Marina Operators Insurance

Policy Document.

Allianz Marine & Transit Underwriting Agency

As a specialist, our exclusive focus is on providing solutions to clients in the marine, transport and logistics industries.

allianzmarineandtransit.com.au

Allianz

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Introduction and important notices

About this insurance

Welcome and thank You for choosing Our Marina Operators Liability Insurance.

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

It will help You to:

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

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

Who is the Insurer?

The insurer of this product is Allianz Australia Insurance Limited (Allianz) AFS Licence No. 234708, ABN15 000 122 850 of 2 Market Street Sydney, NSW, 2000.

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

About Allianz Marine & Transit Underwriting Agency

Allianz Marine & Transit Underwriting Agency Pty Limited AFS Representative No. 423910 ABN 98 155 554 279 of 61 Lavender Street, Milsons Point, NSW 2061 is an Australian organisation that specialises in providing insurance products for Cargo, Commercial Hull and Marine Liabilities.

Allianz Marine & Transit Underwriting Agency Pty Limited has been given a "binding" authority by Allianz to issue, vary and dispose of this insurance and settle claims as agents of Allianz as if they were Allianz, the insurer.

In the Policy document We refer to Allianz Australia Limited acting through its agent Allianz Marine & Transit Underwriting Agency Pty Limited as "We", "Us", "Our" and "Allianz".

Our contract with You

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

The Policy consists of:

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

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

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

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

Understanding Your Policy and its important terms and conditions

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

- the Cover section, including the standard covers and Optional Covers;
- the rest of this "Introduction and important notices" section – this sets out how You apply for cover, the basis on which We insure You, the duty of disclosure You need to comply with, Our privacy information, Our dispute resolution procedures and other important information;
- the "Words with special meaning" section – this sets out what We mean by certain words used in the Policy. These words begin with a capital letter throughout this document. Each coverage section may also contain definitions relevant to that section;
- the "General Policy exclusions" section – this sets out the general exclusions and limits that apply to all covers and benefits;
- the "General Policy conditions" and "Claims" sections – these set out certain general rights and obligations that You and We have;

- all of the documents that make up the Policy, including the Schedule and any Endorsements or other written changes to the cover We issue You with – these contain specific details relevant to You and can affect the cover.

Headings have been included for ease of reference only. The provisions of the Policy are not to be construed or interpreted by reference to such headings.

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

Cover – Summary

Please note that this is a limited summary only and not a full description of the cover. The cover is subject to terms, conditions, exclusions and limitations and any Endorsements applying to the Policy that are not listed in the summary. You need to read the Policy in full to properly understand the cover provided.

This Policy covers You for amounts that You are legally liable to pay as Compensation for certain third party Personal Injury and/or Property Damage which occurs in connection with Your Marina Business (as defined).

Additional benefits are also provided for:

- Salvage/removal of wreck; and
- Incidental Watercraft Repair Work.

We cover You for Occurrences which arise within the Territorial limits and during the Period of Insurance shown on the Schedule and the maximum amount We will pay under the Policy will not exceed the Limit of Liability shown on the Schedule.

A number of Optional benefits are also available for an additional Premium. If selected, any applicable benefits We agree to provide cover for, Period of Indemnity, Excess or special conditions will be shown on the Schedule.

The available Optional benefits are:

1. Pollution liability;
2. Chandlery/Incidental Marine Sales;
3. Catering;
4. P & I Endorsement;
5. Inspections and Valuations – Errors and Omissions;
6. Piers and Pontoons – Material Damage (including floating quays, jetties and docks); and
7. Loss of Earnings on Piers and Pontoons (only available if Optional Benefit 6 – Piers and Pontoons – Material Damage is selected).

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

No Workers Compensation cover

This Policy does not include workers compensation cover. Such cover is compulsory for employers (except exempt employers) and You should arrange separate insurance.

Your obligation to comply with the Policy terms and conditions

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

If more than one person is insured under the Policy, a failure or wrongful action by one of those persons may adversely affect the rights of any other person insured under the Policy.

Applying for cover

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

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

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

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

If You fail to comply with Your Duty of Disclosure or have made a misrepresentation to Us, We may be entitled to reduce Our liability under the Policy in respect of a claim and/or We may cancel the Policy. If You have told Us something which is fraudulent, We also have the option of avoiding the Policy (i.e. treating it as if it never existed).

Your Duty of Disclosure and the consequences of nondisclosure, are provided under the heading 'Your Duty of Disclosure'.

Premium

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

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

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

How to make a claim

If You need to make a claim under the Policy, please refer to the Claims Section on page 23.

Cancellation rights under the Policy

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

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

Where the Insurance Contracts Act 1984 applies

The Insurance Contracts Act 1984 permits Us to cancel policies in a number of situations, including but not limited to:

(i) where You failed to comply with Your Duty of Disclosure; or

(ii) where You have made a misrepresentation to Us during negotiations prior to the issue of Your Policy; or

(iii) where You failed to comply with a provision of Your Policy, including the term relating to payment of Premium; or

(iv) where You made a fraudulent claim under Your Policy or under some other contract of insurance that provides cover during the same period of time that Your Policy covers You.

Where the Marine Insurance Act 1909 applies

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

Cancellation notice

If We decide to cancel Your Policy, We will give notice to You or Your agent in writing. Such notice will be effective from 4pm on the third business day after the day it is given to You or Your agent, unless it specifies a later date.

Note: A posted notice is deemed given to You at the time it would have been delivered in the ordinary course of the postal service.

Returns for cancellation

If You or We cancel Your Policy We may deduct:

(i) a pro rata proportion of the Premium for time on risk;

(ii) 10% of the Premium remaining after applying Clause (i) above, as administrative costs related to the acquisition and termination of Your Policy; and

(iii) any government taxes or duties We cannot recover.

In the event that You have made a claim under Your Policy or circumstances have arisen entitling You to make a claim, no return of Premium will be made for any unused portion of the Premium.

Premium funders

If the Premium has been funded by a premium funding company which holds a legal right over the Policy by virtue of a notice of assignment and/or irrevocable power of attorney, any refund payable (if any) calculated in accordance with the "Returns on cancellation" clause above, will be made to the premium funding company.

Contact for assistance or confirmation of cover

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

Renewal procedure

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

This document also applies for any other renewal We make, unless We tell You otherwise.

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

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

Alteration to risk

Where the Marine Insurance Act applies

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

Where the Insurance Contracts Act applies

If You become aware of any changes to the facts or circumstances which existed when this insurance commenced that alter the nature of the risk insured under the Policy in a way that would increase the risk of loss, Damage or liability, You must advise Us immediately. When We receive notification of a change We may decide to agree to the change and adjust the Premium or terms of the Policy, or cancel the Policy.

Regardless of Our decision, We will inform You in writing and, where We have agreed to the changes, You must pay Us any additional Premium We may require.

Examples of alterations of risk which You must notify to Us are:

- the nature, or type, of Your Marina Business or business activities covered under this Policy;
- permanent or temporary alteration (which includes occupation, use and physical changes) to property situated at or brought onto the Marina which increases the risk of loss, Damage or liability; and
- changes to property insured.

Your Duty of Disclosure

Before You enter into a Policy with Us, You have a duty under the Insurance Contracts Act 1984 and the Marine Insurance Act 1909 (as applicable) to tell Us anything You know, or could reasonably be expected to know, may affect Our decision whether to insure You and on what terms.

This duty applies until We agree to insure You.

You have the same duty before You renew, extend, vary or reinstate an insurance contract.

You don't need to tell Us anything that:

- reduces Our risk;
- is common knowledge;
- that We know or should know as an insurer; or
- We tell You We don't need to know.

If You do not tell Us something

Where the Insurance Contracts Act applies

If You fail to comply, We may cancel Your Policy and/or reduce the amount We pay for a claim. If fraud is involved We may avoid the Policy from the beginning.

Where the Marine Insurance Act 1909 applies

Where the Marine Insurance Act 1909 applies, if You fail to comply with Your duty of disclosure, We may avoid the contract from its beginning.

Who must tell Us?

Everyone who is insured under the Policy must answer the questions in this way.

Breach of condition or Warranty

Where the Insurance Contracts Act 1984 applies

The law gives Us a number of rights if You do not comply with the conditions of this Policy. In particular cases We may be able to:

- cancel the Policy;
- avoid the Policy from the commencement date of the Period of Insurance;
- refuse to pay a claim; or
- reduce the amount to be paid out on a claim.

Where the Marine Insurance Act 1909 applies

Warranties are conditions 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.

Privacy notice

At Allianz, We give priority to protecting the privacy of Your personal information. We do this by handling personal information in a responsible manner and in accordance with the *Privacy Act 1988 (Cth)*.

How We collect Your personal information

We usually collect Your personal information from You or Your agents. We may also collect it from Our agents and service providers; other insurers and insurance reference bureaus; people who are involved in a claim or assist Us in investigating or processing claims, including third parties claiming under Your Policy, witnesses and medical practitioners; third parties who may be arranging insurance cover for a group that You are a part of; law enforcement, dispute resolution, statutory and regulatory bodies; marketing lists and industry databases; and publicly available sources.

Why We collect Your personal information

We collect Your personal information to enable Us to provide Our products and services, including to process and settle claims; offer Our products and services and those of Our related companies, brokers, intermediaries

and business partners that may interest You; and conduct market or customer research to determine those products or services that may suit You. You can choose not to receive product or service offerings from Us (including product or service offerings from Us on behalf of Our brokers, intermediaries and/or Our business partners) or Our related companies by calling the Allianz Direct Marketing Privacy Service Line on 1300 360 529, EST 8am-6pm Monday to Friday, or going to Our website's Privacy section at www.allianz.com.au.

Who We disclose Your personal information to

We may disclose Your personal information to others with whom We have business arrangements for the purposes listed in the paragraph above or to enable them to offer their products and services to You. These parties may include insurers, intermediaries, reinsurers, insurance reference bureaus, related companies, Our advisers, persons involved in claims, external claims data collectors and verifiers, parties that We have an insurance scheme in place with under which You purchased Your Policy (such as a financier or motor vehicle manufacturer and/or dealer). Disclosure may also be made to government, law enforcement, dispute resolution, statutory or regulatory bodies, or as required by law.

Disclosure overseas

Your personal information may be disclosed to other companies in the Allianz Group, business partners, reinsurers and service providers that may be located in Australia or overseas. The countries to which this information may be disclosed will vary from time to time, but may include Canada, Germany, New Zealand, United States of America and other countries in which the Allianz Group has a presence or engages subcontractors. We regularly review the security of Our systems used for sending personal information overseas. Any information disclosed may only be used for the purposes of collection detailed above and system administration.

Access to Your personal information and complaints

You may ask for access to the personal information We hold about You and seek correction by calling 1300 360 529 EST 8am-6pm, Monday to Friday. Our Privacy Policy contains details about how You may make a complaint about a breach of the privacy principles contained in the *Privacy Act 1988 (Cth)* and how We deal with complaints. Our Privacy Policy is available at www.allianz.com.au.

Telephone call recording

We may record incoming and/or outgoing telephone calls for training or verification purposes. Where We have recorded a telephone call, We can provide You with a copy at Your request, where it is reasonable to do so.

General Insurance Code of Practice

The General Insurance Code of Practice was developed by the Insurance Council of Australia to further raise standards of practice and service across the insurance industry. You can obtain more information on the Code of Practice and how it assists You by contacting Us. Contact details are provided on the back cover of this document.

Dispute resolution process – helping You solve any problems

Complaints or disputes are not an everyday occurrence at Allianz. We strive to do things the right way and keep Our customers happy.

Sometimes though, complaints or disputes do occur and when this happens, Our objective is to resolve any disagreement as amicably and as quickly as possible. We believe the best way to achieve this is to provide You with an opportunity for an unbiased review of the issue.

Here is what to do if a complaint or dispute arises

Regardless of whether the complaint or dispute involves Our staff, an agent, loss adjuster, assessor, investigator or the service We provide, simply contact Us on 13 2664 EST 8am-6pm, Monday to Friday, speak to one of Our call centre operators and provide them with the details of the issue concerning You. They will attempt to resolve the complaint or dispute, if they are unable to do so they will log it and refer it to the appropriate business unit for resolution.

Within Our organisation We have established a complaints and disputes resolution process. This is a free service. It is a system designed to log, track, escalate and monitor complaints received from clients and customers about Our services and products. A staff member involved in the complaints and disputes resolution process will write to You within 15 working days advising the outcome of the review and reasons for their decision. We do not consider a complaint or dispute to be resolved until a proposed resolution or solution has been communicated to You and You have accepted the resolution or solution.

If You are not satisfied with the outcome of this process

If We are unable to resolve the complaint or dispute, We will advise You about any external dispute resolution options that are available or advise You to seek independent legal advice.

If this insurance has been issued through an insurance intermediary

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

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

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

Words with special meaning

These definitions have special meaning and apply to all sections of the Policy, unless they are defined differently in the relevant Section.

Accident/Accidental means a sudden, unforeseen and unintended happening.

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

a) involves violence against one or more persons; or

b) involves Damage to property; or

c) endangers life other than that of the person committing the action; or

d) creates a risk to health or safety of the public or a section of the public; or

e) is designed to interfere with or to disrupt an electronic system.

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

Building(s) mean the building(s) at the Situation(s), including outbuildings, breakwaters, underground services, walls, gates and fences, signs, hail nets, landlord's fixtures and fittings of every kind and description and additions forming part of the building complex, travel hoists and fixed lifting and handling equipment.

Compensation means money payable by way of damages by reason of a judgement ordered by a Court of competent jurisdiction, or by reason of any award of a competent arbitral tribunal, or by reason of any settlement of any claim negotiated with Our prior consent but excludes punitive, exemplary, aggravated damages and any additional damages resulting from the multiplication of compensatory Damages.

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

Daily Indemnity in relation to Optional benefit 7 on page 14 only, means the maximum amount We shall pay for each 24 hours after the expiration of the Excess period during which the Piers and Pontoons are prevented from generating Turnover.

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

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

Endorsement means documentary evidence of an amendment to this Policy or the Schedule which forms part of the Policy.

Event means any one event or series of events arising from any one originating source or cause.

Excess means the amount of money specified in the Schedule or Policy as the Excess that You must contribute as the first payment for each claim.

In respect of Optional benefit 7 on page 14 the applicable Excess is specified as a number of days that the Piers or Pontoons are prevented from generating Turnover for which no payment will be made by Us.

Family Member means any person who is or was at any time:

a) Your parent, sibling or child;

b) Your spouse, Spouse Equivalent, or domestic companion; or

c) a parent, sibling or child of a person in Clause b) above.

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

a) a lake (whether or not it has been altered or modified);

b) a river (whether or not it has been altered or modified);

c) a creek (whether or not it has been altered or modified);

d) another natural watercourse (whether or not it has been altered or modified);

e) a reservoir;

f) a canal;

g) a dam.

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

Gross Earnings means the total charges (collected or uncollected) made by You in relation to Your Marina Business during the Period of Insurance which are included in the revenue figures stated in Your annual profit and loss statement/ statement of financial performance. No deduction shall be made from the Gross Earnings in respect of any sub-contracted work, however, the amount earned in respect of any activities not insured under this Policy will not be taken into account in calculating the Premium payable.

Gross Revenue in relation to Optional benefit 7 on page 14 only, means the Turnover generated by the Piers and Pontoons insured during the 12 months immediately before the date of the Damage.

Hovercraft means any vessel, craft or device made or intended to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.

Incidental Contracts means:

a) any written rental agreement or lease of real property which does not impose on You:

   (i) an obligation to insure such property; or

   (ii) any liability regardless of fault;

b) any written contract with any public authority for the supply of water, electricity, fuel, gas, air, steam, waste disposal facilities, telecommunications, or other essential services/utilities except those contracts in connection with work done for such authorities or entities, but only to the extent of indemnifying any such authority in respect of liability arising out of Your Marina Business.

Incidental Watercraft Repair Work means:

a) painting, detailing, antifouling, marine trimming, interior cabinet work /joinery, changing oil, changing spark plugs, tuning of motors; rigging and repair of sails;

b) Trial Trips following the above work not exceeding 15km from the Marina;

where the revenue You derive from such work constitutes less than 20% of Your total Gross Earnings or $200,000, whichever is the lesser, as at the commencement of the Period of Insurance.

Insured means the person or entity(ies) with whom We have entered into the Policy. They are the contracting insured.

Limit of Liability means the amount stated in the most current Schedule which is the maximum amount We will pay for any claim or claims arising from one Occurrence, subject to any particular Sub limits, unless the Policy specifically states otherwise.

For all legal liability directly or indirectly arising out of or in any way related to Your Products, Our total aggregate liability during any one Period of Insurance will not exceed the Limit of Liability specified.

The Limit of Liability is inclusive of and not additional to any applicable Excess.

Marina means the land and Buildings or parts of Buildings, including car parks, yard, berths and facilities owned, leased, occupied or used exclusively by You making up the facility where You perform Your Marina Business at the Situation(s) noted in the Schedule.

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

Net Income in relation to Optional benefit 7 on page 14 only, means Your total earnings for the Piers and Pontoons insured reflecting Gross Revenue less average Running Costs, interest, taxes and other expenses during the previous 12 months for the period during which the Gross Revenue accrued.

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

Optional Benefit means the optional benefit described as being available in Your Policy. Optional Benefits that are covered are shown as being operative in the Schedule.

Parts and Accessories means replacement parts and accessories for Watercraft.

Period of Insurance means the period commencing on the effective date and ending at 4pm in the State or Territory of Australia in which the Policy is issued on the Expiry Date as shown in the Schedule.

Period of Indemnity in relation to Optional benefit 7 on page 14 only, means the period beginning with the Occurrence of the loss or Damage to the Piers and Pontoons insured and ending not later than the number of days specified in the Schedule thereafter during which the Net Income generated by the Piers and Pontoons is negatively affected as a result of the loss or Damage.

Personal Injury means death, bodily injury, sickness, disease, disability, shock, fright, loss of consortium, mental anguish and mental injury.

Piers and Pontoons means floating:

a) piers;

b) quays;

c) jetties;

d) pontoons; and

e) docks;

that do not form part of any Building which is used at Your Marina and which are used in the provision of Your Marina Business activities for the purpose of berthing or mooring of Watercraft.

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

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

Pollution means the discharge, dispersal, release or escape of Pollutants into or upon any property, land, the atmosphere or any water course or body of water (including ground water).

Premium means the premium specified in the current Schedule and any Endorsement premium plus any applicable government charges.

Products means anything (after it has ceased to be in Your physical possession or under Your control) manufactured or deemed to have been manufactured, constructed, extracted, produced, processed, assembled, erected, installed, repaired, serviced, treated, sold, supplied (including services) or distributed by You, but excluding:

a) second–hand or used parts;

b) any item which does not form part of the repair, installation, assembly or maintenance work carried out by You on Watercraft unless You have requested and We have agreed to provide the Optional benefit 2 – Chandlery/Incidental Marine Sales and then only to the extent of cover provided under that Optional Benefit.

Property Damage means:

a) Damage to, physical loss of or physical destruction of tangible property that occurs during the Period of Insurance, including any resultant loss of use; or

b) loss of use of tangible property that has not been physically Damaged, physically lost or physically destroyed, provided such loss of use is caused by Damage to, physical loss of, or physical destruction of, other tangible property that occurs during the Period of Insurance.

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

Running Costs means direct costs related to keeping the Piers and Pontoons maintained, based on the average direct costs during the 12 months prior to the loss or Damage to the Piers and Pontoons.

Salvage Charges means reasonable charges and expenses incurred by You in preventing or minimising any loss or Damage to Your Piers and Pontoons.

Schedule means the most current Schedule to Your Policy that We give You which specifies details such as the Optional Benefits applicable, the Policy number, Excess(es), Limits of Liability, geographical area of operations, Sub limits and Premium. It also includes any documents that We and You agree in writing will form part of the Schedule.

Sea means all oceans, seas, bays, ports or tidal waters.

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

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

Spouse Equivalent means a person, whether of the same sex or not, who ordinarily lives with You in a genuine personal and domestic relationship similar to the relationship of husband and wife.

Storm means adverse or unusual weather and Sea conditions which have been caused by winds measuring Force 10 or more on the Beaufort wind scale.

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

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

Sum Insured means the amount stated in the Schedule for insured Piers and Pontoons, being the maximum amount We will pay for any one loss or series of losses arising from the one Event for loss or Damage to these items, inclusive of and not additional to any applicable Excess.

Territorial Limits means that geographical area anywhere within the confines of the Marina.

Total Loss means the loss of or Damage to Your Piers and Pontoons which We consider to be uneconomical to repair, or which requires repairs costing more than the Sum Insured value of the Piers and Pontoons.

Trial Trip means a trial trip from the Marina at which Incidental Watercraft Repair Work has been carried out which is within 15 kilometres of the Marina.

Turnover in relation to Optional Benefit 7 on page 14 only, means the money (less discounts, if any allowed) generated by the Piers and Pontoons insured in the course of Your Marina Business at the Situation.

Vehicle(s) means any type of self powered machine on wheels or on self-laid tracks (other than ship-lifters, marine travel lifts, jinkers, slipways, cradles or any other mobile ship-lifting device) and any trailer or other attachment made or intended to be drawn by such machine.

Vehicle does not include any machine, trailer or attachment that is made to travel, move, operate or be drawn on rail tracks or by a pulley, conveyor or cable system, including but not limited to gondolas and chairlifts.

Warranty means You will undertake that some particular thing shall or shall not be done or that some conditions shall be fulfilled or that You affirm or negative the existence of a particular state of facts. The Warranty may be express or implied.

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

We, **Us**, **Our**, **Allianz** means Allianz Australia Insurance Limited AFS Licence No. 234708 ABN 15 000 122 850 (the insurer of Your Policy), acting through its agent Allianz Marine & Transit Underwriting Agency Pty Limited AFS Representative No. 423910 ABN 98 155 554 279.

Workers Compensation Law means any law relating to compensation for injury to Employees.

You, **Your(s)** means:

a) the Insured shown in the Schedule;

b) any subsidiary companies of the Insured referred to in Clause a) above, existing at the commencement date of the Period of Insurance as shown in the Schedule, whose place of incorporation is within Australia or its external territories;

c) and:

   (i) any company acquired by, and whose operations are controlled and managed by, You or a company referred to in Clause b) above during the Period of Insurance as a result of consolidation, merger or purchase;

   (ii) any subsidiary company that is incorporated by You, or by a company referred to in Clause b. above, during the Period of Insurance;

   Provided that:

   (iii) any such acquisition or incorporation is notified to Us within ninety (90) days thereof;

   (iv) the newly-acquired or incorporated company is incorporated within Australia or its external territories;

d) and:

(i) any director, executive officer, Employee or partner of the Insured or a company referred to in Clauses b) or c) above, but only while acting within the scope of their duties in such capacity; and

(ii) any shareholder of a company referred to in Clauses a), b) or c) above, but only while acting within the scope of their capacity as shareholders of such company;

(iii) any principal in respect of such principal's vicarious liability for the acts or omissions of the Insured shown in the Schedule or a company referred to in Clauses b) or c) above, in the performance of work for such principal, subject always to the extent of cover and Limit of liability provided in the Policy.

Where the Insured is comprised of more than one entity, the term "You" will be considered as applying to each entity in the same manner as though a separate Policy had been issued to each entity, however, Our Limit of Liability shall not exceed the amount specified in the Schedule and Our liability to make supplementary payments will apply as though there were not separate policies issued to each entity.

Your Marina Business means, and, unless otherwise agreed and noted in the Schedule, is limited to, Your ownership and/or operation of a Marina, which includes:

a) waterfront facilities including hoists, cranes and cradles used in connection with the Marina operations, moorings, berths, ramps, piles, wharfs, fixed and floating jetties, docks slipways, piers and pontoons and walkways on, over or immediately adjacent to water subject to tidal movement;

b) floating plant and equipment used within the confines of the Marina;

c) working boats used to ferry customers to and from moored Watercraft;

d) Your physical and legal control of Watercraft owned by third parties, including whilst You are relocating such Watercraft within the confines of the Marina;

e) the provision of services to Watercraft including fuel, water and sewage removal;

f) the provision of moorings, berths, buoys and the like;

g) storage of customers Watercraft;

h) hauling and/or lifting out, slipping and/or launching of customers Watercraft;

i) the sale of Watercraft and the sale of Parts and Accessories;

j) the service, repair and maintenance of Watercraft and machinery, or parts thereof; and

k) activities incidental to the above.

Cover

Subject to the terms, conditions and exclusions contained in this Policy We will indemnify You, up to the Limit of Liability expressed in the Schedule, for all amounts which You become legally liable to pay as Compensation for Personal Injury to others and/or Property Damage of others first occurring as a result of an Occurrence in connection with Your Marina Business or arising out of the use of the floating Piers and Pontoons located at the Marina (including any neglect or failure to raise, remove or destroy the wreck of such items following loss or Damage) that happens within the Territorial limits and during the Period of Insurance.

Excess

You must pay Us the Excess shown in the Schedule each Occurrence, including for any supplementary payments made.

A separate Excess applies, where listed, to certain Optional Benefits and will apply to any claim under the listed Optional Benefit.

Supplementary payments

Subject to the terms, conditions and exclusions contained in this Policy, in addition to the Limit of Liability, We will also make the following supplementary payments:

a) all charges, expenses and legal costs incurred by Us and/or by You with Our prior written consent in the investigation, reporting, settlement or defence of any claim or suit for Compensation for which:

(i) You are entitled to cover under this Policy; or

(ii) You would be entitled to cover under this Policy if such claim or suit were to be sustained;

b) all legal costs taxed against You in any such suit or claim and all interest on the judgment or settlement amount accruing after the entry of judgment against You until We have paid, tendered or deposited in court such part of the judgment as does not exceed the Limit of Liability;

c) all expenses incurred by You for providing first aid to others for Personal Injury for which You are covered by this Policy (other than medical expenses prohibited by law);

Provided that:

- if a payment exceeding the Limit of Liability has or is required to be made to dispose of a claim, Our liability to make supplementary payments will be limited to the proportion of the supplementary payments as the Limit of Liability bears to the amount paid or required to be paid to dispose of the claim. Where the application of this clause means that You are liable to repay supplementary payments to Us, We may set off the amount that You owe Us against any other entitlements You have under the Policy;

- supplementary payments in connection with claims made and/or actions instituted against You within the United States of America or Canada or claims and actions to which the laws of the United States of America or Canada apply will form part of the Limit of Liability and not be additional to it.
- if in settling or disposing of any claim covered under this Policy Compensation is payable in excess of the Limit of Liability, Our additional liability in respect of any costs incurred for a claim arising under one of the Additional Benefits listed on page 12 or Optional Benefits listed on pages 12 to 15 to which a Sub limit applies, will be limited to the same proportion of these costs as the Sub limit bears to the total Compensation payable to dispose of or settle the claim.

Additional benefits

We will extend the cover to also indemnify You for all amounts which You become legally liable to pay as Compensation by reason of Your legal liability for the following to the extent that the Limit of Liability is not otherwise exhausted and provided that such liability results from Your negligence or, that of Your Employees, agents or Subcontractors which occurs during the Period of Insurance up to the Limit of Liability.

1. Salvage /removal of wreck

The reasonable costs and charges of salvage and/ or removal of a wreck including the floating Piers and Pontoons located at Your Marina but excluding the wreck of ny Watercraft owned, managed or operated by You unless You have taken the Optional benefit 4 – P&I Endorsement on page 13.

2. Incidental Watercraft Repair Work

Providing the Incidental Watercraft Repair Work conducted by You as part of Your Marina Business:

- falls within the definition specified on page 8 of this Policy wording; and
- is not otherwise insured under a specific Ship Repairer's Liability Policy (whether or not this is arranged with Us).

We will also provide cover Your legal liability for:

a) Damage to any Watercraft or the machinery/ equipment thereof which is in Your physical or legal control for the purpose of Incidental Watercraft Repair Work including during shifting and moving within Your Marina and Trial Trips;

b) Damage to contents or other property on or discharged from a Watercraft undergoing Incidental Watercraft Repair Work;

c) Your Products installed by You during Incidental Watercraft Repair Work of any Watercraft;

d) Damage to third party property, occurring in the course of or arising from Your Incidental Watercraft Repair Work.

In the event that Your Incidental Watercraft Repair Work does not meet the criteria specified in the definition on page 8, You will not be covered under this Additional Benefit and You should contact Us to arrange cover for Your Ship Repair operations under a Ship Repairer's Liability Policy.

Optional benefits

The following Optional Benefits are only operative when shown as covered in the Schedule. Unless otherwise specified, these Optional Benefits are included in the Limit of Liability and not in addition to it.

1. Pollution liability

Notwithstanding the provisions of Exclusion B4 – Pollution/dumping of spoil, We will indemnify You up to the Limit of Liability against legal liability incurred by You for Personal Injury or Property Damage to third parties caused by a Pollution Event which is identified as occurring at an instantaneous moment in time during the Period of Insurance, is Accidental and neither expected nor intended by You, and became known to You within 72 hours after its commencing and is reported to Us within 72 hours thereafter.

In addition, We will also cover the costs of clean up and/or reduction of a Pollutant hazard up to a limit of $1,000,000 each and every loss or series of losses caused by a Pollution Event occurring during the Period of Insurance. This amount is payable in addition to the Limit of Liability.

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

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 Pollution and/or contaminating substances;

d) the cost of testing, monitoring, containment, treatment, detoxifying, removing, neutralising and/or nullifying and/or cleaning up seepage and/or Pollution and/ or contaminating substances on property at any time owned and/or leased and/or rented by You and/or under Your control whether or not any of the foregoing are or should be performed by You or by others;

e) the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants caused by any Products that have been discarded, dumped, abandoned or thrown away by others; or

f) radioactive material or asbestos.

2. Chandlery/Incidental Marine sales

Notwithstanding the provisions of Exclusion B9 – Other commercial operations and Exclusion B10 – Building and rebuilding , We will indemnify You up to a limit of $1,000,000 each and every loss or series of losses caused by the one insured Event during the Period of Insurance in respect of legal liability incurred by You as outlet for chandlery, provisions and/or general merchandise, including liability arising out of goods sold.

This Optional Benefit excludes any liability caused by or arising out of:

a) faulty design and/or manufacture; or

b) misrepresentation or misdescription of property for sale.

3. Catering

Notwithstanding the provisions of Exclusion B9 – Other commercial operations and Exclusion C1 – Certain bodily injury, We will indemnify You up to a limit of $1,000,000 each and every loss or series of losses caused by the one insured Event during the Period of Insurance in respect of legal liability incurred by You as owners and/or providers of club house, restaurant bar and general catering facilities including liabilities arising out of the supply and/or sale of food and drink.

Where You arrange with other external parties the provision of any of these facilities, cover under this Optional Benefit is subject to all rights of recourse against those other external parties being maintained.

4. P & I Endorsement

Notwithstanding the provisions of Exclusion A1 – Property in physical or legal control and C1 – Certain bodily injury, We will indemnify You or Your Employees up to the Limit of Liability in respect of Your legal liability for the breaking away of Watercraft from their place of mooring/storage and/or an error in the operation/navigation of Watercraft by You or Your Employees in the course of Your Marina operations during the Period of Insurance as a result of which You become legally liable to pay Compensation for:

1. loss of life of, or injury to any person;
2. loss of, or Damage to, or expense in connection with any fixed or moveable object or property of whatsoever nature;
3. costs or expenses of, or incidental to, the removal of the wreck of the Watercraft when such is compulsory by law;
4. costs and expenses, incurred with Our approval, of investigating and/or defending any claim or suit against You arising out of a liability or an alleged liability covered above.

This Optional Benefit excludes:

a) any loss of, Damage to, or expense in connection with, any property owned by, leased to, or rented to, You;

b) any claim arising with respect to Personal Injury to any Employee; and

c) any liability assumed by You beyond that imposed by law in the absence of contract.

5. Inspections and valuations – errors and omissions

Notwithstanding the provisions of Exclusion C7 – Professional liability, We will indemnify You for Your legal liability for errors and omissions associated with Your provision of incidental Watercraft valuation or inspection services caused by an Event during the Period of Insurance, subject to a limit of $200,000 each and every loss or series of losses and in the aggregate during the Period of Insurance, unless otherwise agreed and noted on the Schedule.

This Optional Benefit excludes:

a) reports provided to clients prior to this Policy commencing;

b) deliberate misrepresentations, errors or omissions made by You;

c) reports prepared by unqualified or inexperienced Employees which have not been thoroughly checked and approved by a qualified senior inspector/valuer; and

d) reports which do not contain an approved disclaimer of liability noted and agreed by Us.

For the purposes of this Optional Benefit the term "incidental" shall mean making up no more than 10% of the total Gross Earnings of Your Marina Business.

An Excess of $5,000 will apply to claims under this Optional Benefit unless a different Excess is specified in the Schedule.

6. Piers and Pontoons – material Damage

We will pay You in accordance with the Basis of Settlement set out below for loss or Damage to Your floating Piers and Pontoons located at the Situation described in the Schedule occurring during the Period of Insurance caused by one of the following specified perils during the Period of Insurance:

a) Storm;

b) Flood;

c) fire or lightning;

d) collision with or impact by any Watercraft, Vehicle, railway locomotive, Aircraft or anything dropped therefrom;

e) explosion;

f) earthquake or volcanic eruption;

g) Accidents in loading, discharging or moving stores, gear, equipment, machinery or fuel at the Marina;

h) malicious acts;

i) deliberate Damage by Federal, State or Local authorities exercising their rights under current legislation in order to prevent or minimise an environmental hazard / Pollution resulting from an insured Event listed above and provided this has not resulted from You or Your Employees lack of due diligence.

Claims provisions

It is a condition of this Optional Benefit that You must take all reasonable precautions to prevent any further loss or Damage to the Piers and Pontoons.

You must keep accurate business records during the Period of Insurance which You must make available to Us should We so request, including:

a) all documentation relevant to the ownership or purchase of the Piers and Pontoons;

b) any relevant service and maintenance records;

c) evidence to support the amount of any loss or Damage, including written and itemised quotations for the repairs; and

d) photographs or other documentation that may substantiate Your claim.

Basis of Settlement

Subject to the deduction of the Excess shown in the Schedule for this Optional Benefit, We will at Our discretion either:

a) repair or replace Your Piers and Pontoons; or

b) pay You the reasonable cost of repairing or replacing Your Piers and Pontoon; or

c) pay You the Sum Insured shown in the Schedule if Your Piers and Pontoons are a Total Loss.

In addition to the above, We will also pay any reasonable:

d) Salvage Charges; and

e) costs and expenses incurred in cleaning Piers and Pontoons which have been affected by the Accidental spillage of, or contamination or Pollution by oil and fuel arising from any one Accident or a series of Accidents arising from the one Event during the Period of Insurance, without application of the Excess, provided that such a spillage, contamination or Pollution has not resulted from the lack of due diligence by You or Your managers, and only up to a limit of $15,000 each and every loss.

Underinsurance

We will be liable for no greater proportion of the loss or Damage than the Sum Insured bears to 85% of the market value of the Piers and Pontoons on the day of commencement of the Period of Insurance.

Specific exclusions

In addition to the General Policy Exclusions listed on page 16 We will not pay for any loss or Damage, Personal Injury or liability arising from:

a) fading, chipping, scratching or marring, gradual deterioration or development of flaws, or inherent vice, normal maintenance or upkeep;

b) the costs of remedying a latent defect, fault or error in design, materials, manufacture or construction;

c) the cost of improving or altering the Piers and Pontoons, betterment, or alteration in design and construction;

d) construction, erection, dismantling or re-erection other than in the course of inspection, maintenance, or repairs.

7. Loss of Earnings on Piers and Pontoons

This Optional Benefit is only available where Optional benefit 6 – Piers and Pontoons – material Damage has also been selected.

We will indemnify You for loss of Net Income as a result of the Piers and Pontoons being partially or totally prevented from earning income following loss or Damage for which We have agreed to pay a claim under Optional benefit 6 – Piers and Pontoons – material Damage occurring during the Period of Insurance.

Our liability under this Optional Benefit will not exceed the maximum Daily Indemnity specified in the Schedule for the applicable Period of Indemnity any one loss or series of losses caused by the insured Event, and in the aggregate for all Occurrences during the Period of Insurance, subject to reinstatement of these amounts as outlined below.

You must bear as an Excess, the first number of days shown in the Schedule for each Occurrence.

The amount We pay under this Optional Benefit as specified in the Schedule shall be reduced by the amount of any other claims paid under this Optional Benefit during the Period of Insurance. Reinstatement of the amounts agreed and shown in the Schedule shall be automatic subject to the payment of the appropriate additional Premium plus government charges (where applicable).

The following provisions apply to calculation of claims under this Optional benefit:

a) the Gross Revenue for a claim under this Section shall be calculated based on the Turnover for berth fees and fuel sales and other income generated directly related to the berthing of Watercraft or use of the Damaged

Piers and Pontoons for the corresponding Period of Indemnity for the same dates in the previous year;

b) any charges and/or expenses saved during the Period of Indemnity as a result of the insured loss or Damage to the Piers and Pontoons and any Net Income generated from the use of alternate facilities by You, whether this is at Our request or not during the Period of Indemnity, shall be deducted from any amounts payable to You;

c) where Damage repairs are carried out at the same time as other repairs which are not claimable under this Policy and that are immediately necessary for the safety of the Piers and Pontoons or to allow You to earn Net Income, the Net Income lost during such time as is common to both types of repair work in excess of the Excess shall be divided equally between You and Us. If the time necessary to effect Damage repairs is extended by any other repairs which are not claimable under this Policy and that are immediately necessary for the safety of the Piers and Pontoons or, to allow You to earn Net Income, 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 without the said other repairs;

d) where due to a single insured Event, the Piers and Pontoons are prevented from earning Net Income during repairs on up to three separate occasions, these separate occasions may be aggregated, provided that the repairs are completed within 12 months of the expiry of the Period of Insurance of this Policy.

In addition to the Daily Indemnity amount specified in the Schedule, We will also pay any additional expenditure incurred with Our consent for the sole purpose of avoiding or diminishing the loss of Net Income, however, such additional expenditure shall not exceed the amount of the reduction in Net Income which is avoided.

Recoveries

Where a recovery for loss of Net Income is obtained from a third party and You have been indemnified under the Policy for loss of Net Income, We are entitled to this recovery to the extent of any amount We have paid under this Optional Benefit.

Promptness of repairs

All repairs shall be arranged with due diligence and promptness. We have the right to request You to incur any expenses that would reduce Our liability under this Policy provided We shall pay for these expenses.

Specific exclusions

In addition to the General Policy Exclusions listed on page 16, We will not cover You under this Optional benefit 7 – Loss of Earnings on Piers and Pontoons for loss, Damage or expense directly or indirectly caused by, in connection with, arising from, or occasioned through:

a) an Occurrence excluded by Optional benefit 6;

b) any Damage which remains unrepaired during the Period of Insurance, except as specified otherwise within this Optional benefit 7 – Loss of Earnings on Piers and Pontoons;

c) any claim for any sum recoverable under any other insurance on the Pier and Pontoon or which would be recoverable under such insurance but for the existence of this Section, to the extent permitted by law;

d) use of the Pier and Pontoon other than for its intended commercial purpose.

General Policy exclusions

In no case shall this Policy cover loss, Damage, liability for third party Property Damage or Personal Injury, cost or expense directly or indirectly caused by, or contributed to by, or arising out of or in connection with:

A. Types of Property

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

1. Property in physical or legal control

Property Damage to:

a) property owned by or leased or rented to You; or

b) property in Your physical or legal control.

Provided that this exclusion will not apply to liability for Damage to Watercraft owned by third parties, or to Piers and Pontoons where the Optional Benefit 6 – Piers and Pontoons – material Damage on page 13 is taken.

2. Asbestos and silica

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

3. Aircraft, Hovercraft, helicopter, seaplane

a) Your ownership, possession, management, maintenance, repair or operation of any Aircraft, Hovercraft, helicopter, seaplane or any other airborne craft;

b) Your management, ownership or operation of any air strip, area or building upon which such craft land or manoeuvre or in which they are housed, maintained or repaired; or

c) any of Your Products which are incorporated into the structure, machinery or controls of such craft.

4. Computer technology

any appliance, machinery, equipment or other property which is a computer or which contains or comprises any computer technology (including computer chip or control logic), and which fails to perform or function in the precise manner for which it was designed for any reason arising from the performance or functionality of such computer technology (including computer chip or control logic).

5. Motor Vehicles

the existence, ownership, maintenance, service, repair, possession, operation, use or legal control by You or Your Family Members or on Your behalf of:

a) any licensed truck, automobile, or other mechanically propelled Vehicle;

b) any unlicensed truck, automobile, or other mechanically propelled Vehicle outside Your Marina.

6. Underground or underwater services

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

B. Activity exclusions

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

1. Diving

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

2. Failure to use standard terms

other than in relation to a claim under the Optional benefits 6 and 7 on pages 13 to 15 (Piers and Pontoons – material Damage and Piers and Pontoons – Loss of Earnings) the failure to incorporate Your standard trading conditions of Your business into every agreement for the provision of Your Marina Business activities, including berthing agreements.

3. Operation of any Watercraft

arising from Your management or operation of any Watercraft on the water in which You have an interest as owner, charterer or managers or in respect of any act, omission, Event or Accident.

4. Pollution/dumping of spoil

except as otherwise provided in this Policy:

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

b) the dumping of spoil;

c) the testing, monitoring, clean-up, removal, containment, treatment, detoxifying or neutralising of Pollutants, whether or not any of the foregoing are or should be performed by You or by others; or

d) the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants caused by any Products that have been discarded, dumped, abandoned or thrown away by others.

5. Participation

the actual participation of a person in any sport, exercise or activity including but not limited to racing, competitive water sports and water skiing.

The term "participation" as used in this exclusion includes the participation, training or practice for, supervision or control of such activities.

This exclusion does not apply to Personal Injury or Property Damage caused by any fault or defect in equipment provided by You at any Situation owned and/or occupied by You for the purpose of Your Marina Business.

6. Salvage operations

arising from or connected with any salvage operations performed by You, unless otherwise agreed and noted in the Policy Schedule.

7. Smoking

the inhalation or ingestion of or exposure to:

a) tobacco or tobacco smoke; or

b) any ingredient or additive present in any articles, items or goods which contain or include tobacco.

8. Territorial Limits

any Event or Occurrence which is outside the geographical or Territorial limits unless specifically agreed to by Us following Your notification.

9. Other commercial operations

the operation of any commercial business other than Your Marina Business at the Situation(s), including, but not limited to, the operation of commercial Watercraft, cafés, restaurants or nightclubs.

10. Building and rebuilding

building or rebuilding Watercraft, chandlering, rigging or painting.

11. Repairs to Ships/Watercraft

directly or indirectly arising out of or in any way connected with painting or mechanical or structural repairs to Watercraft other than as provided for under the Additional Benefit 2 – Incidental Watercraft Repair Work on page 12.

C. Types of claim

Your Policy does not cover:

1. Certain bodily injury

Personal Injury, unless the Personal Injury occurred on a Watercraft on water or boarding or alighting from the Watercraft.

2. Consequential loss, loss of use and penalties

a) payments under penalty clauses in any contract for services in respect of property referred to in The Cover or insured under Optional Benefits 6 and 7 on pages 13 to 15;

or directly or indirectly arising from:

b) loss of the use of tangible property where this has not been physically Damaged or destroyed, other than as provided for under the Optional Benefit 7 – Loss of Earnings on Piers and Pontoons on page 14, where taken;

c) delay (including that caused by insolvency or Your or Your clients' inability to pay), or lack of performance on Your behalf in relation to any contract or agreement;

d) the failure of Your Products to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by You, but this exclusion does not apply to the loss of use of other tangible property resulting from the sudden and Accidental Damage to or destruction of Your Products after such Products have been put to use by any person or organisation other than You;

e) loss of contract;

f) depreciation in value of any undamaged property; or

g) emotional, psychological or sentimental loss which occurs due to loss or Damage sustained to Your Property.

3. Contractual liability

liability assumed under any contract or agreement, other than:

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

b) those written contracts shown in the Schedule; or

c) liability assumed under Incidental Contracts.

4. Default judgement

a default judgment entered against You by reason of Your failure to defend the claim, unless We gave You prior written consent to this course of action.

5. Employer's liability

a) Personal Injury to any Employee or Family Members, where You are required by law to insure or otherwise fund, whether through self-insurance, statutory fund or other statutory scheme, all or part of any common law liability (whether limited or not) for such Personal Injury; or

b) Personal Injury to any workman or other person employed in any capacity whatsoever by Your agents, contractors or Subcontractors; or

c) Personal Injury to Your agents, contractors and Subcontractors, day labour, supplied labour or any of their workers when such Personal injury arises out of or in the course of the employment of such worker or other persons imposed by:

   (i) any Workers Compensation Law;

   (ii) the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award, agreement or determination;

(iii) any law relating to Employment Practices;

(iv) any statutory or common law liability in respect of Personal Injury of any Employee or any worker or other person employed in any capacity whatsoever by You, Your agents, contractors or Subcontractors; or

(iv) liability imposed by any law relating to Employment Practices.

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

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

7. Professional liability

liability directly or indirectly arising out of or in any way connected with the provision by You or Your Family Members or any one on Your behalf of professional advice or any error or omission connected therewith, except as provided under the Optional benefit 5 – Inspections and Valuations – Errors and Omissions on page 13, where taken.

This exclusion will not apply where professional advice or service is given without fee or charge.

D. Perils exclusions

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

1. Assault and battery

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

2. Defamation, libel and slander and other personal injury

libel, slander, defamation of character or invasion of right of privacy, any breaches of Employment Practices legislation or any act or acts of sexual or physical molestation of or sexual interference by You.

3. Design errors, known faults and rectification of faults

a) Your designs, specifications or formulas or any error or omission in respect of such design, specification or formula, other than where such work was not provided for remuneration (such as a fee or commission) whether mixed with remuneration for other services or not;

b) Damage caused by faults or defects known to You or any Employee whose knowledge in law would be deemed to be Yours and which was not disclosed to Us at the time Your Policy was entered into;

c) the rectification of Your faulty workmanship;

d) the misalignment or misplacement of any piles or castings or the cost of abandonment of them for any reason; or

e) in respect of Piers and Pontoons, subsidence, landslip, erosion or heave, incorrect siting, faults in construction, design or materials.

4. Lawful seizure

lawful seizure, detention, confiscation, nationalisation or requisition.

5. Normal Losses and/or lack of maintenance, etc

a) wear and tear, lack of reasonable maintenance care or protection, gradual deterioration or erosion;

b) corrosion, oxidation, rust, electrolysis, change in temperature, dampness, dryness, wet or dry rot, shrinkage, evaporation, loss of weight, contamination, change in colour, flavour, texture or finish, vermin (including birds, mammals, moths, termites or other insects);

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

d) Mould, Fungus/Fungi, Spore(s), mildew(s), mushroom(s), yeast(s) or biocontaminent(s), toxins, substances, vapours, gas, or other emission or organic or inorganic body or substance created or produced by or emanating from them, or the cost clean-up, remediation, containment, removal or abatement of the above.

6. Product defect

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

a) any defect in them or their harmful nature;

b) their unsuitability for the purpose for which they were intended; or

c) their inherent vice or inefficiency or ineffectiveness.

7. Product recall

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

8. Strike, lockout, labour disturbance

loss arising from any strike, lockout, labour disturbance, riot, civil commotion or act of any person taking part in these except in relation to Damage to Your property insured caused by persons involved in these activities.

9. Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons

a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;

b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;

c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;

d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes; or

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

10. Cyber

the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

11. Terrorism

a) any Act of Terrorism, as defined herein, regardless of any other cause or Event contributing concurrently or in any other sequence to the loss, unless otherwise provided for in the Terrorism Insurance Act 2003 (Cth); or

b) any action in controlling, preventing, suppressing, retaliating against, or responding to any Act of Terrorism.

12. War

any war (whether declared or not), hostilities or rebellion, civil war, revolution, insurrection, military or usurped power, invasion, or act of foreign enemy.

13. Wilful, deliberate acts or failure to take appropriate care

a) conduct intended to cause loss, Damage or liability or committed with reckless disregard for the consequences by You, a Family Member or any person acting with Your knowledge, consent or connivance;

b) Your or Your Employees' failure to take reasonable precautions to prevent Accidents which may give rise to a claim under this Policy;

c) Your being involved in any illegal trade or venture;

d) circumstances where You, Your Family Members or Your Employees have waived or restricted Your rights of recourse against any person, unless previously agreed in writing by Us;

e) fraudulent or dishonest acts, fraudulent misappropriation, embezzlement and forgery by You, Your Family Members or Your Employee(s) whether acting alone or in collusion with any other person(s);

f) Your wilful breach of any statute, contract or duty;

g) You, Your managers, Your Employees or anyone for whom You are legally responsible being, with Your or Your managers' knowledge, under the influence of alcohol and/or drugs;

h) Your failure to comply with all statutory or other obligations and regulations imposed by any authority relating to inspection and testing;

i) any breach by You, or with Your consent, of any law, by-law, government, local government, statutory authority, or other legally constituted public body's regulation dealing with the storage of hazardous goods;

j) the failure to store all resins, fibre glass, solvents, cellulose based materials and the like outside the Buildings in suitable metal or brick structures, except for the amount of such materials that is required inside the Buildings in the course of conducting Your Marina Business activities or ship repairing activities for that day, in which case these materials shall be kept inside the Buildings in secure metal containers.

14. Infectious Diseases

the carrying or passing on of any infectious disease or virus by You, whether Accidentally, knowingly, wilfully, maliciously or otherwise including any losses caused by quarantinable disease listed in the Australian Quarantine Act 1908 (Cth) or similar legislation.

E. Failure to Notify

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

a) any permanent or temporary alteration (which includes occupation, use and physical changes) to property situated at or brought onto the Marina which increases the risk of loss, Damage or liability where You or Your Employees have failed to notify Us of any such alteration as soon as reasonably practicable; or

b) an Occurrence involving loss or Damage to third party Watercraft covered by this Policy unless discovered and reported to Us in writing within 1 year of delivery to the owners or within 1 year after the work is completed by You, whichever may first occur.

General Policy conditions

If You do not meet the applicable general conditions and specific conditions, We may cancel Your Policy and/or reduce or refuse to pay a claim, to the extent permitted by law.

1. Assignment

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

2. Discharge of Liabilities/Claims Control Clause

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

a) We shall have full discretion in the conduct, defence or settlement of any claim. This includes the right to instruct lawyers to provide advice as to Your liability and to represent You;

b) subject to the provisions of the Insurance Contracts Act 1984 or Marine Insurance Act 1909, We have the right to recover or obtain contribution from any person against whom You may be able to claim and the right to take action in Your name;

c) You and any other person entitled to benefit under this Policy must not hinder these rights and must give all such information and cooperation to Us as We may require;

d) You must not, in the absence of Our consent, make or accept any offer or payment, or in any other way admit liability, settle or attempt to settle any claim, or defend any claim;

e) We may at any time pay to You the appropriate Limit of Liability (after deducting from it any Excess or amounts already paid) or any lesser amount for which a claim or claims may be settled. In doing so We will relinquish the conduct of, and shall be under no further liability in connection with, such claim or claims except for costs and expenses incurred before We made such payment.

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

3. Cross liability

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

a) General exclusion D13 Wilful, deliberate acts or failure to take appropriate care;

b) the remaining parties, immediately on becoming aware of any act or omission that increases the risk of loss, Damage or liability, giving notice in writing to Us and, on demand, paying such reasonable extra Premium as We may require; and

c) the Limits of Liability and Sub limits within each Section applying as though this general condition did not apply.

4. GST notice

Your Policy has a GST provision in relation to Your Premium and Our payment to You for claims. It may have an impact on how You determine the amount of insurance You need. Please read the Policy carefully. Seek professional advice if You have any queries about GST and Your insurance.

Limit of Liability

All monetary limits in Your Policy may be increased for GST in some circumstances (see below).

Claim settlements – Where We agree to pay

When We calculate the amount We will pay to You, We will have regard to the items below:

a) 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 Your Policy), We will pay the GST amount.

   We will pay the GST amount in addition to the Limit of Liability or other limits shown in Your Policy or in the Schedule.

   If Your Limit of Liability is not sufficient to cover Your loss, We will only pay the GST amount that relates to Our settlement of Your claim.

   We will reduce the GST amount We pay by the amount of any input tax credits to which You are or would be entitled;

b) Where We make a payment under Your Policy as compensation instead of payment for a relevant acquisition, We will reduce the amount of the payment by the amount of any input tax credit that You would have been entitled to had the payment been applied to a relevant acquisition;

c) Where Your Policy insures loss of hire, We will (where relevant) pay You on Your claim by reference to the GST exclusive amount of any supply made by Your Marina Business that is relevant to Your claim.

Disclosure – Input tax credit entitlement

If You register, or are registered, for GST, You are required to tell Us Your entitlement to an input tax credit on Your Premium. If You fail to disclose or understate Your entitlement, You may be liable for GST on a claim We may pay. Your Policy does not cover You for this GST liability, or for any fine, penalty or charge for which You may be liable.

5. Governing law and jurisdiction

Your Policy is governed by the laws of Australia. Any dispute relating to Your Policy shall be submitted to the exclusive jurisdiction of an Australian Court within the State or Territory in which Your Policy was issued. Depending on the circumstances and nature of the risk We have agreed to insure under this Policy, the Marine Insurance Act (Cth) 1909 or the Insurance Contract Act (Cth) 1984 may apply.

6. Other insurance

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

To the extent permissible by law, this Policy does not cover any loss or Damage which at the time of the happening of such loss or Damage is insured by or would, but for the existence of this Policy be insured by any other existing policy or policies except in respect of any excess beyond the amount which would have been payable under such other policy had this Policy not been effected.

7. Prohibited Cover Or Payments

Irrespective of any other provision of the Policy, We shall not be deemed to provide cover or be liable to pay any claim or provide any benefit (including a refund a Premium) hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would contravene or otherwise expose Us to any penalty, sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, New Zealand, the European Union, United Kingdom or United States of America.

8. Reasonable care and maintenance

You must take all reasonable care in respect of, but not limited to, the items listed below:

a) to prevent or minimise any loss, Damage or liability;

b) to maintain the property insured and Marina in sound condition, in particular to minimise or avoid theft (by maintaining security devices including but not limited to alarms, bollards, cameras, gates, locks, lighting, safes and shutters), loss, Damage or liability;

c) to properly secure the Marina when unoccupied by making operative all security devices mentioned in item b) above;

d) to comply with all statutory obligations, by-laws, regulations, public authority requirements and safety requirements, including those relating to fire appliances and the use and storage of hazardous goods;

e) to 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.) and, where required, obtain a gas free certificate and/or any other authorisation which is legally required;

f) LP gas installations must be fitted, approved and serviced by licensed or authorised LP Gas installers and compliance plates affixed as required;

g) to ensure Watercraft operations, competency of crew and the operation and maintenance of the Watercraft in Your care, custody or control;

h) to only employ competent Employees, agents and contractors and ensure they meet the requirements specified in Clauses a) to g) above.

9. Subrogation and waiver of subrogation rights

We have the right to take action or institute legal proceedings, in Your name, for the recovery of payments made and expenses incurred in relation to any claim covered by this Policy, against any person, company or entity legally liable to You in respect of that claim. You must provide Us with full information and all reasonable assistance in the recovery of those payments or expenses.

We will not be liable to pay for loss, Damage or liability if You agree, or have agreed, to limit or exclude any right of recovery against any third party who would be liable to compensate You with respect to that loss, Damage or liability.

10. Premium adjustment

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

We agree to waive any adjustment of Premium where the difference between the actual and the estimated Gross Earnings given to Us by You is less than 10% or where a deposit Premium of $2,500 or less was charged and the final adjusted Premium based on actual Gross Earnings figures supplied by You, does not exceed $2,500.

Where the Premium has been calculated on the Gross Earnings estimates given by You, You must keep accurate records containing all relevant particulars of Your estimates and at any reasonable time allow Us (or Our auditors) to inspect such records.

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

11. Inspections

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

12. Fraudulent claims

In no case shall this Policy cover physical loss, destruction, deterioration, Damage or expense occasioned by or happening through fraudulent or dishonest acts by You or any other party with Your knowledge. We may refuse to pay the whole or part of the claim and to the extent permitted by law, may also cancel the Policy.

Claims

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

(i) immediately inform the police of any malicious Damage, theft, fraudulent conduct, attempted theft or loss of property;

(ii) contact Us as soon as possible by telephone or email to advise how the loss, Damage or liability occurred;

(iii) take all reasonable action to recover lost or stolen property and minimise the claim;

(iv) as far as possible, preserve any Products, appliances, plant or other items which might prove necessary or useful as evidence until We have had an opportunity to inspect them;

(v) take all reasonable precautions to prevent any further loss or Damage to the property insured. We will cover the reasonable cost of such work if We accept Your claim;

(vi) give Us all the information, proof and assistance We may require to prosecute, defend or settle Your claim, including details of any other insurance effected by You or on Your behalf;

(vii) as soon as reasonably practicable after the loss, Damage or relevant Event (or any further time which We may allow in writing), deliver to Us a written claim including as detailed an account as is reasonably practicable of the circumstances surrounding the loss, Damage or Event, and the amount claimed. You must provide Us with a statutory declaration verifying the matters identified in (i)-(vi) above, if requested;

(viii) immediately send Us copies of any claim, writ, summons, or full details of any relevant legal or other proceedings such as an impending prosecution or inquest that You receive or of which You become aware; and

(ix) at all times, give Us all the information and assistance We may reasonably require.

B. You must not:

(i) admit liability for or take any action which may be construed as admission of liability or offer or agree to settle or repudiate, any claim or make promise or incur any costs or waive any rights of recovery without Our written consent;

(ii) authorise the repair or replacement of anything without Our agreement unless for safety reasons or to minimise or prevent further imminent loss, Damage, liability or injury;

(iii) release, agree not to sue on, waive or prejudice any right of recovery against any third party who would be liable to compensate You with respect to that loss, Damage or liability otherwise We may refuse to pay or reduce Your claim, to the extent permitted by law.

C. After You have advised Us of any loss, Damage or liability as set out in this Claims section:

(i) You must comply with all the terms of the General Policy Conditions and specific conditions before We will meet any claim under Your Policy;

(ii) We have the right to recover from any person against whom You may be able to claim any amounts paid by Us and We will have full discretion in the conduct, settlement or defence of any claim in Your name. The amount recovered will be applied first to reducing the amount by which Your loss exceeds the Excess applied. Any balance remaining after You have been fully compensated for Your loss, up to the amount We have paid to You to settle Your claim (including Our legal fees for recovery), will be retained by Us;

(iii) We may take over and conduct, in Your name, the defence or settlement of any claim and We will have full discretion in the conduct of any proceedings in connection with the claim;

(iv) We may pay You the Limit of Liability (after deduction of any sum or sums already paid by Us) or any lesser amount for which a claim or claims may reasonably be settled. After We have paid You, We will no longer be liable for the claim(s) (or future conduct of the claim(s)) except for costs and expenses incurred up until the time We pay You, that We previously agreed to pay;

(v) if You recover or find any lost or stolen property insured for which We have paid a claim, You must:

- inform Us immediately; and
- give Us the recovered or found property insured if We request You to do so.

D. If You advise Us of loss or Damage to property insured, as set out in this section:

(i) We may, or anybody We appoint may:

- take or keep possession of such of the property insured as We may reasonably require for the purposes of Our investigations; and
- if We accept liability, sell such property insured or dispose of it in a reasonable manner;

You are not entitled to abandon such property insured to Us. If We enter, take or keep possession of the property insured, it will not be an admission of liability nor will it affect any of Your obligations under Your Policy;

(ii) and if We elect or become bound to reinstate or replace any property insured, You must at Your own expense produce and give Us all such information as We reasonably may require;

(iii) We will not be bound to reinstate any property insured exactly or completely, but only in a reasonable manner in all the circumstances. In no case will We be bound to pay more than the Limit of Liability.

For all enquiries please call your insurance intermediary

allianzmarineandtransit.com.au

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