



# Commercial Hull Insurance

## Policy Wording

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# ABOUT THIS INSURANCE

## ABOUT ZURICH

The insurer of this product is Zurich Australian Insurance Limited (ZAIL), ABN 13 000 296 640, AFS Licence Number 232507. In this document, ZAIL may also be expressed as '*Zurich*', '*we*', '*us*' or '*our*'.

ZAIL is part of the Zurich Insurance Group, a leading multi-line insurer that serves its customers in global and local markets. Zurich provides a wide range of general insurance and life insurance products and services in more than 210 countries and territories. Zurich's customers include individuals, small businesses, mid-sized and large companies, including multinational corporations.

## ABOUT PROTEUS MARINE INSURANCE

Proteus Marine Insurance is a business name of NM Insurance Pty Ltd ABN 34 100 633 038 AFS Licence Number 227 186 ('NM Insurance').

NM Insurance is a company within the Steadfast Underwriting Agencies division of Steadfast Group Limited ABN 98 073 659 677 ('SGL').

## CONTACT DETAILS

**The contact details for Proteus Marine Insurance are:**

Level 7, 99 Walker Street, North Sydney, NSW, 2060

Email: [customerservice@proteusinsurance.com.au](mailto:customerservice@proteusinsurance.com.au)

Phone: 1300 767 231

### To make a claim

If an *event* happens which may give rise to a claim, please refer to 10.1 'What you should do in the event of claim' on page 27. If you'd like to make a claim or to enquire about an existing claim please contact:

- Proteus by sending an email to:  
[Claims@proteusinsurance.com.au](mailto:Claims@proteusinsurance.com.au)
- Proteus by calling – 1300 767 251

## AUTHORITY TO ACT ON OUR BEHALF

We have given Proteus Marine Insurance a binding authority to administer and arrange insurance policies, alterations and renewals and manage claims. Under the terms of this binding authority Proteus Marine Insurance acts as *our* agent, and not *yours*, but liability within the terms and conditions of this policy remain at all times with *us*. If *you* have any queries in relation to *your* policy, please contact Proteus Marine Insurance.

# DUTY OF DISCLOSURE

This contract of insurance will be governed by either the Insurance Contracts Act 1984 (Cth) or the Marine Insurance Act 1909 (Cth).

## DUTY OF DISCLOSURE UNDER THE INSURANCE CONTRACTS ACT 1984

Before *you* enter into an insurance contract, *you* have a duty, under both the Insurance Contracts Act 1984 (Cth) and the Marine Insurance Act 1909 (Cth), to tell *us* anything that *you* know, or could reasonably be expected to know, that 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, or both.

If *your* failure to tell *us* is fraudulent, *we* may refuse to pay a claim and treat the contract as if it never existed.

## DUTY OF DISCLOSURE UNDER THE MARINE INSURANCE ACT 1909

*Your* attention is drawn to Sections 23 to 27 of the Marine Insurance Act 1909 (Cth) and, in particular, that any contract of marine insurance is based on utmost good faith and in the absence of such good faith, may be avoided. Further, the *insured* has an obligation to disclose to *us* every material circumstance which is known to the *insured* and/or which in the ordinary course of business ought to be known by the *insured*. Every circumstance is material if it would influence the judgement of a prudent insurer in fixing the *premium* or determining whether he will take the risk. If there is a failure to make such disclosure, *we* may avoid the contract.

## NON-DISCLOSURE OR MISREPRESENTATION

If the *insured* makes a misrepresentation to *us*, or if they do not comply with this duty of disclosure and *we* issue this policy with terms and conditions that are different to the terms and conditions that would have been issued had there not been any misrepresentation, or the *insured's* duty of disclosure had been complied with, then:

- *we* may reduce the cover provided so that *we* are placed in the same position as *we* would have been in, had there not been any misrepresentation and the *insured's* duty of disclosure had been complied with; and
- *we* may also cancel this policy; or
- *we* may treat this policy as if it never existed if the misrepresentation or the non-compliance with the *insured's* duty of disclosure was fraudulent.

# OUR CONTRACT WITH YOU

This *policy* is a contract of insurance between the *insured* and *Zurich* and contains all the details of the cover that *we* provide.

This *policy* is made up of:

- the policy wording. It states what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
- the proposal, which is the information *you* provide to *us* when applying for insurance cover;
- the most current *schedule* issued by *us*. The *schedule* is a separate document unique to the *insured*. It includes any changes, exclusions, terms and conditions made to suit the individual circumstances and may amend the policy; and
- any other written change otherwise advised by *us* in writing (such as an *endorsement*). These written changes vary or modify the above documents.

Please note, only covers shown in the *schedule* are insured. This document is used for any offer of renewal *we* may make, unless *we* tell *you* otherwise. Please keep *your* policy in a safe place. *We* reserve the right to change the terms of this product where permitted to do so by law.

## PRIVACY

Zurich is bound by the Privacy Act 1988 (Cth). *We* collect, disclose and handle information, and in some cases personal or sensitive (eg health) information, about *you* ('your details') to assess applications, administer policies, contact *you*, enhance *our* products and services and manage claims ('Purposes'). If *you* do not provide *your* information, *we* may not be able to do those things. By providing *us*, *our* representatives or *your* intermediary with information, you consent to *us* using, disclosing to third parties and collecting from third parties *your* details for the Purposes.

*We* may disclose *your* details, including *your* sensitive information, to relevant third parties including *your* intermediary, affiliates of Zurich Insurance Group Ltd, other insurers and reinsurers, *our* banking gateway providers and credit card transactions processors, *our* service providers, *our* business partners, health practitioners, *your* employer, parties affected by claims, government bodies, regulators, law enforcement bodies and as required by law, within Australia and overseas.

*We* may obtain *your* details from relevant third parties, including those listed above. Before giving *us* information about another person, please give them a copy of this document. Laws authorising or requiring *us* to collect information include the Insurance Contracts Act 1984 (Cth), Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), Corporations Act 2001 (Cth), Autonomous Sanctions Act 2011 (Cth), A New Tax System (Goods and Services Tax) Act 1999 (Cth) and other financial services, crime prevention, trade sanctions and tax laws.

Zurich's Privacy Policy, available at [www.zurich.com.au](http://www.zurich.com.au) or by telephoning *us* on 132 687, provides further information and lists service providers, business partners and countries in which recipients of *your* details are likely to be located. It also sets out how *we* handle complaints and how *you* can access or correct *your* details or make a complaint.



# GENERAL INSURANCE CODE OF PRACTICE

*Zurich* is a signatory to the General Insurance Code of Practice (the Code) and Proteus Marine Insurance supports the Code.

The objectives of the Code are:

- to commit *us* to high standards of service;
- to promote better, more informed relations between *us* and *you*;
- to maintain and promote trust and confidence in the general insurance industry;
- to provide fair and effective mechanisms for the resolution of complaints and disputes you make about *us*; and
- to promote continuous improvement of the general insurance industry through education and training.

The Code Governance Committee is an independent body that monitors and enforces insurers compliance with the Code.

Further information about the Code or the Code Governance Committee and *your* rights under it is available at <https://insurancecouncil.com.au/cop/> or by contacting *us*.

## COMPLAINTS AND DISPUTES RESOLUTION PROCESS

If *you* have a complaint about an insurance product *we* have issued or the service *you* have received from *us*, please contact *your* intermediary to initiate *your* complaint with *us*. If *you* are unable to contact *your* intermediary, *you* can contact *us* directly on 1300 767 251. *We* will acknowledge receipt of *your* complaint within 24 hours or as soon as practicable.

If *you* are not satisfied with *our* initial response, *you* may access *our* internal dispute resolution process. Please refer to the Feedback & Complaints section on the Proteus Marine Insurance website for details of *our* internal dispute resolution process.

*We* expect that *our* internal dispute resolution process will deal fairly and promptly with *your* complaint, however, *you* may take *your* complaint to the Australian Financial Complaints Authority (AFCA) at any time.

AFCA is an independent external dispute resolution scheme. *We* are a member of this scheme and *we* agree to be bound by its determinations about a dispute. AFCA provides fair and independent financial services complaint resolution that is free to *you*.

### **Their contact details are:**

**Website:** [www.afca.org.au](http://www.afca.org.au)

**Email:** [info@afca.org.au](mailto:info@afca.org.au)

**Freecall:** 1800 931 678

**In writing to:** The Australian Financial Complaints Authority, GPO Box 3, Melbourne, Victoria 3001.

If *your* complaint or dispute falls outside the AFCA Rules, *you* can seek independent legal advice or access any other external dispute resolution options that may be available to *you*.

# COMMERCIAL HULL INSURANCE POLICY WORDING

In return for paying the premium to *us*, we will give *you* the cover described in the policy for events which occur during the *period of insurance* shown in *your schedule*.

## 1. DEFINITIONS

Where the following words appear in the *policy*, *your schedule* or endorsements this is what they mean:

### 1.1 ACCESSORIES

*accessories* mean items manufactured and intended for use on *your vessel* that are portable or not permanently attached to the *hull*. This includes *your vessel* covers and canopies, batteries, portable fuel tanks, anchors, paddles, oars, *vessel tender* and similar items used for safety *equipment* as required by any legislative requirement.

### 1.2 AGREED VALUE

*agreed value* means the amount *we* agree to insure *your vessel* for, as specified in *your schedule*. If *we* have issued an Agreed Value Policy, *your schedule* will show the agreed value.

### 1.3 COMMUNICABLE DISEASE

*communicable disease* means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

- 1.3.1 the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
- 1.3.2 the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
- 1.3.3 the disease, substance or agent can cause or threaten bodily injury, illness, damage to human health, human welfare or property.

### 1.4 CONTENTS

*contents* mean portable household goods, appliances, refrigerators, microwave ovens, televisions, glassware, crockery, cutlery and cooking utensils for use on *your vessel*, and which is only kept on *your vessel*. The limit of cover for *contents* is included in the *total sum insured* specified in *your schedule*. *Contents* does not include antiques, ornaments, works of art, jewellery, precious stones, furs, curios, collectibles, items that contain gold and silver, bonds, cash, credit cards, cheques and any similar financial items, cameras, portable radios, mobile phones, electronic organisers, tools of trade, bicycles, computers, software and computing equipment or *personal effects*.

### 1.5 CREW

*crew* means any person including the *master* or *skipper* working on board *your vessel* as an employee.

### 1.6 DAMAGE

*damage* means any form of physical harm that occurs to *your vessel* during the *period of insurance*, excluding any normal wear and tear or any physical harm evident prior to the *policy* being incepted.

## 1.7 DEDUCTIBLE

*deductible* means the amount *you* must bear when a claim is accepted under the policy as specified in *your schedule* or shown within the *policy*.

## 1.8 DIVING EQUIPMENT

*diving equipment* means recognised and commercially manufactured sports *diving equipment* including regulators, tanks and buoyancy compensation devices owned hired or leased by *you*.

## 1.9 ENDORSEMENT

*endorsement* means an amendment made to and forming part of the policy which is evidenced by an Endorsement Schedule.

## 1.10 EQUIPMENT

*equipment* means items manufactured and intended for use on *your vessel* that are portable or not permanently attached to the *hull*, inclusive of depth sounders, marine radios/transceivers, navigation equipment, fish finders, and tools.

## 1.11 EVENT

*event* means a sudden, unexpected and accidental occurrence which happens within the *period of insurance*. An occurrence caused by the same, repeated general harmful condition that results in an occurrence within the *period of insurance*, unless an excluded cause of loss, is considered to be one occurrence.

## 1.12 FISHING GEAR

*fishing gear* means rods, reels, tackle and other similar equipment owned or leased by *you* and used for the purpose of recreational/sport or commercial fishing..

## 1.13 HULL

*hull* means the shell of *your vessel*, deck, fixtures and fittings either on or below deck that are not normally removable and would normally be sold with *your vessel*.

## 1.14 LATENT DEFECT

*latent defect* means a hidden flaw or defect in the construction of the *vessels* that is not known to *you* and is not readily discoverable by a competent trades person having the necessary skills or qualifications to detect such flaw.

## 1.15 LEGAL LIABILITY

*legal liability* means *your responsibility* at law arising out of the use of *your vessel* to pay compensation for death or injury or *damage* to property of other people, excluding any property owned by *you* or in *your* physical or legal control.

## 1.16 LOSS

*loss* means any *damage*, destruction, death, injury, illness, liability, costs or expenses from the use of *your vessel* during the period of insurance.

## 1.17 MALICIOUS DAMAGE

*malicious damage* means intentional *damage* to *your vessel* by someone other than *you* and without *your* consent and knowledge.

## 1.18 MARKET VALUE

*market value* means the retail value of a vessel with a similar type, age and condition to *your vessel* immediately before the *loss* or *damage* occurred, with adjustment for special features, if any, exclusive of GST. *We* may use recognised industry publications to calculate the value of *your vessel*.

## 1.19 MASTER OR SKIPPER

*master or skipper* means any person employed by *you* or on *your* behalf under an employment agreement and as the crew member to be in charge of the shipboard management and navigation of *your vessel*.

## 1.20 MOTOR/MACHINERY

*motor/machinery* means stern drive units, inboard and outboard engines as specified in *your schedule* and which includes propellers, shafts, gearboxes, skegs, jet units, wiring harnesses, instruments, portable fuel tanks, batteries, control cables, desalinators, thrusters, and generators including ancillaries necessary for the operation of the *machinery*.

## 1.21 NAVIGATIONAL LIMITS

*navigational limits* means the area in which *your vessel* is licensed to operate in and as noted on *your schedule*.

## 1.22 PERIOD OF INSURANCE

*period of insurance* means the period of time that *you* are covered by the *policy*. It commences at the time *we* agree to insure *you* and finishes at 4.00pm on the date of expiry of the *policy*. This period is shown on *your schedule*.

## 1.23 PERSONAL EFFECTS

*personal effects* mean. clothing, waterproof gear, shoes, wallets or purses, toilet articles, hats or caps, keys or pens, , cameras and portable radios , but excluding money, credit cards, spectacles, sunglasses, mobile phones, watches, jewellery or , consumable stores.

## 1.24 POLICY

*policy* means *your* insurance contract with *us*. It includes this document, *your* insurance application, and *your schedule*, including any endorsements issued by *us*.

## 1.25 PREMIUM

*premium* means the *premium* specified on the relevant *schedule* or any *endorsement schedule*.

## 1.26 PROPERTY DAMAGE

*property damage* means:

- 1.26.1 *physical damage* to, or *loss* of or destruction of tangible property, including the subsequent *loss* of use of that property;
- 1.26.2 *loss* of use and/or *loss* of value of tangible property that has not been physically damaged, physically lost or physically destroyed provided such *loss* of use and/or *loss* of value is caused by physical *damage* to, physical *loss* of or physical destruction of other tangible property;
- 1.26.3 denial of access to property, premises, services or facilities, interference with or stoppage of vehicular or pedestrian traffic; or
- 1.26.4 trespass, nuisance or interference with right of way or right to light air or water, easement or quasi-easement.

## 1.27 REGULATORY AUTHORITY

*regulatory authority* means government departments, agencies or corporations charged with the development, regulation or supervision of laws.

## 1.28 SALVAGE

*salvage* means either the action of saving *your vessel* in a time of peril or what is left of *your vessel* after it has suffered *damage*.

### 1.29 SALVAGE CHARGES

*salvage charges* mean reasonable charges and expenses which are incurred in *salvage* or in preventing or minimizing *damage to your vessel*.

### 1.30 SCHEDULE

*schedule* means the Schedule attaching to and forming part of the *policy*, which includes any *schedule* substituted for the original *schedule*.

### 1.31 SEAWORTHY

*seaworthy* means a vessel that meets legislative requirements to be a vessel on the sea, and is otherwise well maintained, in good repair, adequately manned by competent *crew*, properly equipped and provisioned, and in all respects in a condition to withstand the ordinary perils of the sea.

### 1.32 TERRORISM

*terrorism* means any act(s), of any person(s) or organisation(s) involving:

1.32.1 the causing, occasioning or threatening of harm of whatever nature and by whatever means; or

1.32.2 putting the public or any section of the public in fear;

in circumstances in which it is reasonable to conclude that the purpose(s) of the person(s) or organisation(s) concerned are wholly or partly of a political, religious, ideological, or similar nature.

### 1.33 TOTAL SUM INSURED

*total sum insured* means the amount we have agreed to insure *your vessel* for and is the total of the values for the *hull, motors/machinery, sails, masts, spars, standing and running rigging, equipment and accessories and trailer*. This limit will be specified in *your schedule*.

### 1.34 TOTAL LOSS

*total loss* means where *your vessel* is so damaged that the cost of repair, including *salvage charges*, exceeds the *market value, agreed value or total sum insured* value of *your vessel*, taking into account any legislative requirement to allow for this determination.

### 1.35 TRAILER

*trailer* means a vehicle designed to be towed by a motor vehicle and used in transporting *your vessel* specified on *your schedule*. It must be roadworthy, and in a condition that complies with legislative requirements.

### 1.36 VESSEL

*vessel* means the Vessel or Vessels specified on *your schedule*, including its *hull and contents, motors* (including fuel tanks), *masts, spars, rigging and sails, trailer, equipment and accessories and vessel tender*. It includes any replacement vessel.

It excludes modifications *you* have not told *us* about or which are not shown on *your schedule*.

### 1.37 VESSEL TENDER

*vessel tender* means an auxiliary vessel or dinghy used as a life vessel or means of transportation between *your vessel* and shore.

### 1.38 WATERCRAFT

*watercraft* means any vessel, craft or thing made, or intended to float on or in, or travel on or through or under water.

### 1.39 WE, US, OUR

*we, us, our* means Proteus Marine Insurance acting as agent of Zurich Australian Insurance Limited.

### 1.40 YOU, YOUR

*you or your* means the person or persons named as the insured on *your schedule*. If more than one person is named as the insured, *we* will treat a statement, act, omission or claim of any one of those people as a statement, act, omission or claim by all those people.

## 2. INSURED PERILS

Subject to the *limit of liability* and the terms and conditions of the *policy*, *you* are covered for *Loss or damage to your vessel* caused by any of the following insured *events*:

### 2.1 ACCIDENTAL DAMAGE

2.1.1 if *your vessel* is damaged accidentally; or

2.1.2 if *your vessel* sinks accidentally, provided it was in *seaworthy* condition at the time of sinking,

while navigating or in transit within the *navigational limits* specified in *your schedule* including while *your vessel* is at any marina, slipway or location when laid-up ashore.

Exclusions applicable to Accidental Damage.

*You* are not covered for:

- (a) *loss or damage* or sinking, intentionally caused by *you* or a person acting with *your* express or implied consent unless required by law;
- (b) any *loss or damage* or sinking caused by or arising from the unseaworthiness or lack of repair of *your* commercial vessel including wear and tear, deterioration, wet or dry rot, rusting or other forms of corrosion, vermin, marine growth or delamination;
- (c) mechanical, structural electrical or electronic failures unless caused by an accident covered by the *policy*;
- (d) *damage* to sails and protective covers caused by the force of wind while set unless there has also been *damage* caused to the masts and spars or the commercial *vessel* has been stranded or in collision or contact with any external substance other than water;
- (e) the cost of repairing or replacing any part of *your vessel* defective by reason of fault or error in design or construction;
- (f) unrepaired *damage* to *your vessel*; or
- (g) financial *loss* which occurs because *you* cannot use *your vessel* unless *you* have requested and *we* have agreed to provide the optional Loss of Hire/Income extension (Section 6.2).

### 2.2 LATENT DEFECT

*damage* to *your vessel* arising from a *latent defect* provided such defect is found only within the *hull* or *motors/machinery* of *your vessel*.

Exclusions applicable to Latent Defect.

*You* are not covered:

2.2.1 if the *latent defect* resulted from a lack of due diligence on *your* part; or

2.2.2 for the actual cost of repairing or replacing the *latent defect* or the *latently defective* part.

## 2.3 THEFT

theft of *your vessel* and/or its *contents*.

Exclusions applicable to Theft.

*You* are not covered for:

- 2.3.1 theft of *contents* unless there is evidence of violent and forcible entry into *your vessel* or the *loss* involves violent and forcible removal of the items from the place of storage on *your vessel*; or
- 2.3.2 theft by persons to whom *you* have loaned or hired *your vessel*.

## 2.4 MALICIOUS DAMAGE

if *your vessel* is damaged maliciously.

Exclusions applicable to Malicious Damage

*You* are not covered for *malicious damage* caused by *you* or a person acting with *your* express or implied consent.

## 2.5 TRANSIT DAMAGE

- 2.5.1 *damage* resulting from an *event* which occurs whilst *your vessel* is being transported by road, rail or ship provided *your vessel* is designed to be normally trailered and *you* are complying with all statutory requirements.
- 2.5.2 accidental *damage* to *your vessel* whilst a professional road transporter is transporting *your vessel* provided *you* inform *us* beforehand, and *we* have agreed to extend cover in writing.

# 3. ADDITIONAL COVER

In addition to the *limit of liability* the *policy* will also cover *you* for:

## 3.1 PERSONAL EFFECTS

*We* will pay up to \$5,000 per *event* and in the aggregate for *loss* or *damage* to *personal effects*.

*Our* payment under this Additional Cover will not be in addition to the *total sum insured* for *your vessel*. Proof of ownership will be required to substantiate any claim payable under this Additional Cover. Unless otherwise agreed in the *policy*, the *deductible* for this coverage is \$500.

Theft of *personal effects* is excluded unless there is physical evidence of violent and forcible entry into *your vessel* or the *loss* involves violent and forcible removal of the *personal effects* from the place of storage on *your vessel*.

## 3.2 SPORTS, FISHING AND/OR DIVING EQUIPMENT

*We* will pay up to \$20,000 per *event* with a limit of \$2,000 *any one item* for *loss* or *damage* to *your sports, fishing and diving equipment* provided that they are being stored on *your vessel* at the time of *loss* or *damage*.

Proof of ownership is required to substantiate a claim under this Additional Cover. *Our* payment under this Additional Cover will not be in addition to the *total sum insured* for *your vessel*. Unless otherwise agreed in the *policy*, the *deductible* for this coverage is \$500.

Theft of *your sports, fishing and diving equipment* is excluded unless there is evidence of violent and forcible entry into *your vessel* or the *loss* involves violent and forcible removal of the items from the place of storage on *your vessel*.

### 3.3 EMERGENCY TRANSIT

We will pay up to \$2,000 per *event* and in the aggregate towards the cost of towing *your vessel* in an emergency to *your home port* or the nearest place where repairs can be made.

*Our* payment under this Additional Cover will be in addition to the *total sum insured for your vessel*. Unless otherwise agreed in the *policy*, no *deductible* will apply to this Additional Cover.

### 3.4 ARREST OR DETENTION

We will pay for *damage* together with reasonable legal fees and expenses incurred in obtaining the release of *your vessel* following impounding, arrest, detention, confiscation or any similar act by any legislative requirement as a result of any act committed without *your* knowledge by a hirer, *master* or *skipper*, or *crew* member.

Cover will not be provided under this Additional Cover if the *damage* to *your vessel* would also be covered under sections 2.1 to 2.5 above. Payment under this Additional Cover will not be in addition to the *total sum insured for your vessel*.

Unless otherwise agreed in the *policy*, the basic deductible shown on *your schedule* will apply.

### 3.5 REGULATORY AUTHORITY

We will pay for *damage* caused directly by any *regulatory authority* acting in the interests of public welfare to prevent or mitigate a pollution hazard, or the threat of a pollution hazard, which has arisen directly from *damage* which is covered by the *policy*.

There is no cover under this Additional Cover if the act of the *regulatory authority* has resulted from a lack of due diligence by *you* to prevent or mitigate such hazard or threat.

No cover will be provided under this Additional Cover if the *damage* to the *vessel* would also be covered under sections 2.1 to 2.5 above.

Payment under this Additional Cover will not be in addition to the *total sum insured for your vessel*. Unless otherwise agreed in the *policy*, the basic *deductible* shown on *your schedule* will apply.

### 3.6 EXPENSES TO AVOID OR MINIMISE LOSS

We will pay the reasonable cost to minimise *damage* resulting from an *event*.

Cover for this Additional Cover will be limited to cost incurred in:

- 3.6.1 removing *your vessel* to safety (including emergency towing);
- 3.6.2 drying all of the electrical equipment on the *motor*; and
- 3.6.3 cleaning and oiling of the *motor* by a qualified mechanic.

Cover will not be provided under this Additional Cover if the *damage* would also be covered under sections 2.1 to 2.5 above.

*You* do not need *our* authority to take such action if it is an emergency and *you* are unable to obtain *our* authority. However, *you* must advise *us* as soon as possible after the action has been taken.

These emergency costs are paid in addition to the *total sum insured* shown on *your schedule* for *your vessel*.



### 3.7 NEGLIGENCE/WRONGFUL ACT OF MASTER, SKIPPER, CREW, HIRERS

We will pay *damage* arising out of the negligence or wrongful act of the *master* or *skipper*, *crew* and hirers.

No cover is available if the *damage* was a result of a lack of due diligence by *you* or the *vessel* owners or managers.

Cover will not be provided under this Additional Benefit if the *damage* to *your vessel* would also be covered under sections 2.1 to 2.5 above, or under section 4 of the *policy*.

Unless otherwise agreed in the *policy*, the basic *deductible* specified in *your schedule* will apply.

Payment under this Additional Cover will not be in addition to the *total sum insured* for *your vessel*.

### 3.8 SHORE COVER

Provided the *damage* is covered under the *policy*, the *policy* is extended to provide coverage whilst *your vessel* or part of *your vessel* is ashore being repaired, overhauled or being refitted. Coverage will also be provided during transit to and from, of *your vessel* for that purpose.

Payment under this Additional Cover will not be in addition to the *total sum insured* for *your vessel*. Unless otherwise agreed in the *policy*, the basic deductible specified in *your schedule* will apply.

## 4. LEGAL LIABILITY

This Legal Liability coverage is subject to all *policy* terms, conditions, and exclusions.

We will reimburse *you* for any sum that *you* become legally liable to pay in respect of any of the following:

- 4.1 physical *loss* or *damage* to any other vessel, or property on such other vessels, or any other fixed or movable object whatsoever, which arises from *your* ownership or use of *your vessel*;
- 4.2 *accidental death* or bodily injury (excluding *you*, *your crew* and employees) which results from *your* ownership or use of *your vessel*;
- 4.3 *loss* or *damage* to third party property resulting from the transportation of *your vessel* on land provided not otherwise insured; or
- 4.4 costs associated with *your vessel* being damaged or sinking accidentally and if we decide to recover it or if the law requires that it must be removed, we will pay the reasonable costs of the removal/recovery of the wreck provided it was in seaworthy condition at the time of sinking. These costs are recoverable in addition to the *total sum insured* of *your vessel* and are subject to a limit of \$10,000,000 each and every *loss* or series of losses caused by the one insured event.

## 5. ADDITIONAL BENEFITS

This *policy* includes the following additional benefits subject to the exclusions and general conditions listed in the *policy*.

### 5.1 POLLUTION LIABILITY – COMMERCIAL USE

We will cover *your legal liability* in connection with:

- 5.1.1 *property damage* caused by or arising from a sudden unexpected and unintended discharge directly or indirectly arising from the release or escape of fuel or lubricants from *your vessel* occurring at a clearly identifiable time and place during the *period of insurance*, provided that the fuel or lubricants are being used in connection with the operation of *your vessel* at the time of *loss* or *damage*;
- 5.1.2 clean-up costs following an *event* set out in sections 2.1 to 2.5 above, provided *you* are liable for the clean-up and discharge, emission, spillage or leakage and was not caused by *your* willful misconduct or negligence, subject to a limit of \$1,000,000 each and every *loss* or series of losses caused by the one insured *event*.

This extension of cover excludes:

- (a) death, bodily injury or illness;
- (b) contractual or assumed liability;
- (c) any *loss* of use or consequential *loss*; and
- (d) breach of any Federal, State or Local legislation regulating or controlling the discharge, spillage, emission or leakage of oil or any other substance into navigable waters or elsewhere or removal of or liability for discharge, spillage emission or leakage.

### 5.2 CREW ACCIDENT COVER

If a person acting in their capacity as a paid permanent *skipper* or paid *crew* member of *your vessel* suffers a bodily injury as a result of an accident during the *period of insurance* and caused directly out of the use of *your vessel* that results within six calendar months in either:

- 5.2.1 death;
- 5.2.2 temporary total disablement; or
- 5.2.3 permanent total disablement;

We will pay:

- (a) the sum of \$25,000 for death;
- (b) the sum of \$250 per week, limited to 100 weeks for temporary total disablement; or
- (c) the sum of \$25,000 for permanent total disablement.

To qualify for payment, the injured person must obtain and follow advice of a qualified medical practitioner (other than his or her spouse) as soon as possible after the accident.

## 6. ADDITIONAL OPTIONAL COVER AVAILABLE

### 6.1 PASSENGER LIABILITY – COMMERCIAL USE

If we have agreed to cover *you* and have shown it in *your schedule*, we will cover *you* or any person allowed by *you* to control *your vessel* (within the requirements of any law) against legal liability for:

- 6.1.1 accidental death or bodily injury to a passenger:
  - (a) while being carried by *your vessel*; or
  - (b) while entering or leaving *your vessel* including a jetty, pontoon or wharf operated or maintained by *you*; or
  - (c) caused by food and drink prepared and served by *you*.
- 6.1.2 accidental *damage* to *personal effects* of a passenger while on *your vessel*, subject to a limit of \$200 any one item to a maximum of \$2,000 in total for any one passenger for any *loss* or series of losses caused by the one insured *event*, (unless otherwise specified in *your schedule*).

### 6.2 LOSS OF HIRE/INCOME

- 6.2.1 This cover is extended to indemnify *you* for *your loss* of net income in consequence of *your vessel* being partially or totally prevented from earning net income as a result of *loss* or *damage* to *your vessel* covered by section 5.1, 5.2 or 6.1 occurring during the *period of insurance*.
- 6.2.2 The maximum period of indemnity is thirty (30) consecutive calendar days (unless otherwise specified in *your schedule*) after the application of the *deductible*, subject to the following:
  - (a) the maximum daily indemnity is limited to \$500 per day (unless otherwise specified in *your schedule*);
  - (b) the maximum amount payable by *us* shall not exceed \$15,000 in the aggregate any one *loss* or series of losses caused by the one insured event (unless otherwise specified in *your schedule*); and
  - (c) in the event of a total or constructive *total loss* of *your vessel*, the maximum amount payable by *us* is \$15,000 (unless otherwise specified in *your schedule*).

#### 6.2.3 Deductible

The first thirty (30) days (unless otherwise specified in *your schedule*) that *your vessel* is prevented from earning net income as a result of the insured event forming part of the claim. This deductible shall not apply in the event of a total or constructive total loss of *your vessel*.

#### 6.2.4 Exclusions

This cover excludes *loss* of net income arising from:

- (a) *loss, damage* or occurrence excluded by section 2 of the *policy*.
- (b) any delay caused by the insolvency or inability to pay of *you* or *your* clients.
- (c) *loss, damage* or expense caused by *your* wilful misconduct.
- (d) *loss, damage* or expense caused by delay.
- (e) *loss, damage* or expense caused by war, governmental acts, requisition or seizure by legal process.
- (f) *loss, damage* or expense caused by civil commotions, riots, strikes, lockouts, sabotage, industrial action or other similar causes.
- (g) *loss, damage* or expense caused directly or indirectly by radiation, radioactive material, nuclear process or from nuclear weapons or material.
- (h) any fine or penalty.

## CLAIMS PROVISIONS

### 6.2.5 Basis of valuation

The actual revenue for a claim under the *policy* shall be evidenced by booking schedules for the corresponding period for the previous year. If no evidence can be provided to demonstrate that *your vessel* would have earned any income during the period of indemnity, the daily indemnity shall be limited to the running costs of *your vessel* for that period.

### 6.2.6 Recoveries

Where a recovery for *loss* of net income is obtained from a third party, *we* are entitled to this recovery to the extent of the amount paid by them.

### 6.2.7 Separate repair periods

Where, due to a single insured event, *your vessel* is prevented from earning net income on separate occasions (not exceeding three by reason of repairs, these separate occasions may be added together to arrive at the total claim, provided that repairs are completed within twelve (12) months of the expiry of the *policy*. The period *your vessel* is prevented from earning net income will be counted irrespective of the expiry date of the *policy* provided that repairs are completed within twelve (12) months of the expiry of the policy.

### 6.2.8 Organisation of repairs

All repairs shall be arranged with due diligence and promptness. *We* have the right to request *you* to incur any expense that would reduce their liability under the *policy* provided *we* shall pay for these expenses.

### 6.2.9 Common time/simultaneous repairs

Where *damage* repairs are carried out at the same time as other repairs for *your* account which are immediately necessary for safety purposes or to allow *your vessel* to earn net income and which are not claimable under the *policy*, the net income lost during as much time as is common to both classes of work in excess of the *deductible* shall be divided equally between *us* and *you*. If the time necessary to effect *damage* repairs is extended by any other repairs for *your* account, the period of indemnity is limited to the time that would have been taken to effect *damage* repairs caused by the insured event had they been effected alone.

### 6.2.10 Notification

All possible claims are to be reported to *us* as soon as possible and *we* are to be notified before any repairs are carried out.

## OTHER PROVISIONS

### 6.2.11 Sale of vessel

Should *your vessel* be sold, this extension is automatically cancelled. In this event, *we* agree to return a pro-rata net monthly *premium*, provided there are no claims on the *policy* prior to cancellation.

### 6.2.12 Automatic reinstatement

The indemnity granted by this extension is limited to the amount specified in *your schedule* and shall be reduced by any claims paid. Reinstatement of the indemnity specified in *your schedule* shall be automatic excluding claims for total and/or constructive *total loss*, subject to payment of the appropriate additional premium plus government charges (where applicable).

## 7. LEGAL LIABILITY EXCLUSIONS

We will not cover any liability, cost or expense in respect of:

- 7.1 death or bodily injury to *you* or *your crew*;
- 7.2 *loss of or damage* to any cargo or property owned by *you* or *your crew* or in *your* custody or control or the cargo or property of any other person covered by the *policy*;
- 7.3 death or bodily injury caused by the use of a *trailer* while it is attached to a motor vehicle or it breaks away or accidentally detaches from the vehicle;
- 7.4 death or bodily injury or *property damage* intentionally caused by a person covered by the *policy*;
- 7.5 bodily injury to, or the illness or death of, a person who is covered (or should have been covered) by any compulsory compensation insurance, including any compulsory third party insurance and Workers' Compensation insurance;
- 7.6 death or bodily injury to paying passengers unless *you* pay an additional premium and *we* agree to provide the optional 'Passenger liability – Commercial use' extension (see section 6.1);
- 7.7 death or bodily injury caused by the activity of:
  - (a) scuba diving, diving or diving operations, or in connection with the supplying, usage and/or instructions in the use of *diving equipment*, *diving accessories* and similar equipment,
  - (b) boom netting, water skiing or aquaplaning,
  - (c) snorkeling or tunnel diving,
  - (d) towing of persons or objects in the air including parasailing, or
  - (e) any other similar activity involving swimming by persons carried by *your vessel*;
- 7.8 the liability of any trades person or company engaged in repair, service or maintenance of *your vessel*;
- 7.9 the use of any fishing, sports, waterskiing or aquaplaning equipment;
- 7.10 towing vessels unless the vessel(s) is in distress and in response to a distress call from another vessel;
- 7.11 *loss, damage* or expense caused directly or indirectly by radiation, radioactive material, nuclear process or from nuclear weapons or material;
- 7.12 actions that are brought against *you* in a Court or Tribunal outside Australia or a Court or Tribunal that applies laws other than the law of a State or Territory of Australia;
- 7.13 any fine or penalty;
- 7.14 aggravated, exemplary or punitive damages; or
- 7.15 the carrying or passing on of any infectious disease or virus.

## 8. GENERAL EXCLUSIONS APPLICABLE TO ALL SECTIONS

### 8.1 NAVIGATIONAL LIMITS

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* is outside *the navigational limits* specified in *your schedule*.

### 8.2 VESSEL OPERATION

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* was being operated:

- 8.2.1 at a speed greater than its maximum designed speed;
- 8.2.2 with a *motor* more powerful than recommended by the manufacturer;
- 8.2.3 with more than the maximum number of passengers or load recommended by the manufacturer; or
- 8.2.4 outside the limits imposed by any Certificate of Construction and Performance, Licence or similar document.

### 8.3 ALCOHOL OR DRUGS

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* was under the control of *you* or any person with *your* express or implied consent while under the influence of alcohol or of any drug or had a percentage of alcohol or drugs in *your/their* breath or blood in excess of the percentage permitted by law in the place where the loss, damage or liability occurred unless *you* were not on board *your vessel* at the time and can clearly demonstrate that *you* had no reason to suspect that the person in control would be under the influence of alcohol or any drug or had a percentage of alcohol or drugs in excess of legal limits.

### 8.4 LICENSED OPERATOR

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* was under the control of a person not licensed under the applicable law, unless *you* were not in *your vessel* at the time and can clearly demonstrate that *you* had no reason to suspect that the person was unlicensed.

### 8.5 SPEED LIMITATION

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured for *loss, damage* or liability which occurs while *your vessel* was being used in a racing, speed tests or trials.

### 8.6 LAWFULNESS

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* was being used for an unlawful purpose.

### 8.7 VESSEL LICENSE

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* was being used without commercial licensing, registration, classification or survey requirements being complied with.

## 8.8 TOWING AND TRAILERS

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* was being towed on a *trailer* and the driver with *your* express or implied consent was not licensed to drive a vehicle in accordance with the law, unless *you* were not in the vehicle at the time and can clearly demonstrate that *you* had no reason to suspect that the driver was unlicensed.

## 8.9 LOADING/UNLOADING

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* is being loaded, unloaded or transported by a commercial carrier unless *you* tell *us* beforehand in writing, and *we* agree in writing to cover *you*.

## 8.10 SEAWORTHINESS AND MAINTENANCE

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *you* do not keep *your vessel* in good order and repair, or in a proper state of seaworthiness and in compliance with any statutory requirements (e.g. Waterways Authority Regulations including the mooring of *your vessel* not being:

- 8.10.1 of suitable design and weighing for *your vessel*,
- 8.10.2 appropriately sited, and
- 8.10.3 in good order and regularly maintained on an annual basis.

## 8.11 MAJOR REPAIRS

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when *your vessel* is undergoing major *hull* repair or undergoing alteration unless *you* tell *us* beforehand in writing, and *we* agree in writing to cover *you*.

## 8.12 MISSING ITEMS

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when claims for unexplained disappearance of personal effects, fishing gear or equipment from *your vessel*.

## 8.13 ASSUMED LIABILITY

Notwithstanding anything contained anywhere in the *policy* to the contrary, *you* are not insured when any liability assumed (by contract or otherwise) by *you* unless *you* receive *our* prior written consent to do so.

In addition, the *policy* excludes *loss, damage*, destruction, death, injury, illness, liability, cost or expense of any nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the *loss*.

## 8.14 RADIATION

In no case shall this insurance cover *loss, damage*, liability or expense directly or indirectly caused by or contributed to by or arising from:

- 8.14.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- 8.14.2 the radioactive, toxic, explosive, or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component;
- 8.14.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;

- 8.14.4 the radioactive, toxic, explosive, or other hazardous or contaminating properties of any radioactive matter.
- 8.14.5 any chemical biological bio-chemical or electromagnetic weapon.

The Exclusion 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

## 8.15 ASBESTOS

In no case shall this insurance cover claims caused by or arising directly or indirectly out of:

- 8.15.1 transporting, distributing or storing asbestos;
- 8.15.2 any process of decontamination, treatment or control of asbestos;
- 8.15.3 the presence of asbestos in any property insured; or
- 8.15.4 asbestos pollution or contamination.

## 8.16 TERRORISM

This policy excludes any loss, damage, liability or expense arising from:

- 8.16.1 terrorism; and/or
- 8.16.2 steps taken to prevent, suppress, control or reduce the consequences of any actual, attempted, threatened, suspected or perceived terrorism.

## 8.17 WAR

In no case shall this insurance cover claims caused by or arising directly or indirectly out of war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom or any hostile act by or against a belligerent power, capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt threat, derelict mines, torpedoes, bombs or other derelict weapons of war.

## 8.18 COMMUNICABLE DISEASE EXCLUSION

The *policy* excludes any *loss, damage*, liability, claim, cost or expense of whatsoever nature caused by, contributed to by, resulting from, arising out of, or in connection with a *communicable disease* or the fear or threat (whether actual or perceived) of a *communicable disease* regardless of any other cause or event contributing concurrently or in any other sequence thereto.

## 8.19 CYBER RISK

The *policy* excludes *loss, damage*, liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus, computer process or any other electronic system.

## 8.20 SANCTIONS REGULATION

Notwithstanding any other terms or conditions under the *policy*, we shall not be deemed to provide coverage and will not make any payments nor provide any service or benefit to *you* or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of *yours* would violate any applicable trade or economic sanctions, law or regulation.



## 9. GENERAL CONDITIONS APPLICABLE TO ALL SECTIONS

### 9.1 NOTIFICATION OF MATERIAL CHANGE

You must notify *us* as soon as possible of any material change in the risk covered by the *policy* or no claim arising after the change shall be payable unless *we* have agreed to change in writing.

### 9.2 RECONSTRUCTION OR CONVERSION

You must notify *us*, prior to commencing work on *your vessel* that will result in any material change to the dimension, tonnage or type of vessel. *We* may either decline insurance for such work or require *you* to pay an additional premium.

### 9.3 REASONABLE DILIGENCE

You must reasonably:

- 9.3.1 exercise care that only competent employees and subcontractors are engaged and take reasonable measures to maintain all premises, fittings and plant in a safe and sound condition.
- 9.3.2 take all precautions :
  - (a) to prevent *personal injury* and *property damage*; and
  - (b) to ensure that *you*, *your* subcontractors and all independent contractors comply with legislative requirements imposed by any port or public authority for the safety of persons or property.

### 9.4 RIGHTS OF SUBROGATION

In the event of a payment made under the *policy* to *you* or on *your* behalf, *we* shall be subrogated to all *your* rights of recovery against any person or organisation. At *our* request and *our* expense, *you* shall do all things reasonably required by *us* for the purpose of enforcing any rights and remedies or of obtaining indemnity from other parties to which *we* are entitled pursuant to the *policy*.

### 9.5 CROSS LIABILITY

Where *you* are comprised of more than one party, each of the parties will be considered as a separate legal entity with the words '*you*' and '*your*' applying to each party in the same manner as if a separate policy had been issued to each party, provided that nothing in this condition will result in an increase in *our* limit of liability in respect of any occurrence or *period of insurance*.

### 9.6 JOINT INSURED

Where *you* are comprised of more than one legal entity, information supplied to *us* will be deemed to have been furnished by or on behalf of all entities. Any information supplied to *us* or any omission or non-disclosure in relation to any renewal or *endorsement* of the *policy* will also be deemed to have been furnished, omitted or withheld on behalf of all entities.

### 9.7 OTHER INSURANCE

If *you* make a claim for an *occurrence* which is, or may be, covered in whole or in part by any other insurance, then when making the claim *you* must give *us* full details of the other insurance.

The *policy* does not cover any claim to the extent that *you* are entitled to indemnity in respect of that claim under any other insurance *policy* specified in *your schedule*.

## 9.8 BREACH OF CONDITION OR WARRANTY

### 9.8.1 Where the Insurance Contracts Act 1984 applies

The law gives *us* a number of rights if you do not comply with the conditions of the *policy*. In particular cases *we* may be able to:

- (a) cancel the *policy*;
- (b) avoid the *policy* from the commencement date of the *period of insurance*;
- (c) refuse to pay a claim; or
- (d) reduce the amount to be paid out on a claim.

### 9.8.2 Where the Marine Insurance Act 1909 applies

Warranties are conditions which must be exactly complied with, whether material to the risk or not. Under the Marine Insurance Act 1909, where applicable, if they are not complied with, then, subject to any express provisions in the *policy*, *we* are discharged from liability as from the date of the breach of the Warranty, but without prejudice to any liability incurred by *us* before that date.

## 9.9 LICENSING/SURVEY/MANNING WARRANTY

Warranted that at inception and throughout the *period of insurance your vessel* must at all times be:

- (a) registered and in current survey with the appropriate governmental authorities according to the type and class of operation and that its type and class are maintained;
- (b) operated within the specified limits as permitted by the appropriate governmental authorities;
- (c) in compliance with all regulations as required by the appropriate governmental authorities;
- (d) operated by a master or any other person in charge of *your vessel* who is the holder of a 'Certificate of Competency' issued by the appropriate governmental authorities; and
- (e) any conditions attaching to or imposed by the registration of *your vessel* are complied with by the dates stipulated in those conditions.

## 9.10 THIRD PARTY INTERESTS

*You* must inform *us* of the interests of all third parties (e.g. financiers or lessors) to be covered by the policy. *We* protect the interest of third parties only if *you* have informed them and such interest(s) are noted in *your schedule*. The interest of the third party is not to exceed 50% of the total sum insured unless agreed to in writing by *us*.

## 9.11 UNDERINSURANCE

*We* require *you* to insure *your vessel* for the full value. If *you* do not and the actual value of *your vessel* or *equipment* insured under the *policy* is higher than the *total sum insured* in *your schedule* (at the time of *loss* or *damage*), *We* shall only pay *you* the proportional amount that the total value of the loss bears to the total sum insured specified in *your schedule*.

## 9.12 PROPER LAW AND JURISDICTION

The construction, interpretation and meaning of the provisions of the *policy* shall be determined in accordance with Australian law.

In the event of any dispute arising under the policy including, but not limited to, its construction and/or validity and/or performance and/or interpretation, the insured will submit to the exclusive jurisdiction of any competent Court in the Commonwealth of Australia.

A reference to any statute, regulation or subordinate legislation includes any amendment, replacement, successor or equivalent to or of that statute, regulation or subordinate legislation.

## 10. CLAIMS

### 10.1 WHAT YOU SHOULD DO IN THE EVENT OF A CLAIM

When an *event* happens which may give rise to a claim under the *policy*,

You must:

- 10.1.1 take reasonable care to prevent or minimise any *loss, damage*, liability or costs covered by the *policy* ensure that all rights against other parties are properly preserved and exercised;
- 10.1.2 make a report to the Police if there is injury, *malicious damage*, theft or attempted theft of *your vessel*;
- 10.1.3 use *your* best endeavors to preserve any damaged or defective property which may prove necessary or useful by way of evidence (together with any relevant documentation or records) in connection with any claim and, so far as may be reasonably practicable, no alteration or repair shall be made to any *watercraft*, premises, *machinery*, fittings, *equipment* or plant until *we* have had an opportunity to inspect and have provided *our* consent;
- 10.1.4 retain and preserve from destruction any business documents and records that might foreseeably be connected with potential future claims, for a period of at least 7 years;
- 10.1.5 not make any admission, offer, promise of payment in connection with any occurrence or claim under the *policy* without *our* written consent;
- 10.1.6 contact *us* and give *us* full details of what has happened; and
- 10.1.7 complete *our* claim form and any other form *we* may ask *you* to complete.

We will:

- (a) be entitled at *our* discretion to take over and conduct in *your* name the defence or settlement of any claim; and
- (b) have full discretion in the conduct of any negotiations or proceedings in connection with any claim.

## CLAIMS SETTLEMENT

### 10.2 HOW MUCH WE PAY

#### 10.2.1 Market Value

Where in *your schedule* it states “*market value*”, it is a *market value policy* cover.

We may decide either to repair or replace an item, or to pay the cost of replacing an item.

The amount that *we* will pay is determined by:

- (a) comparing the value of the item with an item of equal age and condition; or
- (b) the new replacement value less reasonable depreciation based upon the age and condition of the item; or
- (c) the actual cost of an item of equal age and condition, whichever is the lesser.

When *we* take the option of repairing an item, the amount that *we* pay is limited by the actual value of the item being repaired or the new replacement value less reasonable depreciation based upon the age and condition of the item.

In the event of a *total loss* *we* will pay *you* the *total sum insured (market value)* of the item involved and take ownership of any *salvage*.

The maximum amount payable in respect of each item is as listed in *your schedule*.

### 10.2.2 Agreed value

If *your schedule* states *total sum insured* “*agreed value*”, this is an *agreed value policy cover*.

*Your schedule* will show the agreed value.

The maximum we will pay *you* is the *agreed value* insured.

We may decide to:

- (a) repair or replace an item; or
- (b) pay *you* the reasonable cost of repairing or replacing the item involved; or
- (c) pay *you* the *agreed value* insured of the item involved and take ownership of any *salvage*.

The maximum amount payable in respect to each item is as per the *total sum insured* noted on *your schedule*.

## 10.3 LIMIT ON WHAT WE PAY

### 10.3.1 Loss or damage to your vessel (agreed value or market value)

Our liability is limited to the amount specified in *your schedule* any one *loss* or series of losses caused by the one insured *event* (excluding additional benefits and applicable optional extensions specified in section 6).

### 10.3.2 Legal liability

We will pay the costs of:

- (a) Compensation; and
- (b) legal fees and expenses that *you* are liable for.

We will only pay the costs of legal fees and expenses *you* incur if we consent to them in writing before *you* incur them.

The maximum we will pay is the amount specified in *your schedule* in total for all claims that arise from any one (1) *loss* or series of losses caused by the one (1) insured *event* and legal fees and expenses incurred by *you* with *our* consent or recoverable from *you* in connection with an insured *event*.

## 10.4 DEDUCTIBLE

The amount specified in *your schedule* as the *deductible* will be deducted from each and every *loss* except for claims for:

- 10.4.1 total and/or constructive *total loss*, and
- 10.4.2 death or personal injury under the liability cover specified in Section 4.

## MISCELLANEOUS CLAIMS CONDITIONS

### 10.5 AUTOMATIC REINSTATEMENT

When an amount is paid under the *policy*, the *limit of liability* is automatically reinstated to the amount specified in *your schedule*, subject to payment of an additional premium and government charges (where applicable).

### 10.6 FRAUDULENT CLAIMS

If any claim is fraudulent or false in any respect, to the extent permitted by law, we may refuse to pay the whole or part of the claim. We are also entitled to cancel the policy.

## 10.7 PAYMENTS IN RESPECT TO GOODS AND SERVICE TAX

The amount of *premium* payable by *you* for the policy includes an amount on account of the GST on the *premium* as applicable. When we pay a claim, *your* GST status will determine the amount we pay.

When *you* are:

- 10.7.1 not registered for GST, the amount we pay is the *total sum insured*/limit of indemnity or the other limits of insurance cover including GST;
- 10.7.2 registered for GST, we will pay the *total sum insured*/limit of indemnity or the other limits of insurance and where *you* are liable to pay an amount for GST in respect of an acquisition relevant to *your* claim such as services to repair a damaged item insured under the policy) we will pay for the GST amount.

We will reduce the GST amount we pay for by the amount of any input tax credits to which *you* are or would be entitled if *you* made a relevant acquisition. In these circumstances, the Input Tax Credit may be claimable through *your* Business Activity Statement (BAS).

*You* must advise *us* of *your* correct Australian Business Number and Taxable Percentage. Any GST liability arising from *your* incorrect advice is payable by *you*.

Where the settlement of *your* claim is less than the *total sum insured*/limit of indemnity or the other limits of insurance cover, we will only pay an amount for GST (less *your* entitlement for Input Tax Credit) applicable to the settlement. This means that if these amounts are not sufficient to cover *your* loss, we will only pay the GST relating to *our* settlement of the claim.

We will (where relevant) pay *you* on *your* claim by reference to the GST exclusive amount of any supply made by any business of *yours* which is relevant to *your* claim. GST, Input Tax Credit (ITC), Business Activity Statement (BAS) and Acquisition have the same meaning as given to those expressions in A New Tax System (Goods and Services Tax) Act 1999 and related legislation as amended from time to time. Taxable Percentage is *your* entitlement to an ITC on *your* *premium* as a percentage of the total GST on that *premium*.

## 11. CANCELLATION

*You* may cancel the policy at any time by giving notice in writing to *us*.

*We* may cancel the policy when permitted by the Marine Insurance Act 1909 to do so.

Upon cancellation, we will refund a prorate proportion of the premium received by *us* relating to the unexpired *period* of insurance but subject to a minimum premium of \$250.







[www.proteusinsurance.com.au](http://www.proteusinsurance.com.au)

**Proteus Marine Insurance**

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