

AM&T

A Company of **Allianz** 



SHIP REPAIRERS LIABILITY INSURANCE

POLICY DOCUMENT
NEW ZEALAND MARKET

REST EASY. OUR KNOWLEDGE RUNS DEEP.

AM&T is a leading specialist in marine and transit insurance.

The team at AM&T are the trusted experts in New Zealand and Australia when it comes to the sometimes complex world of marine and transit insurance.

At AM&T, we provide specialist knowledge, superior service and support, all with the security of knowing your policy is backed by the global strength of Allianz.



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Introduction and important notices

Introduction

Welcome and thank You for choosing Our Ship Repairers' Liability Insurance.

This is an important document. You should read it carefully before making a decision to purchase this insurance.

It will help You to:

- decide whether this insurance will meet Your needs; and
- compare it with other products You may be considering.

It tells You:

- what is covered;
- the claims procedures; and
- the conditions and exclusions that apply.

When You buy insurance You enter into a legal contract in which You promise to meet certain obligations and conditions. When We agree to insure You, We do so based on the information provided by You or on Your behalf. In return for paying the premium to Us, We will give You the protection described in this Policy for events that occur during the Period of Insurance.

Please note that any recommendation or opinion in this document is of a general nature only and does not take into account Your objectives, financial situation or needs.

If You do not fully understand this Policy, please ask Your Insurance broker to explain it to You.

All claims and general enquiries should be directed through Your insurance broker.

Who is the Insurer?

Allianz Australia Insurance Limited ABN 15 000 122 850 (Incorporated in Australia) trading as Allianz New Zealand of Level 11, Tower 1, 205 Queen Street, Auckland, New Zealand 1010, is the insurer of this Policy and is one of Australia's largest general insurers.

AM&T NZ is a division of Allianz New Zealand specialising in Cargo, Commercial Hull and Marine Liability insurance.

We utilise years of local expertise, combined with global experience to offer a wide range of products and services to Our customers. As a member of the worldwide Allianz Group, We are committed to continuous improvement of Our products and services and strive to achieve this through knowledge transfer within the Group, dedicated technical research units, sharing globally new product developments and a wide range of risk management services.

In the Policy document We refer to Allianz Australia Insurance Limited as "We", "Us", "Our" and "Allianz".

Our contract with You

Where We agree to enter into a Policy with You it is a contract of insurance between Us and You (see the definition of "You" for details of who is covered by this term) and is a contract of marine insurance as defined by the Marine Insurance Act 1908.

We cover You in accordance with the insurance as described in this Policy, for the Period of Insurance shown on the Schedule and for any subsequent period where renewal may be agreed. The maximum amount We will pay under the Policy will not exceed the Sum Insured or the Limit of Indemnity shown on the Schedule unless otherwise specified herein. Cover is only provided where the relevant event or incident occurs within the Geographic Limits (where applicable).

The Policy consists of:

- this document which sets out the standard terms of Your cover and its limitations;
- Your current Schedule issued by Us. The Schedule is a separate document, which shows the insurance details relevant to You. It may include additional terms, conditions and exclusions relevant to You that amend the standard terms of this document. Only those sections shown as covered in Your Schedule are insured; and
- any other change to the terms of the Policy otherwise advised by Us in writing (such as an endorsement). These written changes may vary or modify the above documents.

These are all important documents and should be carefully read together and kept in a safe place for future reference.

We reserve the right to change the terms of this insurance where permitted to do so by law.

Any new or replacement Schedule We may send You, detailing changes to Your insurance or the Period of Insurance, will become the current Schedule, which You should carefully read and retain.

Understanding Your Policy and its important terms and conditions

To properly understand the significant features, benefits and risks of this insurance You need to carefully read:

- the rest of this "Introduction and important notices" section – this sets out how You apply for cover, the basis on which We insure You, the duty of disclosure You need to comply with, Our privacy information, Our dispute resolution procedures and other important information;
- the "Words with special meaning" section – this sets out what We mean by certain words used in the Policy. These words begin with a capital letter throughout this document;
- the Cover section, including the standard covers

and Optional Covers;

- the “General exclusions” section – this sets out the general exclusions and limits that apply to cover and benefits;
- the “General Conditions” and “Claims” sections – these set out certain general rights and obligations that You and We have;
- all of the documents that make up the Policy, including the Schedule and any endorsements or other written changes to the cover We issue You with – these contain specific details relevant to You and can affect the cover.

Headings are provided for reference only and do not form part of Your Policy for interpretation purposes.

When You enter into the Policy You confirm and warrant that You have read or will read the Policy documents when provided to You.

Summary

Please note that this is a limited summary only and does not form part of the terms of the Policy. The cover is subject to terms, conditions, exclusions and limitations and any endorsements applying to the Policy that are not listed in the summary. You need to read the Policy (i.e. this document and any endorsement, specification, attachment or memoranda affixed (or intended to be affixed) to it and the Schedule) to properly understand the cover provided.

1. Cover summary

We will cover You during the Period of Insurance shown on the Schedule for amounts that You are legally liable to pay as Compensation for Damage to Watercraft in Your physical or legal control and/or certain Personal Injury which occurs during the Period of Insurance and in connection with Your Ship Repair Business (as defined).

We only cover those parties shown in the Schedule unless otherwise stated in the Policy as being a person or entity entitled to cover.

The maximum amount We will pay under the Policy for any one Occurrence and in the aggregate for all Occurrences will not exceed the Limit of Indemnity shown on the Schedule.

2. No Workers Compensation cover

This Policy does not include Workers Compensation cover. Compensation for bodily injury for employees may be available under the Accident Compensation Act 2001.

3. Your obligation to comply with the Policy terms and conditions

You are required to comply with the terms and conditions of the Policy. Please remember that if You do not comply with any term or condition, We may (to the extent permitted by law) decline or reduce any claim payment and/or cancel Your Policy.

If more than one person is insured under the Policy, a

failure or wrongful action by one of those persons may adversely affect the rights of any other person insured under the Policy.

Applying for cover

When You apply by completing Our application process You need to provide the information We require to determine whether to issue a Policy and if so, on what terms, including (to the extent they are optional):

- the covers and benefits You want (including the business activities You wish to cover);
- the limits You want;
- the Period of Insurance You want;
- the Deductible that You agree to contribute for certain claims;
- whether any standard terms need to be varied (this may be by way of an endorsement).

Where We agree to issue a Policy, cover is provided on the basis:

- that You have paid or agreed to pay Us the premium for the cover provided;
- of the verbal and/or written information provided to Us by You which must have given in accordance with Your Duty of Disclosure either verbally or in writing.

Your Duty of Disclosure and the consequences of nondisclosure, are provided under the heading ‘Your Duty of Disclosure’ on page 4.

Premium

Your premium – the base premium We charge is calculated based on a number of factors such as:

- the cover and benefits provided including the Limit of Indemnity;
- the services You provide, Your past loss history and the total gross receipts generated by Your business;
- Our obligation to pay relevant government taxes and charges. For example, We include an amount that covers any GST payable in relation to the Policy.

When You apply for this insurance, You will be advised of the total premium amount payable, when it needs to be paid and how it can be paid. This amount will be set out in the Schedule, which will be sent to You after the entry into the Policy. If You fail to pay We may reduce any claim payment by the amount of premium owing and/or cancel the Policy.

How to make a claim

If You need to make a claim under the Policy, please refer to the Claims Section.

Cancellation rights under the Policy

- (a) You or Your broker on Your behalf may cancel Your Policy at any time by notifying Us in writing;

(b) We have the right to cancel Your Policy where permitted by law.

For example, We can cancel the Policy:

- (i) if You failed to comply with Your Duty of Disclosure; or
- (ii) where You have made a misrepresentation to Us during negotiations prior to the issue of the Policy; or
- (iii) where You have failed to comply with a provision of the Policy, including payment of Premium; or
- (iv) where You have made a fraudulent claim under Your Policy or under some other contract of insurance that provides cover during the same period of time that Our Policy covers You.

Where the Marine Insurance Act 1908 applies

We may cancel this Policy in the event of non-payment of the Premium or for any other reason available at law by giving 30 days notice of cancellation.

Cancellation notice

If We decide to cancel Your Policy We will give written notice to You personally or by post to Your last known address or, Your intermediary as may be appropriate. Such notice will be effective from the expiry of the stipulated period calculated from 4pm on the third business day after the day it is given to You, unless it specifies a later date but shall not apply to any Goods which have commenced Transit in accordance with the conditions of this Policy before cancellation becomes effective. A posted notice is deemed given to You at the time it would have been delivered in the normal course of the postal service.

Returns for cancellation

If You or We cancel Your Policy We may deduct from the refund amount:

- (i) a pro rata proportion of the premium for time on risk;
- (ii) 10% of the premium remaining after applying Clause (i) above, as administrative costs related to the acquisition and termination of Your Policy; and
- (iii) any government taxes or duties We cannot recover.

You will not receive a refund of premium if You have already made a claim or if circumstances have arisen entitling You to make a claim.

Premium funders

If the premium has been funded by a premium funding company which holds a legal right over the Policy by virtue of a notice of assignment and/or irrevocable power of attorney, any refund calculated in accordance with the provisions above will be made to the premium funding company.

Contact for assistance or confirmation of cover

If You need to confirm any Policy transaction or clarify any of the information contained in this document or if You have any other queries, please contact Us via the details on the back cover.

Renewal procedure

Before Your Policy expires, We will advise You whether We intend to offer renewal and if so on what terms.

This document also applies for any subsequent Period of Insurance (renewal), unless We tell You otherwise.

It is important that You check the terms of any renewal before renewing to satisfy Yourself that the details are correct. In particular check the sum insured amounts to ensure the levels of cover are appropriate for You and to ensure that You are properly covered in the event of a major claim.

Please note that You need to comply with Your Duty of Disclosure before each renewal (see below).

Alteration to risk

You must give Us immediate notice in writing if there is any material change in the circumstances or nature of the risks covered by this Policy, or no claim arising after the change shall be payable unless We have agreed to the change in writing.

Your Duty of Disclosure

Before entering into a contract of insurance, You have a duty, at law, to disclose to Us all material facts. This duty also applies when You renew, vary, extend or reinstate Your Policy. The same duty applies to any person making statements or providing information on Your behalf.

Information is material if it may influence a prudent Insurer in deciding whether or not to accept cover, renew or alter the Policy, the terms and conditions to operate, including the Premium payable.

Examples of information You may need to disclose include but are not limited to:

- anything that increases the risk of an insurance claim;
- subject to the Criminal Records (Clean Slate) Act 2004, any criminal conviction or offence;
- if another insurer has cancelled or refused to insure or renew insurance, has imposed special terms, or refused any claim;
- any insurance claim or loss made or suffered in the past five years.

These examples are a guide only. If there is any doubt as to whether a particular piece of information needs to

be disclosed, this should be referred to Allianz Australia Insurance Limited.

Non-disclosure

If You fail to comply with Your Duty of Disclosure, it may result in:

- the Policy being void;
- the Policy being cancelled; or
- the amount We pay if You make a claim being reduced.

Privacy Act – Information

Pursuant to the Privacy Act 1993 the following information is provided for Your benefit:

- the Proposal collects personal information about You;
- the information is collected to evaluate the insurance being sought;
- the intended recipient of the information is Allianz Australia Insurance Limited;
- the information is being collected and held by Allianz Australia Insurance Limited of Level 11, Tower 1, 205 Queen Street, Auckland 1010;
- the collection of this information is required pursuant to the common law duty to disclose all the material facts relevant to the insurance sought and is mandatory;
- the failure to provide this information may result in Your Application for insurance being declined, or the Policy being void from the beginning;

You have the right of access to, and correction of, this information subject to the provisions of the Privacy Act 1993.

Fair Insurance Code

Allianz Australia Insurance Limited supports the principles of the Fair Insurance Code. The purpose of the Code is to increase the standards of practice and service within the insurance industry. To the extent the Code applies to this product, a copy of the Fair Insurance Code is available from the Insurance Council of New Zealand website (www.icnz.org.nz).

Dispute resolution process

If You are dissatisfied with Our service in any way contact Us and We will attempt to resolve the matter in accordance with Our Internal Dispute Resolution procedures. To obtain a copy of Our procedures contact Us.

A dispute can be referred to the Financial Services Complaints Limited (FSCL) subject to its terms of reference. It provides a free and independent dispute resolution service for consumers who have general insurance disputes falling within its terms.

To find out more about the role of FSCL and FSCL's Terms of Reference, refer to FSCL's website <http://www.fscl.org.nz/> or You can contact them as follows:

Financial Services Complaints Limited
PO Box 5967
Lambton Quay
Wellington 6145
Freephone: 0800 347 257
Email: info@fscl.org.nz

If this insurance has been issued through an insurance intermediary

If Your Policy has been issued through Our agent, or a broker who is acting under an agency arrangement such as a binder with Us, then they are acting as Our agent and not as Your agent.

If Your Policy has been issued by a broker, other than a broker acting under such an agency arrangement with Us, then the broker is acting as Your agent.

Where this Policy has been arranged through an intermediary a commission is payable by Us to them for arranging the insurance.

Words with special meaning

Aircraft means any vessel, craft or device made or intended to fly or move in or through the atmosphere or space.

Business Premises means the land and buildings or parts of buildings, including car parks, yard, berths and facilities owned/occupied by You making up the facility where You perform Your Ship Repair Business at the Situation(s) noted in the Schedule.

Compensation means money payable by way of damages by reason of a judgement ordered by a Court of competent jurisdiction, or by reason of any award of a competent arbitral tribunal, or by reason of any settlement of any claim negotiated with Our prior consent. Compensation does not include any punitive, exemplary, aggravated damages and any additional damages resulting from the multiplication of compensatory damages.

Damage(d) means physical loss, destruction or damage.

Employees means any person employed by You or deemed to be employed by You or on Your behalf in any capacity pursuant to any law, but not including Subcontractors or the workers of Subcontractors.

Employment Practices means any wrongful or unfair dismissal, failure to promote, negligent reassignment, negligent disciplinary action, denial of natural justice, refusal to employ, demotion, negligent evaluation, harassment, invasion of privacy, defamation, misleading representation or advertising, sexual harassment or discrimination in respect of employment, or prospective employment, by You.

Deductible means either the amount of money specified in the Schedule or Policy that You must contribute as the first payment for each claim for which no payment will be made by Us where applicable. Any separate deductibles for specific covers listed in the Schedule will apply cumulatively. A deductible may be expressed as either a monetary amount or, in some instances, as a period of time.

Fungus/Fungi means any plants or organisms belonging to the major group Fungi, lacking chlorophyll and including Moulds, rusts, mildews, smuts and mushrooms.

Gross Earnings means the total charges (collected or uncollected) made by You in relation to Your Ship Repair Business during the Period of Insurance which are included in the revenue figures stated in Your annual profit and loss statement/statement of financial performance. No deduction shall be made from the Gross Earnings in respect of any sub-contracted work.

Hot Work means work involving the use of oxyacetylene torches, soldering, welding or oil tank cleaning equipment. Hot Work conducted on any Watercraft previously utilised to carry explosives, oil or other flammable liquids or gases or arising in connection with work on or near any fuel tank, fuel or pipe line, bunker space, machinery compartment or engine room is not covered unless You have requested the Optional Cover 2 Hot Work extension and have complied with the conditions of the extension as detailed on page 12.

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.

Intentional or Reckless Conduct means either an act, or failure to act, where such act or omission is intended to cause loss or performed recklessly and with knowledge that such loss was likely.

Incidental Contracts means:

- (a) any written rental agreement or lease of real property which does not impose on You:
 - (i) an obligation to insure such property; or
 - (ii) any liability regardless of fault;
- (b) any written contract with any public authority for the supply of water, electricity, fuel, gas, air, steam, waste disposal facilities, telecommunications, or other essential services/utilities except those contracts in connection with work done for such authorities or entities, but only to the extent of indemnifying any such authority in respect of liability arising out of Your Ship Repair Business;
- (c) any written contract made or entered into with any railway authority in connection with Your Ship Repair Business.

Limit of Indemnity means the amount stated in the Schedule. This is the maximum amount We will pay for any claim or claims arising from one Occurrence, provided that, for all legal liability directly or indirectly arising out of or in any way related to Your Products or Your Ship Repair Business, Our total aggregate liability during any one Period of Insurance will not exceed the Limit of Indemnity. The Limit of Indemnity is inclusive of and not additional to any applicable Deductible.

Mould means, any superficial growth produced on damp or decaying organic matter or on living organisms, and Fungi that produced moulds.

Occurrence means any event resulting in Personal Injury or Property Damage neither expected nor intended by You. Any series of events consequent upon or attributable to one source or originating cause, including continuous or repeated exposure to substantially the same general conditions, which result in Personal Injury and/or Property Damage, are deemed to be one Occurrence.

Period of Insurance means the period commencing on the effective date and ending on the expiry date as shown in the Schedule.

Personal Injury means:

- (a) death, bodily injury, sickness, disease, disability, shock, fright, loss of consortium, mental anguish and mental injury;
- (b) assault and/or battery, not committed by You or at Your direction, unless committed for the purpose of preventing or eliminating danger to any person or property.

Under this Policy wording, Personal Injury does not include libel, slander, defamation of character or invasion of right of privacy, any breaches of Employment Practices legislation or any act or acts of sexual or physical molestation of or sexual interference by You.

Policy means this document, the Schedule and any endorsement, specification, attachment or memoranda affixed to it and any other document that parties agree in writing will form part of the Policy.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste. Waste includes material to be recycled, reconditioned or reclaimed.

Pollution means the discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, toxic liquids, toxic gasses, waste materials (includes materials to be recycled reconditioned or reclaimed) or other irritants, contaminants or Pollutants into or upon any property, land, the atmosphere or any water course or body of water (including ground water).

Premises Liability means Your legal liability arising from the ownership, tenancy or use of Your Business Premises (including buildings, outbuildings, structures, open spaces and car parks), or any other premises.

Principal's Liability means liability You have in respect of an Occurrence where You are performing Your Ship Repair Business as sub-contractor to another party (The "Principal").

Products means anything (after it has ceased to be in Your physical possession or under Your control) manufactured or deemed to have been manufactured, constructed, extracted, produced, processed, assembled, erected, installed, repaired, serviced, treated, sold, supplied (including services) or distributed by You, which forms part of the repair, installation, assembly or maintenance work carried out by You on Watercraft in the course of or arising from Your Ship Repair Business (including any container other than a Vehicle) used to package or contain Your Product(s), but excluding:

- (a) second-hand or used parts;
- (b) any item which does not form part of the repair, installation, assembly or maintenance work carried out by You on Watercraft or as provided under the Additional Benefit – **Chandlery/Incidental Marine Sales – Product Liability**, unless You have requested and We have agreed to provide the Optional cover for Other work and then to the extent of cover provided under the Optional Extension – Other work only.

Products Liability means Your legal liability to pay damages for an Occurrence caused by an unknown defect in Your Products.

Property Damage means:

- (a) physical Damage to, physical loss of or physical destruction of tangible property, including any resultant loss of use; or
- (b) loss of use of tangible property that has not been physically Damaged, physically lost or physically destroyed, provided such loss of use is caused by physical Damage to, physical loss of or physical destruction of other tangible property.

Proposal means the application form completed by You or on Your behalf or the quotation slip submitted on Your behalf in which You provided the information upon which We relied to enter into Your Policy.

Schedule means the most current Schedule to Your Policy that We give You which specifies details such as Policy number, Deductible(s) and Limits of Indemnity. It also includes any documents that We and You agree in writing will form part of the Schedule.

Ship Repair Business means, and is limited to, Your activities as a ship repairer which includes repair, installation, service and/or maintenance work carried out on Watercraft, including rigging, mast assembly and operation of travel lifts.

Ship Repair Business does not mean:

- (a) the building, assembly and/or rebuilding, reconstruction, extension or conversion of Watercraft – other than as provided under the Additional benefits – boat Building and reconstruction/extension;
- (b) towing or storage of Watercraft;
- (c) drilling, blasting, core sampling, dredging and/or depositing of spoil, pile driving, cable or pipe laying, or professional oil spill response; or
- (d) any other part of Your business that is not the activity of repairing, servicing and/or maintaining Watercraft,

unless We have specifically agreed in writing to accept and provide cover for such activities under one of the Additional Benefits on page 11 or Optional Covers noted on pages 12 to 13 where the relevant Optional Cover is listed in the Schedule.

Situation(s) means the Situation(s) stated in the Schedule.

Spore(s) means any dormant or reproductive body produced by or arising or emanating out of any Fungus/ Fungi, Mould(s), mildew, plants, organisms or micro organisms.

Standard Terms and Conditions means the document setting out Your entire terms and conditions relating to the provision of Your Ship Repair Business which exclude Your liability for loss or Damage whatsoever and howsoever caused.

Subcontractors means companies (and the employees of such companies), persons or a business who are not Your Employees that are engaged by You to perform work associated with Your Ship Repair Business.

Sub Limit means the relevant sub limit shown in the Policy for a particular item or Occurrence that We will not pay more than.

Territorial Limits means the geographical area of operations We have agreed to as specified in the Schedule. Unless otherwise provided, this is limited to Your Business Premises, the ship yard, or the port at which the work is being carried out at and Trial Trips.

Terrorism or an "act of terrorism" includes any act, or preparation for action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

- (a) involves violence against one or more persons; or
- (b) involves Damage to property; or
- (c) endangers life other than that of the person committing the action; or
- (d) creates a risk to health or safety of the public or a section of the public; or
- (e) is designed to interfere with or to disrupt an electronic system.

Trial Trip means a trial trip from the yard or port at which the repairs or maintenance were carried out which is within 200 kilometres from such yard or port.

Vehicle means any type of self powered machine that is designed to travel on wheels or on self-laid tracks (other than ship-lifters, marine travel lifts, jinkers, slipways, cradles or any other mobile ship-lifting device).

Watercraft means any vessel, craft or thing (other than a Hovercraft or submersible, fixed pontoons, berths or jetties) designed to float on or in or travel on or through water.

Workers Compensation Law means any law relating to compensation for injury to workers or employees.

We, Us or Our, or the Insurer means Allianz Australia Insurance Limited ABN 15 000 122 850 (Incorporated in Australia) trading as Allianz New Zealand of Level 11, Tower 1, 205 Queen Street, Auckland, New Zealand 1010. AM&T NZ is a division of Allianz New Zealand.

You, Your, Yours means:

- (a) the insured shown in the Schedule;
- (b) any subsidiary companies of the insured referred to in Clause a. above existing at the commencement date of the Period of Insurance as shown in the Schedule, whose place of incorporation is within New Zealand or its external territories;
- (c) (i) any company acquired by, and whose operations are controlled and managed by, You or a company referred to in Clause (b) above during the Period of Insurance as a result of consolidation, merger or purchase;
- (ii) any subsidiary company that is incorporated by You, or by a company referred to in Clause (b) above, during the Period of Insurance;

provided that:

- (iii) any such acquisition or incorporation is notified to Us within ninety (90) days;
- (iv) the newly-acquired or incorporated company is incorporated within New Zealand or its external territories;
- (d) (i) any director, executive officer, Employee or partner of You or a company referred to in Clauses (b) or (c) above, but only while acting within the scope of their duties in such capacity; and
- (ii) any shareholder of a company referred to in Clauses (a), (b) or (c) above, but only while acting within the scope of their capacity as shareholders of such company;
- (e) any principal in respect of such principal's vicarious liability for the acts or omissions of the Insured shown in the Schedule or a company referred to in Clauses (b) or (c) above, in the performance of work for such principal, subject always to the extent of cover and Limit of Indemnity provided in the Policy.

Cover

Subject to the terms, conditions and exclusions contained in this Policy We will indemnify You, up to the Limit of Indemnity shown in the Schedule, for all amounts which You become legally liable to pay as Compensation (excluding punitive, exemplary, aggravated damages and any additional damages resulting from the multiplication of compensatory damages) by reason of Your legal liability for an Occurrence that arises during the Period of Insurance in the course of Your Ship Repair Business which results in:

- A. Loss of or Damage to:
- (i) Any Watercraft, including machinery and equipment which is in Your physical or legal control for the purpose of Your Ship Repair Business including:
 - Trial Trips, shifting and moving of the Watercraft within the limits of the port at which the work is being carried out;
 - items temporarily removed from the Watercraft including whilst in transit for the purposes of repairs;
 - (ii) any other third party Watercraft in the vicinity of Your Ship Repair Business or arising from Your navigation of a Watercraft referred to in Clause A (i);
 - (iii) cargo, contents or other property on or discharged from any of the Watercraft referred to in Clauses A (i) or (ii) above;
 - (iv) other third party property (excluding hired in equipment and Employee or visitor personal property except as provided for under the Additional Benefits section);
- B. Removal of wreck costs incurred by You in relation to Watercraft referred to in Clauses A(i) and (ii) and following Damage to the Watercraft;
- C. Products Liability but excluding any loss, damage, liability or expense incurred as a result of repair, installation, service and/or maintenance work carried out on Watercraft prior to the attachment date of this Policy, regardless of the date of the manifestation or Occurrence;
- D. Personal Injury but excluding:
- any claim arising directly or indirectly under any Statutory or Common Law liability in respect of loss of life, bodily injury to, or illness of any worker or other person employed in any capacity whatsoever by You, Your agents or Sub-Contractors when such loss of life, bodily injury or illness arises out of or in the course of the employment of such worker or other person;
 - Personal Injury directly or indirectly caused by asbestos or silica products;

We will also pay for third party Property Damage or Personal Injury arising from or in connection with incidental medical, nursing and first aid services, fire brigade and ambulance services provided by You at Your Business Premises including the services administered by Your Employees except where more specifically insured elsewhere and subject always to all terms, clauses, exclusions and conditions of this insurance.

We reserve the rights of subrogation against any Subcontractor except those specifically declared to Us and added to this Policy as an additional insured under the Optional Cover 5. Subcontractors below.

Standard Terms and Conditions

For repairs conducted to any commercially operated Watercraft, it is a condition of this cover that You must incorporate Your Standard Terms and Conditions which exclude Your liability for loss or Damage whatsoever and howsoever caused into the agreement with the owner of the Watercraft or, their authorised representative, prior to commencing any repair, service and/or maintenance.

Principal's liability

Where You are employed as a sub-contractor to another party (The "Principal") the cover provided under this Policy will indemnify You for amounts You are legally liable to pay in relation to Your Ship Repair Business as sub-contractor to the Principal for an Occurrence during the Period of Insurance in the course of the work You are engaged to perform.

Supplementary payments

Subject to the provisos below, in addition to the Limit of Indemnity, We will also make the following supplementary payments:

- (a) all charges, expenses and legal costs incurred by Us and/or by You with Our prior written consent in the investigation, reporting, settlement or defence of any claim or suit for Compensation for which:
 - (i) You are entitled to cover under this Policy; or
 - (ii) You would be entitled to cover under this Policy if such claim or suit were to be sustained;
- (b) all legal costs awarded or ordered or assessed against You in any such suit or claim and all interest on the judgment or settlement amount accruing after the entry of judgment against You until We have paid, tendered or deposited in court such part of the judgment as does not exceed the Limit of Indemnity;
- (c) all expenses incurred by You for providing first aid to others for Personal Injury for which You are covered by this Policy (other than medical expenses prohibited by law);

provided that:

- (d) if a payment exceeding the Limit of Indemnity has or is required to be made to dispose of a claim, Our liability to make supplementary payments will be limited to the proportion of the supplementary payments as the Limit of Indemnity bears to the amount paid or required to be paid to dispose of the claim. Where the application of this Clause means that You are liable to repay supplementary payments to Us, We may set off the amount that You owe Us against any other entitlements You have under the Policy;
 - (e) supplementary payments in connection with claims made and/or actions instituted against You within the United States of America or Canada or claims and actions to which the laws of the United States of America or Canada apply will form part of the Limit of Indemnity and not be additional to it;
 - (f) if in settling or disposing of any claim covered under this Policy Compensation is payable in excess of the Limit of Indemnity, Our additional liability in respect of any costs incurred for a claim arising under one of the Additional Benefits listed on page 11 or Optional Covers listed on pages 12 to 13 to which a Sub limit applies, will be limited to the same proportion of these costs as the Sub limit bears to the total Compensation payable to dispose of or settle the claim.
- (e) We may at any time pay to You the appropriate Limit of Indemnity (after deducting from it any amounts already paid) or any lesser amount for which a claim or claims may be settled. In doing so We will relinquish the conduct of, and shall be under no further liability in connection with, such claim or claims except for costs and expenses incurred before We made such payment.

If You object to Our proposal to settle or compromise any claim and wish to contest or litigate the matter, then You may elect to do so by informing Us in writing. However, should You decide to do so, Our liability shall not exceed the amount for which, but for Your election, it could have been settled or compromised by Us, together with costs and expenses payable in accordance with the terms of this Policy and incurred up to the time of such election, always subject to the Deductible and Limit of Indemnity.

Deductible

You must bear the Deductible shown in the Schedule for this Policy for each Occurrence, including for any supplementary payments made.

Discharge of Liabilities/Claims Control Clause

We may, at any time, be entitled (but not obliged) to control or take over the conduct of the investigation defence and settlement of any claim suit or proceeding against You which is or is likely to be the subject of indemnity under this insurance. In these circumstances:

- (a) We shall have full discretion in the conduct, defence or settlement of any claim. This includes the right to instruct lawyers to provide advice as to Your liability and to represent You;
- (b) subject to the provisions of the Marine Insurance Act 1908, We have the right to recover or obtain contribution from any person against whom You may be able to claim and the right to take action in Your name.
- (c) You and any other person entitled to benefit under this Policy must not hinder these rights and must give all such information and cooperation as We may require;
- (d) You must not, in the absence of Our consent, make or accept any offer or payment, or in any other way admit liability, settle or attempt to settle any claim, or defend any claim;

Additional benefits

Berth occupiers liability

This Policy is extended to provide cover for Your legal liability arising from Your ownership, tenancy or use of a berth, jetty, pontoon and mooring in the course of Your Ship Repair Business.

Boat building and reconstruction/extension

The definition of Ship Repair Business is extended to include the construction (including reconstruction or extensions which entail a change in dimension, tonnage or type) of Watercraft with Contract values up to but not exceeding \$50,000 (unless a different limit is specified in the Schedule) provided such work does not constitute more than 20% of the total Gross Earnings of Your Ship Repair Business, unless otherwise agreed by Us in writing.

Chandlery/Incidental marine sales – Product Liability

This Policy is extended to cover Your legal liability for incidental chandlery/sales of marine Products not directly associated with Ship Repairs, providing such sales do not exceed 10% of Your total income and subject to a limit any one Occurrence of \$100,000 (unless otherwise agreed and listed in the Schedule).

Employee personal property

Where We have accepted a claim for Your legal liability to pay Compensation as a result of one of the circumstances listed under The Cover items (a) to (i) above, We will also indemnify You against legal liability for Damage to the personal property, tools and effects of any of Your directors, partners, proprietors, officers, executives or Employees following an Occurrence, up to a maximum of \$1,500 per Employee and \$10,000 in the aggregate any one Occurrence.

Hired in equipment used in Ship Repairing activities

Where You hire in equipment and machinery on a short term basis (not exceeding 60 days) for the purposes of Your Ship Repair Business, We will cover You where You are liable for loss or Damage to such equipment or machinery, provided such equipment or machinery is not otherwise insured under a property insurance policy arranged by You, following an Occurrence during the Period of Insurance, up to a maximum of \$100,000 per Occurrence.

Inspections and valuations – errors and omissions

This Policy is extended to cover Your legal liability for errors and omissions associated with Your provision of incidental Watercraft valuation or inspection services, subject to a limit of \$200,000 each and every loss or series of losses and in the aggregate caused by an Occurrence during the Period of Insurance, unless otherwise agreed and noted on the Schedule.

This cover benefit excludes:

- (a) reports provided to clients prior to this Policy commencing;
- (b) deliberate misrepresentations, errors or omissions made by You;
- (c) reports prepared by unqualified or inexperienced staff members which have not been thoroughly checked and approved by a qualified senior inspector/valuer;
- (d) reports which do not contain an approved disclaimer of liability noted and agreed by Us.

For the purposes of this Additional Benefit the term “incidental” shall mean making up no more than 10% of the total Gross Earnings of Your Ship Repair Business.

A Deductible of \$5,000 will apply to claims under this Additional benefit unless a different Deductible is specified in the Schedule.

Rectification of faulty workmanship consequent upon Damage

Where You are required to perform or re-perform, in whole or part, work on any property which:

1. You had contracted to perform work or service on prior to the Occurrence causing Damage; and
2. the performance or re-performance of the work or service is made necessary by that same Occurrence causing the Damage;

in addition to any indemnity provided elsewhere in this Policy in respect of resultant Damage, Your Policy is extended to include:

3. the wholesale cost of parts; and
4. the net labour cost;

required to perform or re-perform the work.

The most We will pay under this Additional Benefit is \$25,000 for all Occurrences in the aggregate for any one Period of Insurance, unless otherwise specified in the Schedule.

Optional Covers

Subject otherwise to all terms, clauses, exclusions and conditions of this insurance, in consideration of an additional premium, the following Optional Covers are operative only when selected and specified in Your Schedule.

1. Detention

This Policy is extended to cover all amounts which You become legally liable to pay as Compensation (excluding punitive, exemplary, aggravated damages and any additional damages resulting from the multiplication of compensatory damages) for detention of any Watercraft as a consequence of Damage to such Watercraft resulting in a claim which is recoverable under Cover Clause A (i) or (ii) as outlined in this Policy. However, this extension shall not cover any legal liability for detention assumed under contract or otherwise that extends the liability imposed upon You by law in the absence of such contract.

2. Hot Work extension

This Policy is extended to cover Your legal liability for Hot Work conducted on any Watercraft previously utilised to carry explosives, oil or other flammable liquids or gases or arising in connection with Hot Work on or near any fuel tank, fuel or pipe line, bunker space, machinery compartment or engine room provided:

- that any rules, regulations and requirements of the port or governmental authorities at the place where the work is being carried out have been complied with; and
- You obtain a gas free certificate prior to the commencement of any Hot Work from a party approved by Us or the nearest Lloyd's Agent even if a gas free certificate is not required by the port or government authorities at the place where the work is being carried out.

3. Other work

The Policy is extended to cover other repair operations which do not come within the scope of Your Ship Repair Business including Damage to property in Your care, custody or control for the purpose of being worked upon including whilst in transit to or from Your Business Premises or to or from specialist repairers' or manufacturers' premises where the work done by these parties is organised by You. The Gross Earnings in respect of such operations shall be declared to Us and adjusted at the agreed rate.

4. Pollution liability

General exclusion C. Types of claims 5. – Pollution does not apply where this Optional Cover is taken.

We will indemnify You against legal liability for Personal Injury or Property Damage incurred to third parties up to a limit of \$1,000,000 each and every loss or series of losses caused by Pollution as a result of an Occurrence which is identified as occurring at an instantaneous moment in time during the Period of Insurance, is accidental and neither expected nor intended by You, and became known to You within 72 hours after it commencing and is reported to Us within 72 hours thereafter.

Irrespective of the above, We will not provide cover for or in relation to:

- (a) contractual or assumed liability;
- (b) any loss of use or consequential loss;
- (c) fines, penalties, punitive damages, exemplary damage, treble damages or any other damages resulting from the multiplication of compensatory damages;
- (d) any site or location used in whole or in part for the handling, processing, treatment, storage, disposal or dumping of any waste materials or substances;
- (e) the cost of evaluating and/or monitoring and/or controlling seepage and/or Pollution and/or contaminating substances;
- (d) the cost of testing, monitoring, containment, treatment, detoxifying, removing, neutralising and/or nullifying and/or cleaning up seepage and/or Pollution and/or contaminating substances on property at any time owned and/or leased and/or rented by You and/or under Your control whether or not any of the foregoing are or should be performed by You or by others;
- (e) the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants caused by any of Your Products that have been discarded, dumped, abandoned or thrown away by You or others;
- (f) radioactive material or asbestos.

5. Subcontractors

This Policy is extended to cover named Subcontractors and to waive any rights of subrogation against them in the event that they are the party found to be responsible for the Occurrence giving rise to the claim.

6. Towing liability

This Policy is extended to provide cover for Your legal liability under contracts of customary towage for the purpose of entering or leaving port or manoeuvring within the port.

7. Travelling workmen

This Policy is extended to cover all amounts which You become legally liable to pay as Compensation (excluding punitive, exemplary, aggravated damages and any additional damages resulting from the multiplication of compensatory damages) when You or Your Employees are on board a Watercraft at sea or in any port or place other than Your Business Premises within New Zealand or such other geographical limits as are detailed in Your Schedule for the purpose of carrying out Your Ship Repair Business notwithstanding that You or Your Employees may be signed on as members of the vessel's crew.

General exclusions

A. Property exclusions

Your Policy does not cover any liability, costs or expenses directly or indirectly arising out of or in any way connected with:

1. Aircraft, Hovercraft

- (a) the ownership, possession, maintenance, repair, operation or use by You or on Your behalf; or
- (b) any of Your Products which are incorporated into the structure, machinery or controls of any Aircraft or Hovercraft.

2. Watercraft owned or operated by You

collision or navigational liability associated with any Watercraft owned or operated by You. Tower's liability is also excluded unless You have requested and We have agreed to provide the Optional Cover 6.Towing Liability (on page 12).

3. Underground or underwater services

underground or underwater services, cables or pipes of any kind;

4. Property in physical or legal control

Property Damage to:

- (a) property owned by, used by, leased or rented to You, except as provided under the Additional benefit – Hired in equipment used in Ship Repairing Activities listed above; or
- (b) property in Your physical or legal control other than property referred to under the Cover Clause A(i) to (iv) above.

5. Vehicles

the existence, maintenance, or use of:

- (a) any licensed truck, automobile, or other mechanically propelled Vehicle;
- (b) any unlicensed truck, automobile, or other mechanically propelled Vehicle on any public road or outside Your Business Premises or Situation.

B. Activity exclusions

Your Policy does not cover any liability, costs or expenses directly or indirectly arising out of or in any way connected with:

1. Building and rebuilding, reconstruction or conversion

building or rebuilding, reconstruction or conversion of Watercraft except as provided under the Additional benefit

– Boat Building and reconstruction/extension on page 11 or unless otherwise agreed by Us in writing.

This exclusion shall not apply to:

- (a) any new vessel or craft being worked upon by You where You are not the principal builder;
- (b) any repairs or adjustments or maintenance or modifications carried out by You under Your maintenance or warranty work obligations.

2. Defamation, libel and slander

directly or indirectly arising out of, or in any way connected with, the publication or utterance of any libellous, slanderous, defamatory or disparaging material:

- (a) made prior to the commencement of the Period of Insurance;
- (b) made at Your direction or with Your authority and with knowledge of its falsity; or
- (c) related to advertising, broadcasting, telecasting or publishing activities conducted by You or on Your behalf.

3. Divers

the activity of diving, whether for commercial or recreational purposes.

4. Premises liability

Premises Liability except to the extent of the cover as provided under the Additional benefit – Berth occupiers liability on page 11.

5. Oil or petrol tank Watercraft or Watercraft carrying explosives or other flammable liquids

an oil or petrol tank Watercraft or Watercraft previously engaged in carrying explosives or inflammable liquids or gasses or arising in connection with work:

- (i) on or near any fuel tank or pipeline of an oil burning Watercraft;
- (ii) on or near any bunker space of any coal burning Watercraft;

unless the Optional Cover 2. Hot Work extension on page 12 has been requested and We have agreed to provide this extension, in which case this exclusion will not apply.

6. Sports participation

any Personal Injury to any person or Damage to the property of any person directly or indirectly arising out of or in any way connected with, the actual participation of such person in any sport, exercise or activity including, but not limited to, racing, competitive water sports and water skiing. Participation includes training or practice for, supervision or control of such activities.

7. Salvage operations

Your involvement in salvage operations.

8. Smoking

any Personal Injury directly or indirectly arising out of, or in any way connected with, the smoking, inhalation or ingestion of or exposure to:

- (a) tobacco or other substances or their smoke; or
- (b) any ingredient or additive present in any articles, items or goods which contain or include tobacco or other substances.

9. Watercraft in storage

in respect of or arising in connection with any Watercraft accepted by You solely to be stored.

10. Territorial limits

any Occurrence occurring or arising outside the Territorial limits stated in the Schedule unless specifically agreed to by Us in writing following Your notification.

C. Types of claim

Your Policy does not cover:

1. Consequential loss, loss of use and penalties

Payments under penalty clauses in any contract for services in respect of property referred to in Cover Clause A(i) or A(iii) or directly or indirectly arising out of or in any way connected with consequential loss or loss of use of any kind, including that resulting from:

- (a) loss of the use of tangible property (not having been physically Damaged or destroyed);
- (b) delay or lack of performance by You or on Your behalf in relation to any contract or agreement;
- (c) the failure of Your Products to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by You;
- (d) loss of contract;
- (e) depreciation in value of any undamaged property.

This exclusion will not apply to claims for detention, demurrage, loss of freight, loss of charter or loss of time where the Optional Cover 1. Detention on page 12 is requested by You and agreed to by Us in writing in which case the cover specified by that will clause will apply.

2. Contractual liability

Liability assumed under any contract or agreement.

This exclusion does not apply:

- (a) to liability that would have been implied by law in the absence of such contract or agreement;

- (b) to liability assumed by You under a warranty of fitness or quality regarding Your Products;
- (c) to liability assumed under Incidental Contracts; or
- (d) where You have declared to Us written contracts or agreements and We have agreed to extend cover to include liability under the same and this is specified in the Schedule.

3. Employer's liability

Liability for Personal Injury to:

- (a) any Employee if You are required by law to insure or otherwise fund, whether through self-insurance, statutory fund or other statutory scheme, all or part of any common law liability (whether limited or not) for such Personal Injury;
- (b) any worker or other person employed in any capacity whatsoever by Your agents, contractors or Subcontractors; or
- (c) Your Employees, agents, contractors and Subcontractors, day labour, supplied labour or any of their workers when such Personal injury arises out of or in the course of the employment of such worker or other persons imposed by:
 - (i) any Workers Compensation legislation and/or the Accident Compensation Act 2001;
 - (ii) 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, agreement or determination;
 - (iii) any law relating to Employment Practices; or
 - (iv) any statutory or common law liability in respect of Personal Injury of any worker or other person employed in any capacity whatsoever by You, Your agents, contractors or Subcontractors.

4. Penalties, liquidated damages, punitive, exemplary and/or aggravated damages

Fines or penalties imposed by law or liquidated damages or punitive, exemplary and/or aggravated damages and any additional damages resulting from the multiplication of compensatory damages.

5. Pollution

Except as provided in the Optional Covers 4. Pollution liability cover on page 12, where taken, liability directly or indirectly arising out of or in any way connected with:

- (a) the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants;

- (b) the testing, monitoring, clean-up, removal, containment, treatment, detoxifying or neutralising of Pollutants, whether or not any of the foregoing are or should be performed by You or by others;
- (c) the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants caused by any of Your Products that have been discarded, dumped, abandoned or thrown away by others.

6. Product defect

Damage to Your Products if such Damage directly or indirectly arises out of or is in any way connected with:

- (a) any defect in them or their harmful nature;
- (b) their unsuitability for the purpose for which they were intended; or
- (c) their inherent vice or inefficiency or ineffectiveness.

7. Product recall

directly or indirectly arising out of, or in any way connected with, the removal, withdrawal, recall, inspection, repair, reconditioning, replacement or loss of use of Your Products or any property of which Your Products form a part if they are withdrawn from the market or from use because of any known or suspected defect or deficiency in them.

8. Professional liability

directly or indirectly arising out of or in any way connected with the provision by You or any one on Your behalf to provide professional advice or any error or omission connected therewith, except as provided under the Additional benefit for Inspections and valuations – errors and omissions on page 11. This exclusion will not apply where professional advice or service is given without fee or charge.

D. Perils exclusions

Your Policy does not cover any actual or alleged liability, costs or expenses directly or indirectly arising out of or in any way connected with:

1. Asbestos and silica

asbestos, silica products, silica fibres, silica dust, or any materials containing asbestos or silica in whatever form or quantity.

2. Assault and battery

assault and/or battery committed by You or at Your direction, but this exclusion will not apply when such assault and/or battery is committed for the purpose of preventing Personal Injury or Damage or eliminating danger to a person.

3. Your design errors, known faults or rectification of faults

- (a) Your designs, specifications or formulas or any error or omission in respect of such design, specification or formula, other than where such work was not provided for remuneration (such as a fee or commission) whether mixed with remuneration for other services or not;
- (b) Damage caused by faults or defects known to You or any Employee whose knowledge in law would be deemed to be Yours and which was not disclosed to Us at the time Your Policy was entered into;
- (c) the rectification of faulty workmanship, other than to the extent of the cover provided under the Additional Benefits – Rectification of faulty workmanship consequent upon Damage on page 11;
- (d) misrepresentation or misdescription of property for sale;
- (e) the misalignment or misplacement of any piles or castings or the cost of abandonment of them for any reason.

4. Normal losses

- (a) wear and tear, lack of reasonable maintenance, gradual deterioration or erosion, corrosion, rust, change in temperature, mechanical or electrical breakdown or derangement of machinery or equipment, dampness, dryness, wet or dry rot, shrinkage, evaporation, loss of weight, contamination, change in colour, flavour, texture or finish, vermin or insects;
- (b) Mould, Fungus/Fungi, Spore(s), mildew(s), mushroom(s), yeast(s) or biological contaminant(s), toxins, substances, vapours, gas, or other emission or organic or inorganic body or substance created or produced by or emanating from them, or the cost clean-up, remediation, containment, removal or abatement of the above.

5. Deliberate Damage, lack of due care and Employee dishonesty

- (a) intentional or reckless conduct by You or conduct occurring with Your or Your Employees' consent or arising from Your or Your Employees' failure to take reasonable precautions to prevent accidents which may give rise to a claim under this Policy;
- (b) Your being involved in any illegal trade or venture;
- (c) fraudulent or dishonest acts, fraudulent misappropriation, embezzlement and forgery by You or Your Employee(s) acting alone or in collusion with any other person(s);
- (d) circumstances where You or Your Employees have waived or restricted Your rights of recourse against any person, unless previously agreed in writing by Us;

- (e) You, Your managers, Your Employees or anyone for whom You are legally responsible being, with Your or Your managers' knowledge, under the influence of alcohol and/or drugs;
- (f) Your failure to comply with all statutory or other obligations and regulations imposed by any authority relating to inspection and testing;
- (g) any breach by You, or with Your consent, of any law, by-law, government, local government, statutory authority, or other legally constituted public body's regulation dealing with the storage of hazardous goods;
- (h) the failure to store all resins, fibre glass, solvents, cellulose based materials and the like outside buildings in suitable metal or brick structures, except for the amount of such materials that is required inside buildings in the course of conducting Your Ship Repair Business activities for that day, in which case these materials shall be kept inside buildings in secure metal containers.

6. Wilful acts

any actual or alleged:

- (a) dishonest, fraudulent, criminal, unlawful, or malicious act;
- (b) wilful breach of any statute, contract or duty;
- (c) conduct intended to cause loss, Damage or liability with reckless disregard for the consequences;

by You or any person acting with Your knowledge, consent or connivance.

7. Magnetism/Damage to data media

the presence of magnetic flux, or any loss of magnetism (except caused by lightning) or loss of or Damage to data carrying media.

8. Radioactive contamination, chemical, biological, bio-chemical and electromagnetic weapons

- (a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- (b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
- (c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- (d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to

radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes; or

- (e) any chemical, biological, bio-chemical, or electromagnetic weapon.

9. Terrorism

directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with any act of Terrorism, as defined herein, regardless of any other cause or Occurrence contributing concurrently or in any other sequence to the loss.

Your Policy also excludes and does not cover death, injury, illness, loss, Damage, cost or expense directly or indirectly caused by, contributed to by, resulting from, or arising out of or in connection with any action in controlling, preventing, suppressing, retaliating against, or responding to any act of Terrorism.

10. War

- (a) war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom or any hostile act by or against a belligerent power;
- (b) capture, seizure, arrest, restraint, or detainment (barratry and piracy excepted) and the consequences thereof or any attempt there at;
- (c) derelict mines, torpedoes, bombs or other derelict weapons of war;
- (d) destruction of or Damage to property by or under the order of any government or public or local authority.

11. Strike, lockout, labour disturbance

any strike, lockout, labour disturbance, riot, civil commotion or act of any person taking part in these, or from any act of any person acting maliciously.

E. Failure to notify

Your Policy does not cover You for any actual or alleged liability, costs or expenses directly or indirectly arising out of or in any way connected with:

- (a) any permanent or temporary alteration (which includes occupation, use and physical changes) to property situated at or brought onto Your Business Premises which increases the risk of loss, Damage or liability where You or Your Employees have failed to notify Us of any such alteration as soon as reasonably practicable;
- (b) an Occurrence involving loss or Damage to third party Watercraft covered by this Policy where You failed to notify Us within 30 days from the time the Occurrence, circumstance, claim, writ, summons, proceedings, impending prosecution, inquest or the like became known to You;

- (c) an Occurrence arising from a defect, design fault or faulty workmanship by You, where:

- (i) prior to the Occurrence, you became aware of the fault or defect, but failed to notify the owners and recall the vessel for rectification following delivery.

We may also (to the extent permitted by law) reduce any claim payment where the owner became aware of the fault or defect (or should have become aware as a result of normal maintenance or periodic servicing) but failed to notify You and take steps to have the fault corrected as soon as reasonably practical.

General conditions

These General Conditions are applicable to Your Policy.

If You do not comply with the General Conditions (other than the cancellation condition), We may cancel Your Policy and/or reduce or refuse to pay a claim, to the extent permitted by law.

Actions of parties other than You

The acts or omissions of:

- (a) a tenant of Yours; or
- (b) the owner of or another tenant in the building You occupy;

which results in a breach of any provision of Your Policy will not affect Your entitlement to cover provided that:

- (c) the act or omission was committed without Your prior knowledge; and
- (d) You notify Us of the happening or existence of the act or omission as soon as You become aware of it; and
- (e) You pay any reasonable extra premium that We require.

Assignment

No transfer of interest under this Policy or in any moneys which may be or may become payable under this Policy is to be binding on or recognised by Us unless a dated notice of such transfer of interest is signed by You, and by the party to whom the interest is being transferred to is provided to Us before the payment of any claim or return of premium being made under this Policy. Nothing in this condition is to be considered as an agreement by Us to a sale or transfer to a new entity.

Cross liability

Where the protection provided by Your Policy covers the interest of more than one party, any act or omission of an individual party will not prejudice the rights of the remaining parties, subject to:

- (a) General exclusion – Perils exclusion 6. Wilful acts; and
- (b) the remaining parties, immediately on becoming aware of any act or omission that increases the risk of loss, Damage or liability, giving notice in writing to Us and, on demand, paying such reasonable additional premium as We may require; and
- (c) the Limits and Sub limits within the Policy applying as though this General Condition did not apply.

Governing law and jurisdiction

Your Policy is governed by the laws of New Zealand. Any dispute relating to Your Policy shall be submitted to the exclusive jurisdiction of a New Zealand Court.

GST notice

Provided that GST is recoverable by Us, all Sums Insured, Limits of Indemnity and sub-limits specified in the Policy and Schedule are exclusive of GST. GST will be added, where applicable, to claim payments. If Your Sum Insured or Limit of Indemnity is not sufficient to cover Your loss, We will only pay the GST on the sum that relates to Our settlement of Your claim. Where any part of this Policy specifies any sum insured this amount excludes Goods and Services Tax.

Other Insurance/Non-Contribution Clause

Where You are aware of insurance or insurances already effected, or which may be subsequently effected covering, whether in whole or in part, Your liability or exposures which are the subject matter of this Policy, You are required to notify Us and must provide Us with full information and all reasonable assistance in the recovery of Our rateable proportion of any claim payments We make.

Premium adjustment

The premium for this Policy has been calculated on the estimate of Gross Earnings (without deduction for any subcontracted work) given by You. You must keep accurate records containing all relevant particulars of Your Gross Earnings and at any reasonable time allow Us (or Our auditors) to inspect such records.

Following the expiry of the Period of Insurance You must supply Us with such records as We may reasonably require to determine what the actual Gross Earnings figures were for the Period of Insurance.

The difference between the premium based on the actual figures at the end of the Period of Insurance and the premium calculated at inception will be paid by or allowed to You, as the case may be, but in any event a **minimum retained premium** equivalent to 75%, or as may otherwise be agreed, of the full premium based on the initial estimates will be retained by Us.

We agree to waive any adjustment of premium where the difference between the actual Gross Earnings and the estimate Gross Earnings given to Us by You is less than 10%, or where a deposit premium of \$5,000 or less was charged and the final adjusted premium based on actual figures supplied by You does not exceed \$5,000.

Prohibited cover or payments

Irrespective of any other provision of the Policy, We shall not be deemed to provide cover or be liable to pay any claim or provide any benefit (including a refund a premium) hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would contravene or otherwise expose Us to any

penalty, sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, New Zealand, the European Union, United Kingdom or United States of America.

Reasonable care and maintenance

You must take all reasonable care:

- (a) to prevent and/or minimise loss, Damage or liability;
- (b) to maintain Your Ship Repair Business and ship yard/ premises in sound condition, in particular to minimise or avoid loss, Damage or liability;
- (c) to comply with all statutory obligations, by-laws, regulations, public authority requirements and safety requirements, including those relating to fire appliances and the use and storage of hazardous goods;
- (d) to ensure that all welding and flame cutting complies with the most current standards, regulations and legislation regarding cutting and welding safety and its amendments and, where required, obtain a gas free certificate and/or any other authorisation which is legally required;
- (e) to comply with the manufacturer's recommendations for the use and maintenance of all equipment used;
- (f) to only employ competent Employees, agents and contractors and ensure they meet the requirements specified in Clauses (a) to (e) above;
- (g) take reasonable precautions to prevent the manufacture, sale or supply of defective Products;
- (h) at Your expense, take reasonable action to trace, recall or modify any Products containing any defect or deficiency, which defect or deficiency You have knowledge of or have reason to suspect.

Inspections

We (or agents appointed by Us) have the right to inspect and examine, by mutual appointment, any property, Business Premises or Watercraft which is the subject of this insurance.

Claims

A. As soon as You become aware of anything happening which may result in a claim under Your Policy, You must, at Your own expense:

- (i) contact Us as soon as possible to advise how the loss, Damage or liability occurred;
- (ii) take all reasonable action to minimise any possible claim;
- (iii) as far as possible, preserve any Products, appliances, plant or other items which might prove necessary or useful as evidence until We have had an opportunity to inspect them;
- (iv) give Us all the information, proof and assistance We may require to prosecute, defend or settle Your claim, including details of any other insurance effected by You or on Your behalf;
- (v) immediately send Us any claim, writ, summons, or full details of any relevant legal or other proceedings such as an impending prosecution or inquest that You receive or of which You become aware;
- (vi) at all times, give Us all the information and assistance We may reasonably require.

B. You must not:

- (i) admit liability for, take any action which may be considered to be an admission of liability for, or offer or agree to settle, any claim without Our written consent;
- (ii) authorise the repair or replacement of anything without Our agreement unless for safety reasons or to minimise or prevent further imminent loss, Damage, liability or injury;
- (iii) release, agree not to sue on, waive or prejudice, any right of recovery against any third party who would be liable to compensate You with respect to that loss, Damage or liability otherwise,

or We may refuse to pay Your claim, to the extent permitted by law.

- C. After You have advised Us of any loss, Damage or liability as set out in this General condition:
- (i) You must comply with all the terms of the General conditions before We will meet any claim under Your Policy;
 - (ii) We have the right to recover from any person against whom You may be able to claim any money paid by Us and We will have full discretion in the conduct, settlement or defence of any claim in Your name. The amount recovered will be applied first to reducing the amount by which Your loss exceeds the Deductible applied. Any balance remaining after You have been fully compensated for Your loss, up to the amount We have paid to You to settle Your claim (including Our legal fees and other costs for recovery), will be retained by Us;
 - (iii) We may take over and conduct, in Your name, the defence or settlement of any claim and We will have full discretion in the conduct of any proceedings in connection with the claim;
 - (iv) We may pay You the Limit of Indemnity under the Policy (after deduction of any sum or sums already paid by Us) or any lesser amount for which a claim or claims under the Policy may reasonably be settled. After We have paid You, We will no longer be liable for the claim(s) (or future conduct of the claim(s)) except for costs and expenses incurred up until the time We pay You, that We previously agreed to pay.



For all enquiries please call your insurance intermediary

amandtnewzealand.co.nz

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Level 11, Tower 1, 205 Queen Street, Auckland, New Zealand 1010.
AM&T New Zealand is a division of Allianz New Zealand.

POL859BA/NZ 03/18

