all hazardous materials are used and stored as required by law.

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 **Watercraft** (or parts thereof), **We** shall be entitled, but not obligated, to take legal ownership of such **Watercraft** (or parts thereof) 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 such **Watercraft** (or parts thereof) **You** agree to provide to **Us** all legal rights and title in such **Watercraft** (or parts thereof) if requested by **Us**.

- (2) a partial loss of a **Watercraft** (or parts thereof), **We** shall be entitled, but not obligated, to take legal ownership of any **Damaged** parts of the **Watercraft** (or parts thereof) 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 **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. Legal Liability

You are only covered for legal liabilities arising from Your Business-when this is stated on the Certificate.

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

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

This 'Legal 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**;
- either in the ordinary course of **Your Business** or during private pleasure use by **You** or **Your** principals or **Employees**, 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**.

## 3.2 What We Cover You For - Additional Benefits

This 'Legal Liability' Section of this Policy also covers You for:

### Physical or Legal Control Extension

The 'Physical or Legal Control' exclusion clause contained in Section 3.4 'Exclusions Specific to this Legal Liability Section' 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 3.4 'Exclusions Specific to this Legal Liability 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**.

### Professional Services Liability Extension

The 'Professional Services' exclusion clause contained in Section 3.4 'Exclusions Specific to this Legal Liability Section' 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 any claim under 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 3.4 'Exclusions Specific to this Legal Liability Section' 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 any claim under 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**.

## 3.3 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 3.4 'Exclusions Specific to this Legal Liability 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 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**.

## 3.4 Exclusions Specific to this Legal Liability Section

This 'Legal 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 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 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 **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 **Watercraft** with the exception of **Watercraft Consigned to You**, 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,

and happens in the ordinary course of **Your Business**.

### 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**.



### Exceeding Capacity

**We** do not cover any liability caused by or arising from **You** exceeding the registered or rated capacity of any trailer, lift device, marine railway or dry-dock.

### Faulty Design

**We** do not cover any liability for expenses incurred in repairing, modifying or replacing any part 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**.

### Fines & Penalties

Except to the extent provided for in the 'Statutory Liability Extension' clause contained in Section 3.2 '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

**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 the shifting, movement or operation of **Watercraft** for the purpose of demonstration or 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 3.2 '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 3.2 'What We Cover You For – Additional Benefits' and, where applicable, the 'Environmental Impairment Liability Extension' contained in Section 3.3 '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 3.2 '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 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

and happening in the ordinary course of **Your Business**.

## 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

- (1) **Property** or **Product** or **Watercraft** or **Vehicle** that is either owned by **You** or for which **You** have accepted responsibility to arrange material damage insurance,
- (2) **Watercraft** that is **Consigned** to **You**.

## 3.5 Conditions Specific to this Liability Section

This 'Legal 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, 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 'Professional Services Liability Extension' and 'Statutory Liability Extension' clauses contained in Section 3.2 'What We Cover Your For – Additional Benefits' of this **Policy**, and
- (2) the 'Environmental Impairment Liability Extension' clause contained in Section 3.3 '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.

### 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** or **Products**
- (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 made 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**.

### Subrogation & Allocation of the Proceeds of Recoveries

Subject to the provisions of the 'Subrogation Waiver' and 'Release of Liability' clauses contained in this Section 3.5 'Conditions Specific to this Legal Liability 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

**This 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 10% (ten percent) calculated for the unexpired **Period of Insurance** from the date of cancellation.

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.

### 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 to 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**.

### Consigned

“Consigned” means a **Watercraft** that

- (1) is not owned by **You**;
- (2) **You** have accepted responsibility to arrange material damage insurance, and
- (3) is in **Your** physical or legal control for marketing and sales purposes in the ordinary course of **Your Business** as a **Boat Dealer**.

### Constructive Total Loss

“Constructive Total Loss” means that in **Our** opinion the **Damage** to **Watercraft** 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) 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**.

### Damage

“Damage” means sudden and accidental physical loss, damage or destruction of **Watercraft** or permanent loss by theft caused by or arising from an **Occurrence**.

‘Damage’ includes

- (1) physical loss, damage or destruction of **Watercraft** 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 **Watercraft** caused by or arising from **Latent Defect**.

### 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 **Employee**.

## 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 3.3 ‘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**.

## Equipment & Accessories

“Equipment & Accessories” means marine electronics, boat covers and canopies, batteries, portable fuel tanks, safety equipment carried on **Watercraft** in accordance with statutory requirements, and any other items that are portable and not permanently attached to **Watercraft** that are manufactured and intended solely for use on **Watercraft** that are portable and not permanently attached to **Watercraft**.

## 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.

## 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’ 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 **Professional Services Liability** or **Statutory 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

### Latent Defect

“Latent Defect” means a hidden flaw

- (1) in the material of construction existing at the time of original building of the **Watercraft**, or
- (2) any additional or replacement parts, components or systems of the **Watercraft**

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’ section of the **Certificate** and/or elsewhere in this **Policy**.

### Market Value

“Market Value” means the market value of **Watercraft** 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.

## Occurrence

- (1) In so far as it relates to Section 2 'Material Damage' 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 Watercraft** that is neither expected nor intended from **Your** standpoint.
- (2) In so far as it relates to Section 3 'Legal 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 **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 Watercraft

"Personal Watercraft" means a **Watercraft** such as but not limited to a jet ski or wave runner.

## 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, fibers, 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 this **Policy**.

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

### Product

“Product” means **Watercraft** and anything else manufactured, constructed, erected, assembled, installed, grown, extracted, produced, 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 the ordinary course of and incidental to **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.

‘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 **Product 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 by **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 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 (including but not limited to a **Watercraft** 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.

In respect of **Your Business** as a **Boat Builder**, ‘Watercraft’ includes whilst vessels, craft, motors, sails and rigging, trailers, **Equipment & Accessories** and contents are under construction and/or whilst awaiting fitment to the **Watercraft**.

## 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 activities and operations include

- (1) representing buyers and/or sellers in the buying and/or selling 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.

## 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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