



### **MARINA OPERATORS LIABILITY CLAUSES**

- 1) In consideration of the payment of the premium and subject to the Limit of Indemnity, the Company agrees to indemnify the Assured for any sum or sums paid by the Assured by reason of the Assured becoming legally liable for any claim, demand damages and or expenses in respect of loss of or damage to private pleasure watercraft and their motors not belonging to but in the care, custody or control of the Assured arising out of any of the following operations:-
  - (a) Repair, alterations or maintenance;
  - (b) Storage;
  - (c) Mooring at slips, spaces or buoys owned or managed by the Assured;
  - (d) Hauling out or launching not in connection with operations (a) or (b);
  - (e) Fuelling and miscellaneous servicing of a transient nature.
- 2) The Company shall be liable only in respect of covered operations at the Premises stated in the Schedule including adjacent moorings and while being shifted or moved by land or water within twenty-five miles of such premises in connection with covered operations.
- 3) The Assured, by the acceptance of this Policy, warrants and agrees to keep a complete and accurate record of all gross charges for operations covered by this Policy, which record shall be open to examination by representatives of the Company at all times during business hours, and further agrees to make an annual report thereof (collected and uncollected charges) to the Company within fifteen (15) days after the expiration of this Policy.
- 4) Notwithstanding the foregoing, it is hereby expressly understood and agreed that this Policy does not cover against nor shall any liability attach hereunder:
  - (a) For death or personal injury;
  - (b) For any liability assumed under contract or otherwise in extension of the liability imposed upon the Assured by law;
  - (c) For any loss or damage caused by or resulting from exceeding the registered or rated lifting capacity of any lift device, Marine Railway or Drydock;
  - (d) For any loss due to infidelity or any act of a dishonest character on the part of the Assured or his (their) Sub-Contractors or employees;
  - (e) For loss of or damage to property held for sale;
  - (f) For loss of or damage to property used by the Assured for rents or chartering purposes;
  - (g) For loss, damage or expense which may be recoverable under any other Assured insuring to the benefit of the Assured except as to any excess over and above the amount recoverable thereunder;



- (h) In respect of damage to covered property which occurred while in the care, custody or control of the Assured, unless discovered by the owner within sixty days of delivery of the property to the owner;
  - (i) In respect of costs or expenses to make good faulty workmanship, materials or design caused or provided by the Assured;
  - (j) For loss, damage or expense caused by or resulting from:
    - (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack;
      - (a) by any government or sovereign power (de jura or de facto), or by any authority maintaining or using military, naval or air forces; or
      - (b) by military, naval or air forces; or
      - (c) by an agent of any such government, power, authority or forces;
    - (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war;
    - (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority;
  - (k) For any nuclear incident, reaction, radiation or any radioactive contamination, whether controlled or uncontrolled, and whether the loss, damage, liability or expense by proximately or remotely caused by, or be in whole or in part caused by, contributed to, or aggravated by the risks and liabilities insured under this Policy, and whether based on the Assured's negligence or otherwise.
- 5) The Company agrees to indemnify the Assured to the extent of this Policy's proportion of legal costs or fees or expenses of counsel occasioned by the defence of any claim against the Assured for any liability or alleged liability of the Assured covered by this Policy provided that such costs, fees or expenses are incurred with the prior written consent of the Company. The Company shall have the option of naming attorneys to represent the Assured in the defence of any claim, insured hereunder, made against the Assured, and this said defence. The Assured shall co-operate with the Company and shall not assume any obligations, admit any liability, or incur any expense for which the Company may be liable, without prior written approval.
- 6) It is further stipulated and is a consideration for this Insurance that in the event of any occurrence which may result in loss, damage and/or expense, for which the Company is or may become liable under this Insurance, notice thereof shall be given to the Company as soon as practicable, and further, that any and every process, pleading and paper of any kind relating to such occurrence shall be forwarded promptly to the Company.



- 7) In respect of any accident or occurrence likely to give rise to a claim under this Insurance, the Assured is obligated to and shall take such steps to protect its (and the Company's) interests as would reasonably be taken in absence of this or similar Insurance. This Insurance, however, shall be void and of no force or effect, in respect of any accident or occurrence, in the event the Assured shall make or shall have made any admission of liability either before or after such accident or occurrence.
- 8) It is expressly understood and agreed that no liability shall attach under this Insurance until the liability of the Assured has been determined by final judgement against the Assured or by agreement between the Assured and the Claimant with the written consent of the Company; in the event the Assured shall fail or refuse to settle any claim, as authorised by the Company, the liability of the Company to the Assured shall be limited to the amount for which settlement could have been made.
- 9) Whenever required by the Company, the Assured shall aid in securing information, evidence, obtaining of witnesses, and co-operate with the Company in all matters which the Company may deem necessary in the defence of any claim or suit or appeal from any judgement in respect of any occurrence as hereinbefore provided.
- 10) In the event of any accident, loss, damage or injury for which claim may be made under this Policy, the Assured agrees to subrogate to the Company all rights which the Assured may have against any other person or entity with respect to said accident, loss, or occurrence in case of any agreement or act, past or future, by the Assured, whereby any right of recovery of the Assured, against any person or entity, is released or lost, which would on payment of loss by the Company belong to the Company but for such agreement or act, this Insurance shall be vitiated to the extent that the Company's right of subrogation has been impaired thereby; provided, however, that the right of the Company to retain or recover any premium paid or due hereunder shall not be affected. The cost and expense of prosecuting any claim, suit, action or inter-related Company of the Assured, excepting to the extent that any such Company is insured against the liability asserted.
- 11) No claim or demand against the Company under this Policy shall be assigned or transferred, and no person, excepting a legally appointed Receiver of the property of the Assured, shall acquire any rights against the Company by virtue of this Insurance without the expressed consent of the Company.
- 12) No action shall lie against the Company for the recovery of any loss sustained by the Assured unless such action be brought against the Company within one (1) year after the final judgement or decree is entered in the litigation against the Assured, or in case the claim against the Company accrues without the entry of such final judgement or decree, unless such action be brought within one (1) year from the date of the payment of such claims; provided, however, that where such limitation of time is prohibited by the laws of the State wherein this Policy is issued, then and in that event no action under this Policy shall be sustainable unless commenced within the shortest limitation permitted under the laws of such State.
- 13) This Policy may be cancelled by either party on giving the other or its agent thirty (30) days notice in writing.
- 14) All other terms and conditions of this Policy not in conflict herewith remain unchanged.



**MARINA LIABILITY - PROTECTION AND INDEMNITY ENDORSEMENT**

1. With respect to pleasure craft covered by this Policy which are being operated by the Assured or his employees in conjunction with operations covered by this Policy or which may break away from premises covered by this Policy, this Policy is hereby extended to cover such sums as the Assured shall have become legally liable to pay and shall have paid on Account of:
  - (a) Loss of Life, or injury to any person;
  - (b) Loss of, or damage to, or expense in connection with any fixed or movable objects or property of whatsoever nature;
  - (c) Costs or expenses of, or incidental to, the removal of the wreck of the Insured vessel when such removal is compulsory by law;
  - (d) Costs or expenses, incurred with the Company's approval, or investigating and/or defending any claim or suit against the Assured arising out of a liability or an alleged liability of the Assured covered above.
2. Notwithstanding the foregoing, the company will not pay for:
  - (a) Any loss of, damage to, or expense in connection with, any property owned by, leased to, or rented to, the Assured;
  - (b) Any claim arising with respect to any employee of the Assured;
  - (c) Any liability assumed by the Assured beyond that imposed by law in the absence of contract.
3. The Company shall not be liable for more than its proportionate part of the Limit of Indemnity in respect of each separate accident or occurrence or series of accident or occurrence or series of accidents arising out of the same event.
4. The deductible provision of the Marina Operators Liability Schedule shall apply to coverage granted by this endorsement.
5. In consideration of this extension, the Assured agrees to pay additional premium at the rate included of the gross charges as reported under the provisions of Clause 3 of the Marina Operators Liability Clauses attached to this Policy.
6. All other terms and conditions of this Policy not in conflict herewith remain unchanged.