



SHIP REPAIRERS LIABILITY INSURANCE

Your Duty of Disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, on what terms.

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance. Your duty however does not require disclosure of matter:

- that diminishes the risk to be undertaken by the insurer,
- that is of common knowledge,
- that your insurer knows, or, in the ordinary course of its business, ought to know,
- as to which compliance with your duty is waived by the insurer.

Non-Disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim or may cancel the contract.

If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

Liability Assumed Under Agreement

This Policy does not cover liability which You have agreed to accept unless You would have been so liable in the absence of such agreement.

Alterations to your Business

When We receive notification of a change We may decide to adjust the premium or terms of the Policy, or to cancel the Policy in accordance with the provisions of the Insurance Contracts Act 1984.

It is important that You advise Us immediately of any changes to Your Business, that may result in an increased chance of liability to third parties. Some examples of changes of which You should notify Us are:

- a) changes in Your name or directors or partners;
- b) change of address or location of Your Business;
- c) changes in the nature of Your Business or trade or occupation;
- d) alterations in construction of the premises;

When we receive notification of a change we may decide to adjust the premium or terms of the policy, or to cancel the policy in accordance with the terms of the Insurance Contracts Act 1984

INSURED

INTEREST INSURED

Legal Liability of the insured to pay damages for an occurrence in the course of ship or boat repairing, ship or boat riggers, mast assemblers, travel lift operators.

PREMISES/ LOCATION

LIMIT OF SUM INSURED

The limit of liability under this policy in respect of any one accident or series of accidents arising out of one occurrence, shall be A\$

including liability for costs and expenses which are either:-

- (i) incurred with the written consent of the insurer, or
- (ii) awarded against the insured

DEDUCTIBLE Warranted that the insured shall bear the first amount of A\$ each and every loss or series of losses arising out of the same event.

CONDITIONS OF COVER

The Insurers hereby agree, subject to the warranties, exclusions and conditions of this insurance, to indemnify the Insured for all sums which the Insured shall become liable to pay by reason of the legal liability of the Insured as ship or boat repairers, ship or boat riggers, mast assemblers, travel lift operators at the premises/ location described herein, for:-

- i. Loss of or damage to any vessel or craft which is in the care, custody or control of the Insured for the purpose of being worked upon including shifting and moving within the limits of the port at which the work is being carried out and including sea trials but not exceeding 100 miles from such port.
- ii. Loss of or damage to any other vessel or craft upon which the Insured is working except vessels or craft at sea other than whilst on sea trials.
- iii. Loss of or damage to cargo or other things on or discharged from any of the vessels or craft referred to in (i) or (ii) above.
- iv. Loss of or damage to machinery or equipment of any vessel or craft, whilst such machinery or equipment is removed from such vessel or craft and is in the care, custody or control of the Insured for the purpose of being worked upon, including whilst in transit between such vessel or craft and the premises of the Insured or whilst in transit to or from specialist repairer's or manufacturers' premises.
- v. Removal of wreck.
- vi. Loss of or damage to third party property occurring in the course of or arising from the shiprepairing operations of the Insured.

Where such liability results from negligence of the Insured, his Employees, Agents or Sub-contractors occurring during the period of this insurance.

ADDITIONAL COVER

Personal Injury

The cover provided by this insurance shall be extended to include legal liability of the Insured for death or personal injury occurring in the course of and arising from the ship or boat repairing, ship or boat rigging, mast assembly, travel lift operations of the Insured, but in no event shall this endorsement provide cover for any claim arising directly or indirectly under Workman's Compensation or Employers Liability Acts or any other Statutory or Common Law liability in respect of loss of life, bodily injury to, or illness of any workman or other person employed in any capacity whatsoever by the Insured, his 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 workman or other person. This endorsement shall not cover bodily injury or personal injury directly or indirectly caused by asbestos.

Subject otherwise to all terms, clauses, exclusions and conditions of this insurance.

Travelling Workmen

The cover provided by this Insurance shall be extended whenever any persons employed by or on behalf of the Insured are on board a vessel at sea or in any port for the purpose of effecting repairs and/or other work entrusted to the Insured notwithstanding that such persons may be signed on as members of the vessel's crew.

Subject otherwise to all terms, clauses, exclusions and conditions of this insurance.

Subcontractors Clause

Underwriters hereon agree to extend cover to protect the Assured in the event of loss or damage caused by subcontractors to the same extent as if they were a named Assured with Underwriters' subrogation rights remaining in force in respect of each sub contract.

The assured will request subcontractors to provide them with evidence of Ship Repairers Liability Insurance where deemed appropriate but the exercising of Underwriters' subrogation rights will be decided in conjunction with the assured who may exercise their discretion as to whether a Sub Contractor is to be covered under this Policy without subrogation rights being pursued.

Additional Assureds Clause

Included hereunder are the liabilities of, arising from, out of or in connection with Medical, Nursing and First Aid Services, Fire and Ambulance Brigades provided by the Assured including the services administered by the personnel thereof insofar as these liabilities are not more specifically insured elsewhere and subject always to the limitations of the Statutory Compliance Clause and Personal Injury Endorsement contained herein.

OPTIONAL ADDITIONAL COVER

The following apply only where you have requested cover and where specified in the policy schedule.

Hot Work Extension

This insurance is extended to include legal liability of the Insured in respect of or arising in connection with an oil tank vessel or craft or any vessel or craft previously engaged in carrying explosives or inflammable liquids or gases or arising in connection with work

- 1 on or near any fuel tank or pipeline or any oil burning vessel or craft
- 2 on or near any bunker space of any coal burning vessel or craft.

It is a requirement that rules regulations and requirements of the port or governmental authorities at the place where the work is being carried out have been complied with. Should a gas free certificate not be required by the port or governmental authorities then such a certificate must be obtained from a chemist approved by Insurers or the nearest Lloyd's Agent prior to the commencement of work. Exclusion clause (iv) is hereby deleted.

Subject otherwise to all terms, clauses, exclusions and conditions of this insurance.

Other Work Endorsement

1 The cover provided by this insurance will be extended to cover other repair operations which do not come within the scope of the shiprepairing operations of the Insured. The gross charges in respect of such operations shall be declared to Insurers and adjusted at a rate to be agreed.

- 2 So far only as concerns such other repair operations
 - 2.1 the expressions "shiprepairers" and "shiprepairing" wherever used in this insurance, shall be deemed to include other repair operations of the Insured
 - 2.2 Clause 1 of this insurance shall be deemed to be substituted by the following

loss of or damage to property (other than that referred to in 1.1 of the above insurance) which is in the care, custody or control of the Insured for the purpose of being worked upon including whilst in transit to or from the premises of the Insured or whilst in transit to or from specialist repairers' or manufacturers' premises.

Subject otherwise to all terms, clauses, exclusions and conditions of this insurance.

Pollution Inclusion Endorsement

Notwithstanding Exclusion clause xvi, this insurance is extended to cover the Insured's legal liabilities for personal injury and/or property damage as a result of sudden accidental discharge, emission, spillage or leakage upon or into the seas waters land or air of oil, petroleum products, chemical or other substances of any kind or nature whatsoever, provided always that this clause will in no case insure any liability which the Insured may become legally liable to pay in consequence of, with respect to, or arising out of

- 1 contractual or assumed liability
- 2 any loss of use or any consequential loss
- 3 fines or penalties of any kind whatsoever
- 4 punitive or exemplary damages
- 5 the provision of any Federal, State or local legislation regulating or controlling the discharge emission spillage or leakage of oil or any other substance into navigable waters or elsewhere and/or the removal of or liability for such discharge emission spillage or leakage. The phrase "Federal, State or local legislation" will include laws or regulations of any foreign national or political sub-division thereof and any treaty or convention.

And provided further that such discharge emission spillage or leakage does not arise from wilful negligence or wilful misconduct by or within the privity and knowledge of the Insured. This insurance is also extended to cover the costs of clean up and/or mitigation of a pollution hazard limited to \$250,000 any one accident or occurrence less any deductible referred to in this insurance.

Subject otherwise to all terms, clauses, exclusions and conditions of this insurance.

Detention Endorsement

The cover provided by this insurance shall be extended to include legal liability of the Insured for detention of any vessel or craft as a consequence of loss of or damage to such vessel or craft resulting in a claim which is the subject of indemnity under this insurance but this extension shall not cover any legal liability for detention assumed under contract or otherwise in extension of the liability imposed upon the insured in law in absence of contract.

Subject otherwise to all terms, clauses, exclusions and conditions of this insurance.

EXCLUSIONS

Notwithstanding anything contained herein to the contrary, this policy shall not cover any liability:-

- (i) In respect of property :
 - (a) owned by, used by or leased to the Insured;
 - (b) in the care, custody or control of the Insured (other than property referred to in the conditions of cover clauses (i), (ii), (iii) or (iv) above).
- (ii) Being collision liability, towage liability or liability arising out of the navigation of any vessel or craft owned or operated by the Insured or any Affiliated or Subsidiary concern or Party.
- (iii) In respect of or arising in connection with any vessel or craft accepted by the Insured solely to be stored.

- (iv) In respect of or arising in connection with an oil tank vessel or craft, or any vessel or craft previously engaged in carrying explosives or inflammable liquids or gases or arising in connection with work:-
 - (a) on or near any fuel tank of pipeline or an oil burning vessel or craft;
 - (b) on or near any bunker space of any coal burning vessel or craftunless the rules, regulations and requirements of the Port or Governmental Authorities at the place where the work is being carried out have been complied with. Should a gas free certificate not be required by the Port or Governmental Authorities then such a certificate must be obtained from a Chemist approved by the Agency prior to the commencement of work.
- (v) In respect of or arising in connection with any new vessel or craft being built by the Insured but this exclusion shall not apply to :
 - (a) any new vessel or craft being worked upon by the insured where the insured is not the principal builder;
 - (b) any repairs or adjustments or maintenance or modifications carried out by the insured under maintenance or warranty work obligations of the insured.
- (vi) For payments under penalty clauses, detention, demurrage, loss of time, loss of freight, loss of charter, loss of market or any other consequential loss whatsoever, in respect of property referred to in the conditions of cover clause above.
- (vii) Arising from 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 outside the premises or yard of the Insured.
- (viii) In respect of loss or damage specified in the conditions of cover clause above unless discovered and reported in writing to the insurer within 6 months of the delivery to Owners or within 6 months after the work is completed by the insured, whichever may first occur.
- (ix)
 - (a) Condemnation or rejection of any part by reason of faulty design;
 - (b) Any loss or expense arising from such condemnation or rejection;
 - (c) The cost or expense of repairing, modifying or replacing any part (or for any loss or expense arising therefrom) by reason of faulty design.
- (x) Arising from any strike, lock-out, labour disturbance, riot, civil commotion or act of any person taking part in any such occurrence, or from any act of any person acting maliciously.
- (xi) Directly or indirectly occasioned by, happening through or in consequence of:-
 - (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 thereat;
 - (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.
- (xii) Directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
- (xiii) Assumed under contract or otherwise in extension of the liability imposed upon the Insured by law in the absence of contract.
- (xiv) For punitive and exemplary damages however described.
- (xv) directly or indirectly caused by asbestos.

- (xvi) For seepage, pollution or contamination unless caused by an event which identified as occurring at an instantaneous moment in time during the period of this policy, is accidental and neither expected or intended by the insured, and became known to the insured within 72 hours after its commencing and is reported to insurers within 90 days thereafter. Nothing in this exclusion shall operate to provide coverage for:
- (a) Fines, penalties, punitive damages, exemplary damage, treble damages or any other damages resulting from the multiplication of compensatory damages.
 - (b) 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.
 - (c) The cost of evaluating and/or monitoring and/or controlling seepage and/or contaminating substances.
 - (d) The cost of removing and/or nullifying and/or clearing up seepage and/or polluting and/or contaminating substances on property at any time owned and/or leased and/or rented by the Insured and/or under the control of the Insured.
- (xvii) Directly or indirectly caused by or contributed to by, or arising from or happening through or in connection with any act of terrorism. Terrorism defined as an act, which may include but not limited to an act involving the use of force or violence and/ or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s), which from it's nature or context is done for, or in connection with, political, religious, ideological or ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

DEFINITIONS

Any word or expression which these clauses define as having a particular meaning will have that meaning everywhere it appears.

EVENT

means:

1. a single incident;
2. a series or number of incidents either having the same original cause or attributable to the one source; or
3. continuous or repeated exposure to substantially the same general conditions.

EXCESS

means the sum shown in the Schedule, this Policy, or an endorsement to this Policy (if any) which any loss or claim must exceed before We will be liable under this Policy and which We will not be liable to pay in respect of each claim.

Where a claim is made in respect of more than one Occurrence, the excess will apply as though a claim was made for each individual Occurrence.

OCCURRENCE

means

Personal Injury or Damage to Property that:

1. is neither intended nor expected by You and would not be expected by a reasonable person in Your position;
2. is caused by an Event; and
3. occurs:
 - at the premises specified within the schedule; and
 - during the Period of Insurance

PERSONAL INJURY

means

1. bodily injury, death, sickness, disease, disability.

2. shock, fright, mental anguish.
3. unlawful arrest, unlawful imprisonment, wrongful detention, malicious prosecution.
4. libel, slander or defamation.
5. wrongful eviction, wrongful entry or other invasion of privacy.

POLLUTANTS

means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste including but not limited to oil, petroleum products, chemicals or other substances of any kind or nature whatsoever. Waste includes material to be recycled, reconditioned or reclaimed.

PERIOD OF INSURANCE

means the Period of Insurance shown in the Schedule.

PRODUCTS LIABILITY

Means your legal liability to pay damages for an Occurrence caused by an Unknown Defect in Your Products, but excludes Public Liability.

PRODUCTS

means:

any thing (after it has passed from Your possession and control), including its packaging, that was manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied, re-supplied or distributed by You in the course of Your Business.

DAMAGE TO PROPERTY

means:

1. physical damage to Property;
2. physical destruction of Property; or
3. loss of use of Property as a result of physical damage to or physical destruction of Property.

PROPERTY

means:

1. tangible property not in Your possession or control.
2. premises that You occupy for the purpose of the Business.

LEGAL LIABILITY

means:

Your legal liability to pay damages for an Occurrence in the course of Your ship or boat repairing operations, ship or boat detailing, cleaning or trimming operations, but excludes Products Liability.

SCHEDULE

means the Schedule to this Policy.

VEHICLE

means any type of machine (other than shiplifters, marine travel lifts, jinkers, slipways, cradles or any other mobile shiplifting device) on wheels or on self laid tracks made or intended to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine.

YOU, YOUR, INSURED

Each of the following is. an Insured under this policy to the extent set forth below

1. the named Insured in the schedule
2. all subsidiary companies (present and future) of the named Insured and any other organisation under the control of the Insured and over which it is exercising active

- management. whose places of incorporation are within Australia or New Zealand (including their Mandated Territories and Protectorates)
3. any Director, Executive Officer, Employee or Partner of the named Insured or of a company designated but only whilst Acting within the scope of their duties in such capacity
 4. any person, principal, contractor, subcontractor, organisation, trustee or estate to whom or to which the Insured is obligated by virtue of a written contract or agreement to provide insurance as is afforded by these clauses but only to the extent required by such contract and in any event only for such coverage and limits of liability as provided in this insurance.

WE, US, OUR, COMPANY

means the insurance company named in the Schedule.

WATERCRAFT

Means any vessel, craft or thing designed to float on or in, or travel on or through, water.

Your Duty

Our liability is conditional upon:

- (a) payment of the premium. We will not pay any claim until You have paid the premium.
- (b) Notification of Changes. Notification as soon as possible by You to Us of any change materially varying any of the facts or circumstances existing at the commencement of this Policy or following any renewal of this Policy.
- (c) Observance of Policy Terms

the observance of the terms of the Policy by You and by any other person entitled to indemnity under this Policy.

Reasonable care

You must:

- (a) take all reasonable precautions to prevent:
 - (1) Public Liability and Products Liability.
 - (2) Personal Injury and Damage to Property.
 - (3) the manufacture, sale or supply of defective Products.
- (b) comply with, and ensure that Your employees, servants and agents comply with, all laws, by-laws, regulations and recognised standards for the safety of persons or property.
- (c) ensure that only competent employees use, operate, maintain and service plant and equipment.
- (d) maintain all premises, fittings, plant and equipment in sound condition.

Welding, Flame Cutting, Application of Heat

You must ensure that all welding and flame cutting complies with the Australian Standard "AS1674 SAA Cutting and Welding Safety Code" and its amendments.

(It is a detailed Code, designed to protect persons and property from injury by fire or explosion in the course of cutting, heating or welding operations.)

Inspections

We (or agents appointed by Us) have the right to inspect and examine, by mutual appointment, any property.

Notice of Claim

In the event of any occurrence which may result in a claim under this insurance the Insured shall give prompt written notice to the insurer, shall forward every summons or process (or copies thereof) served upon the Insured and shall keep the insurer fully advised.

Claim Control

The insurer shall 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 the Insured which is or is likely to be the subject of indemnity under this insurance.

(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 Insurance Contracts Act 1984, 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.

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.

The Insured should be aware of the insurers rights to settle or defend a claim against the insured by another party

If the insurers agree to the insureds claim, the insured should not without the insurers consent make or accept any offer or payment, or in any other way admit liability settle or attempt to settle any claim, defend any claim.

Payment of Limit of Indemnity

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.

Goods and Services Tax

Where We make a payment under this policy for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You are, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999, in relation to that acquisition, whether or not that acquisition is actually made.

Where We make a payment under this policy as compensation instead of payment for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or other supply.

Reconstruction or Conversion

It is a condition of this insurance that before work commences involving the reconstruction or conversion of any vessel or craft which entails a change in dimension, tonnage or type, the Insured must advise the insurer to obtain their agreement and the coverage hereon in respect of such vessel or craft shall depend on the payment by the Insured of such additional premium as may be required by the insurer

Assignment

It is agreed that no assignment of or interest in this insurance or in any monies which may be or may become payable hereunder is to be binding on or recognised by the Insurers unless a dated notice of such assignment or interest signed by the Insured, and by the Assignor in the case of subsequent assignment, is endorsed on this insurance and the insurance with such endorsement is produced before payment of any claim or return of premium hereunder; but nothing in this condition is to have effect as an agreement by the insurer to a sale or transfer to a new management.

Other Insurances

In the event of an occurrence giving rise to a claim which is or but for the existence of this insurance would be covered under any other indemnity or insurance inuring to the benefit of the Insured, the insurance afforded by this policy shall be in excess of the amount which would be recoverable under such other indemnity or insurance had this insurance not been effected, but only to the extent that the excess amount is covered by this insurance.

Joint Insurance

A claim made by any one of the people or entities named as the Insured in the Schedule is a claim made by all of the people or entities named as the Insured. Similarly, any statement, act

or omission made by any person or entity named as the Insured in the Schedule is assumed to be made by all people or entities named as the Insured.

Law and Practice

This insurance is subject to Australian law and practice.

Cancellation

(a) Under Section 60 of the Insurance Contracts Act 1984, We may cancel this Policy at any time, by giving notice in writing to You of the date from which cancellation is to take effect, where You have:

- (1) failed to comply with Your duty of utmost good faith; or
- (2) failed to comply with Your duty of disclosure at the time when this Policy was entered into, varied, altered, or renewed; or
- (3) made a misrepresentation to Us during the negotiations for this Policy, but before We agreed to issue this Policy; or
- (4) failed to comply with a provision of the Policy; or
- (5) failed to pay the premium for this Policy; or
- (6) made a fraudulent claim under this Policy, or any other contract of insurance (whether with Us or another insurer) that provided cover during any part of the Period of Insurance of this Policy; or
- (7) failed to comply with a requirement in this Policy that You notify Us of an act or omission which occurred after this Policy was entered into; or
- (8) failed to notify Us of any specific act or omission or such a notification as is required under the terms of this insurance Policy.

We may deliver such notice to You personally or by post at Your address last notified to Us.

(b) Under Section 60 of the Insurance Contracts Act 1984, We may cancel this Policy at any time where:

- (1) it is in force by virtue of Section 58 of the Insurance Contracts Act 1984; or
 - (2) it is an interim contract of general insurance.
- (c) You may cancel this Policy at any time by notifying Us in writing.

(d) After cancellation, We will refund the premium for the time remaining on the Policy, less any non-refundable duties, unless You have made a fraudulent claim.

Premium

The minimum and deposit premium shall be as per renewal certificate subject to adjustment at expiry of the period of this insurance at the rate expressed in the renewal certificate on Gross Charges of the Insured, such adjustment to be paid within 90 days.

Gross Charges

Gross Charges shall be defined as total charges (collected or uncollected) made by the Insured as Shiprepairers during the period of this insurance. No deduction shall be made from the Gross Charges in respect of any sub-contracted work.

Inspection of Books

The Insured shall keep a complete and accurate record of all Gross Charges for operations covered hereunder and shall make these records available to the insurer or their auditors upon request.