

# PROFESSIONAL MARINERS INSURING AGREEMENT

## Non-owned vessels

### **READ YOUR POLICY** **IMPORTANT INFORMATION**

This page does not form part of your policy document and is provided for informational purposes only.

Coverage provided under the attached Policy/Certificate/Cover Note is contingent on the various warranties, requirements and acknowledgements.

The "Applicant" is the party named as the "Insured/Assured" in any insuring contract. By signing any Application/Proposal, the Applicant for insurance represents and warrants the information provided in the Application, with all of the supplemental information, documentation and other detail provided by the Applicant for submission to Underwriters is true, correct, inclusive of all relevant and material information necessary for the Insurer to accurately and completely assess the Application and is not misleading in any manner. The Applicant also warrants the Applicant understands and agrees at a minimum the following:

1. the Insurer can and will rely upon the Application and supplemental information provided by the Applicant, and any other relevant information, to assess the Applicant's proposal for insurance and to quote and potentially bind, price and provide coverage
2. the Application and all of the supplemental information, documentation and other relevant detail provided by the Applicant are warranties that will form part of any coverage or insurance policy to be issued
3. the submission of an Application or the payment of any premium does not obligate the Insurer to quote, bind or provide insurance coverage
4. if the Applicant provides any false, misleading, inaccurate or incomplete information any coverage provided is deemed null and void ab initio.

**FUTURE CLAIM INCIDENT/REPORTING REQUIREMENT:** It is an express condition precedent to coverage under this Policy, you must give immediate written notice no later than fourteen (14) days after any incident, event, occurrence, loss or accident which might give rise to a claim under this policy.

**RESTRICTIVE COVERAGES:** This insurance coverage differs significantly from claims-made or occurrence type policies offered by other insurers. It is a manuscript policy with very strict requirements. The "application" or "proposal" and "warranty prior claims" documents are part of the Policy/Certificate/Cover Note and constitute warranties. Coverage is provided only for otherwise covered Claims:

- 1) Which are first made by or against an Insured/Assured during the Policy Period, and
- 2) Which result from an Accident occurring during the Policy Period, and
- 3) For which written notice is given to Insurers/Underwriters during the Policy period.

In addition, coverage is strictly limited to those activities and operations and at those locations listed, described and defined in the Policy/Certificate/Cover Note. Various other provisions of this Policy/Certificate/Cover Note restrict and limit the coverage provided. Carefully read the Policy/Certificate/Cover Note and all endorsements carefully to determine your rights and duties and what is and what is not covered.

Claims Expenses reduce the available Limits of Liability/Coverage stated on the Declarations Page/Cover Note. In the event of any claim the total amount of any premium charged shall be 100% earned and not subject to short-rate or pro-rata adjustment.

All fees are fully earned at inception. No refund of any fees will be made regardless of whether this policy is cancelled by the covered party(ies) or the Insurer/Underwriter for any reason.

The Insurer has the right to charge a \$50 Service Fee for any endorsements made to the policy at the request of the Insured. There is a minimum fully earned charge of \$50 for each Additional Named Insured (ANI) no matter when added. The Insurer has the right to collect additional premium equal to twenty-five (25%) percent of the total premium due for the Policy/Certificate/Cover Note if the covered party(ies) fail to comply with any premium audit request made by the Insurer/Underwriter at anytime.

The Applicant has been provided and hereby acknowledges receipt a copy of the policy and its applicable endorsements.

**PREMIUM PAYMENTS:** If a premium is paid or payable in one or more installments as agreed it is an express provision of your policy all installments shall be paid to and received by the insurer not later than the due date in the amount agreed.

The due date for premiums being received by the insurer shall be not later than 7 days from the date cover begins and no later than a calendar month successively from the date cover commenced. The onus is on the Assured to ensure the correct premium is received by the Insurers on or before the due date.

Failure to pay the premium or initial installment when cover begins could have the effect of immediate cancellation ab initio.

Failure to pay the installment(s) when due shall have the effect of immediate cancellation at 00:01 AM the day following the due date of the installment(s). Payments received after the due date shall not automatically reinstate coverage, and claims occurring after the due date and prior to the receipt of payment are not covered.

If payment of any installment, in whole or in part, for any reason, is not honoured by your bank, it could have the effect of immediate cancellation at 00:01 AM the day following the due date of the installment(s).

If payment of your premium, in whole or in part, for any reason, is not honoured by your bank, you may not have nor did you have any coverage under this Policy.

**TERRORISM:** Losses or claims arising from or related to terrorism are not covered

### **READ YOUR POLICY**

# PROFESSIONAL MARINERS INSURING AGREEMENT

## Non-owned vessels

### DEFINITIONS

- 1) "You and your" refer to the insured(s) named in the cover note.
- 2) "We, us and our" refer to the insurers named in the cover note.
- 3) "Divers" means any person using underwater artificial breathing apparatus, and/or submersible mechanical or electrical devices including, but not limited to, submarines, diving bells and/or dive suits.
- 4) "Insured vessel" means the vessel described in the cover note, including machinery, electrical equipment, sails, masts, spars, rigging, furniture, and all other equipment normally required for the operation and maintenance of the vessel and which would normally be sold with the vessel but excluding Personal Property as defined in (14) below.
- 5) "Trailer" refers to the trailer, which is suitable for and used exclusively for that purpose by insured vessel.
- 6) Words of masculine gender are deemed to encompass the female gender and vice versa. Words in the singular are deemed to encompass the plural and vice versa.
- 7) "Navigational limits" means all waters as limited and shown in the cover note or amended by endorsement to the cover note.
- 8) "Salvage charges" means those reasonable charges and expenses which may be incurred by you if necessary, to prevent or minimise damage, injury or loss of life and with our permission to prevent or minimise any further loss or damage covered by the Hull Section of this insuring agreement.
- 9) "Deductible" is the first amount of any claim, which must be paid by you. If a deductible is applicable to any cover afforded by this insuring agreement the amount will be shown in the cover note and this amount would be deducted from the amount payable on each agreed claim.
- 10) "Bodily injury/property damage" means actual bodily injury, illness, disease, death or damage to property which may occur during the period of this insuring wording arising from the ownership of or use of the insured vessel.
- 11) "Seaworthy" means fit for the insured vessel's intended purpose and applies not only to the physical condition of the vessel's hull, but to all its parts, equipment and gear and includes the responsibility of assigning an adequate crew. For a vessel to be seaworthy, it and the crew must be reasonably proper, fit, able and suitable for its intended use and the vessel must comply with all local laws, rules and regulations and the laws, rules and regulations of its Home Port or Port, Jurisdiction or Country of registration.
- 12) "Sinking" means when the scheduled vessel has sunk as far as is physically possible for the vessel to sink, and is totally submerged under water.
- 13) "Family" means any person related to you by blood, marriage de facto or marriage Common Law or adoption, including wards and foster children.
- 14) "Personal Property" means property purchased and owned by you or any member of your family, provided that such property is situated on the scheduled vessel insured hereunder at the time of the loss excluding the scheduled vessel as defined in (4) above.
- 15) "Race or speed trial" means any event involving speed and or of a competitive nature, including, but not limited to, regattas and or rallies. "Preparing for a race or speed trial," means any navigation of the vessel necessary to ensure eligibility of either you or your vessel to participate in a race or speed trial.
- 16) "Named Windstorm" means a Nor'easter, Tropical Depression, Tropical Storm, Hurricane or Windstorm Named by the National Weather Service or National Hurricane Service or a cyclone or typhoon.
- 17) "Named Windstorm" damage is damage related to or resulting from a named windstorm or any numbered tropical weather pattern from the time the "named windstorm" or "numbered tropical weather pattern" impacts the area and until 72 hours later.
- 18) The area of the "Named Windstorm" or "tropical weather pattern" is an area encompassed by a circle of radius not exceeding 150 nautical miles from the path of the storm's forward travel.
- 19) "Piracy pirates or assailing thieves" means and act of robbery on the high seas and/or in a port and/or at a mooring and/or at anchor or any act resembling such a robbery.

# PROFESSIONAL MARINERS INSURING AGREEMENT

## Non-owned vessels

### INSURING AGREEMENT

This is a legally binding insurance agreement between you and us, and includes in full the information given by you contained in the application form signed by you and other documentation or information provided by you or obtained from other sources at your direction or with your permission. We will provide the insurance coverage described in this insuring agreement and its endorsements, in return for the remuneration due and compliance by you with the provisions, conditions and warranties of this insuring agreement.

### Coverage for, Hull, Machinery, Equipment and Dinghy

If a sum insured is shown for Hull in the insuring agreement cover note, we will provide coverage for accidental physical loss of, or damage to the insured vessel, which occurs during the period of this insurance and within the limits set out in the cover note, subject to the insuring agreement provisions, conditions, warranties, deductibles and exclusions herein.

Reasonable expenses incurred by you in attempting to avert or minimise a loss covered by this insuring agreement will be paid by us whether successful or not. These will be paid as part of the sum insured under the Hull section and Personal Property section limited to a maximum of 25% of such expenses. Any payment of such charges or expenses shall be deducted from any amount due to you under Sum Assured shown for Hull &/or Personal Property in the insuring agreement.

We will pay salvage charges incurred by you occasioned by a peril covered by this insuring agreement, up to the limit of the sum insured under the Hull section of this insuring agreement. Any payment of salvage charges shall be deducted from any amount due to you under Sum Assured shown for Hull in the insuring agreement.

If the insured vessel shall come into collision with any other ship or vessel and, you, in consequence thereof, become legally liable to pay, by way of damages to any other person or persons, an amount not exceeding the Sum Insured of the insured vessel, we will reimburse you for the amount paid, up to the Sum Insured hereby insured. If your liability has been contested, and, we have given consent in writing, we will also pay the costs thereby incurred and paid, such costs to be deducted from any amount due to you under Sum Assured shown for Hull in the insuring agreement.

If both vessels are to blame, then, unless the liability of the owners of one or both vessels becomes limited by law, claims under this section shall be settled on the principles of cross liabilities, as if the owners of each vessel had been compelled to pay the owners of the other vessel(s) such as one half or other proportion of the latter's damages as may have been properly allowed in ascertaining the amount payable by or to you in consequence of such a collision.

This principle shall apply in cases where both vessels are owned in part or in whole by you and all questions of responsibility and amount of liability between two vessels shall be left to a single Arbitrator, such Arbitrator to be selected by Underwriters.

In no case shall the foregoing clause extend to cover any amount you may become legally liable to pay in respect of removal of obstructions under statutory powers or for injury or damages to harbours, wharves, piers, stages or similar structures consequent on such collisions, or in respect of the cargo or engagements of the Insured vessel or for loss of life or personal injury.

Whilst the insured vessel is afloat, theft coverage shall exclude theft or mysterious disappearance of equipment or personal property unless occurring in conjunction with theft of the entire vessel or unless there is visible evidence of forcible entry and/or removal; made by tools, explosives, electricity or chemicals.

Whilst on land coverage is restricted to theft of the entire vessel including its equipment from a locked garage or locked storage building, or from such other storage place and subject to such other storage conditions, as we have prior approved in writing and any additional premium is paid.

Whilst the insured vessel is on a trailer, coverage is restricted to theft of the entire vessel including equipment from a locked garage or locked storage building or a locked fenced enclosure. If secured to a vehicle the trailer must be secured with a trailer ball lock and the vehicle must be occupied or if unoccupied locked with all openings secured in the closed and locked position, the vehicle engine not running and the keys removed from the vehicle. The towing vehicle must be equipped with a fully enclosed roof. Convertible vehicles or vehicles equipped with removable T-tops, sunroofs, moon-roofs, hatches or similar devices are not considered to be fully enclosed.

It is understood and agreed that this insuring agreement does not cover loss or damage caused by the theft of your vessel and/or equipment whilst on a trailer unless occasioned by person or persons making forced entry into the locked fenced enclosure, garage or building and by destruction of the ball lock. Theft must be accompanied by actual force and violence of which there shall be visible marks made by tools, explosives, electricity or chemicals.

The deductible shown within the insuring agreement cover note page shall apply to each claim under the insuring agreement, including for claims for actual and/or constructive and/or compromised total loss of the scheduled vessel and claims for expenses incurred in attempting to avoid or minimise a loss covered by the insuring agreement.

Losses arising from theft shall be subject to a deductible of ten (10%) percent of the Sum Assured or the deductible shown on the Cover Note, whichever is higher.

# PROFESSIONAL MARINERS INSURING AGREEMENT

## Non-owned vessels

### Named Windstorm, Earthquake, Tsunami Deductible Clause

In the event of loss of or physical damage to property insured arising from or contributed to by a Named Windstorm, &/or an earthquake &/or earth tremor &/or aftershock &/or other seismic activity or event &/or Tsunami, such loss or physical damage shall be subject to a 100% increase in deductible shown on the Declarations Page or Cover Note (but in all cases the Named Windstorm, Earthquake, Tsunami deductible shall never be less than \$2,000 or 10% of the Sum assured, whichever is greater), such deductible to apply to each Section of the Policy and to each and every claim for such loss of or physical damage including actual and/or constructive and/or compromised Total Loss of the insured vessel(s).

**The provisions of this Named Windstorm, Earthquake, Tsunami Deductible Clause are paramount and shall override any provisions contained in this insurance to the contrary.**

Coverage for loss of or physical damage to property insured arising from or contributed to by a Named Windstorm whilst the property insured is located within the area defined as the Hurricane Box between 11 degrees North & 28 degrees North Latitude & 55 degrees West to 92 degrees West Longitude for the duration of 1<sup>st</sup> June to 30<sup>th</sup> November inclusive is subject to the acceptance by Underwriters of a written and signed Hurricane Preparedness Plan.

### Catastrophe Deductible Clause

In the event of loss of or physical damage to property insured arising from or contributed to by an event that is assigned a catastrophe number by Property Claim Services such loss or physical damage shall be subject to a 100% increase in deductible shown on the Declarations Page or Cover Note (but in all cases the Catastrophe deductible shall never be less than \$2,000 or 10% of the Sum assured, whichever is greater), such deductible to apply to each Section of the Policy and to each and every claim for such loss of or physical damage including actual and/or constructive and/or compromised Total Loss of the insured vessel(s).

**The provisions of this Catastrophe Deductible Clause are paramount and shall override any provisions contained in this insurance to the contrary.**

### Exclusions to Hull Machinery Equipment and Dinghy Coverage

Unless specifically agreed by us in writing and an additional premium paid the following exclusions apply:

- 1) Damage sustained by your insured property whilst being transported over land.
- 2) Losses caused by or due to wear and tear, gradual deterioration, lack of maintenance, inherent vice, weathering, insects, mould, animal and marine life.
- 3) Marring, scratching or denting.
- 4) Osmosis, blistering or electrolysis.
- 5) The cost of replacing or repairing any item of equipment which has failed as a result of manufacturing defects or design defects, including latent defects.
- 6) Unrepaired damage claims if the insured vessel is subsequently an actual or agreed or constructive total loss, due to an insured peril, during the insuring agreement period.
- 7) Losses caused directly or indirectly by ice or freezing.
- 8) Theft of the dinghy or tender and/or its outboard motor unless stolen together with the insured vessel from a storage place approved for theft coverage.
- 9) Loss or damage to the towing vessel or dinghy and/or tender whilst being towed.
- 10) Damage to the insured vessel caused by theft, and/or attempted theft unless coverage would have been provided under the theft provisions and restrictions.
- 11) Losses caused by delay and or loss of use and or enjoyment of the scheduled vessel and or its equipment.
- 12) Your personal expenses or those of your family included but not limited to, cost of your own labour, hotel or accommodation costs, travelling expenses, repatriation or evacuation costs, car rentals and communication costs.
- 13) Losses or damage arising from the actions of pirates, piracy or assailing thieves.
- 14) We do not provide coverage for loss resulting from cancellation of charters, non-collectibility of fare or freight, bad debt, insolvency of agents or others, detention or demurrage of the Vessel.
- 15) We will not pay for any duty or duties, fee or fees, tax or taxes, levied, assessed or otherwise collected or charged by any Government or any Authority for the storage, mooring, layup, import or export, detention or seizure of any insured property whatsoever.
- 16) Loss or damage to bimini tops, canvas, covers, eisenglas, or similar items including sails, lines, halyards, ropes and running rigging caused by a named Windstorm.

### Amendments to Hull Machinery Equipment and Dinghy Coverage

If the Insured Property is over 25 years of age, coverage for damage to underwater machinery (running gear of any type), engine(s), transmission(s), generator(s), and any attached equipment to these components must be caused by or a direct result resulting from:

- a) Collision
- b) Lightning
- c) Sinking
- d) Fire
- e) Theft or attempt thereat subject to any theft warranty contained in this policy or its endorsements

Age, as used in this provision, is calculated by subtracting the model year from the calendar year, and adding one (1) to the result.

# PROFESSIONAL MARINERS INSURING AGREEMENT

## Non-owned vessels

### Coverage for Third Party Liability

If a sum insured is shown under the Liability section of the insuring agreement cover note, we will provide coverage for any sum or sums which you become legally liable to pay and shall pay as a result of operation of the insured vessel. We will settle or defend as we deem appropriate any claims or suits brought against you, using attorneys of our choice. Our obligation to settle or defend all third party liability claims under this insuring agreement ends when the amount we pay for damages, legal expenses and removal of wreck equals the sum insured under this section of the insuring agreement.

The deductibles shown in the liability section of the insuring agreement cover note shall apply to each third party liability claim.

### Named Windstorm, Earthquake, Tsunami Deductible Clause applicable to Third Party Liability

In the event of loss payable under the Liability section arising from or contributed to by a Named Windstorm, &/or an earthquake &/or earth tremor &/or aftershock &/or other seismic activity or event &/or Tsunami, such loss or physical damage shall be subject to a 100% increase in deductible shown on the Declarations Page or Cover Note (but in all cases the Named Windstorm, Earthquake, Tsunami deductible shall never be less than \$5,000), such deductible to apply to each Section of the Policy and to each and every claim for such loss.

**The provisions of this Named Windstorm, Earthquake, Tsunami Deductible Clause are paramount and shall override any provisions contained in this insurance to the contrary.**

Coverage for loss under the Liability section arising from or contributed to by a Named Windstorm whilst the property insured is located within the area defined as the Hurricane Box between 11 degrees North & 28 degrees North Latitude & 55 degrees West to 92 degrees West Longitude for the duration of 1<sup>st</sup> June to 30<sup>th</sup> November inclusive is subject to the acceptance by Underwriters of a written and signed Hurricane Preparedness Plan.

### Catastrophe Deductible Clause applicable to Third Party Liability

In the event of loss payable under the Liability section arising from or contributed to by an event that is assigned a catastrophe number by Property Claim Services such loss or physical damage shall be subject to a 100% increase in deductible shown on the Declarations Page or Cover Note (but in all cases the Catastrophe deductible shall never be less than \$5,000, whichever is greater), such deductible to apply to each Section of the Policy and to each and every claim for such loss.

**The provisions of this Catastrophe Deductible Clause are paramount and shall override any provisions contained in this insurance to the contrary.**

### Aggregate Limit of Liability

Unless stated to the contrary on the Cover Note or Declarations Page, the amount shown for Section B)-Liability and/or P&I is the most Underwriters will pay under this section in any one policy term or year, whichever is less, regardless of the number of insured persons, claims made or vessels involved in any one accident, or series of accidents, arising out of the same event. The amount available under Section B)-P&I shall be reduced by any payment made under Section B)-Commercial Passenger Liability &/or Section B)-Crew Liability.

### Clause respecting Additional Assureds

If any Additional Assureds are shown on the Declarations Page of this policy or Cover Note or on any policy endorsement the following clause shall always apply:

The attached schedule of Additional Assureds is added to this policy subject to the clause below:

*(Additional assured shown on the Declarations Page, Cover Note or any endorsement adding Additional Assureds)*

Notwithstanding the fact that such parties as advised are hereby named in their capacity as advised as Co-Assured in this Policy, this cover will only extend insofar as they may be found liable to pay in the first instance for liabilities which are properly the responsibility of an Assured, and nothing herein contained shall be construed as extending cover in respect of any amount which would not have been recoverable hereunder by the assured had such claim been made or enforced against him. Once indemnification hereunder has been made there shall be no further liability hereunder to make any further payment to any person or company whatsoever, including the Assured, in respect of that claim.

All rights granted to us together with all duties of an Assured under the original insuring agreement shall also apply to any other named Co-Assured jointly.

### Exclusions to Third Party Liability Coverage

Unless specifically agreed by us otherwise in writing liability cover is not provided for:

- 1) Your liability to your spouse, or other members of your family or persons who reside in your household, or their liability to you.
- 2) Liability assumed by you under any contract or agreement.
- 3) Liability which may arise while the scheduled vessel is being transported on it's own trailer or otherwise, except where the vessel is being hauled out or launched by an insured person.
- 4) Fines, assessments or penalties imposed by any Government agency.
- 5) Punitive damages.
- 6) Intentional acts.
- 7) Bodily injury or death benefits which are required to be or are covered by any State or Federal Act or Statute or similar law anywhere in the world.
- 8) Bodily injury or death benefit to any persons employed by you, hired as crew or not.

# PROFESSIONAL MARINERS INSURING AGREEMENT

## **Non-owned vessels**

- 9) Liability to persons being towed, or to be towed, or having been towed in or on the water or in the air, from the time they commence to leave the insured vessel until they are back safely on board.
- 10) Liability to divers operating from the insured vessel, from the time they commence to leave the scheduled vessel, until they are back safely on board.
- 11) Liability to fare paying passengers or passengers carried under charter.
- 12) Liability for damage to any marine estuary, artificial or natural reef, living or dead coral or other marine organisms, caused by the insured vessel or its operators or passengers.
- 13) Loss or damage to any other vessel caused by the insured vessel in so far as the same would have been covered under the Hull / Equipment / Dinghy section of this insuring agreement.
- 14) Liabilities, medical expenses, costs, fees or any other related expense whatsoever arising out of illness or injury in any way related to or caused by exposure to the sun or the suns rays either cumulatively or suddenly.
- 15) Any claim arising from directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HILV II) or Lymphadenopathy Associated Virus (LAV) or the mutants derivatives or variations there from or in any way related to Acquired Immune Deficiency Syndrome or any syndrome or condition of a similar kind howsoever it may be named.
- 16) Losses arising from any pollution hazard or damage to the environment directly or indirectly.
- 17) Loss, injuries or claims arising from providing alcoholic beverages. Such losses if any and if covered shall be limited to \$25,000.
- 18) Loss, injuries or claims arising from the consumption of alcoholic beverages brought aboard by guests.
- 19) We will not pay for any losses caused by or contributed to by mechanical breakdown unless fire, sinking, stranding or collision ensues.

### **Third Party Liability Coverage Extension to include Crew Liability**

If a sum insured is shown in the "crew liability" section of the insuring agreement cover note we will extend this insuring agreement to cover maintenance and cure for and/or Jones Act Liability for hired crew. The maximum amount recoverable in respect of crew liability claims shall be the amount shown in the insuring agreement cover note less the deductible; such deductible will apply to each crew liability claim and shall form part of the maximum recoverable under the Third Party Liability sum insured.

### **Crew Liability Coinsurance clause**

Crew Liability insurance is subject to a 100% coinsurance requirement. If, at the time of any loss, the actual number of crew aboard the vessel is more than the amount reported in writing to underwriters exceeds the number shown as Crew for that Section shown on the Declarations Page, Policy Declarations or Cover Note, we will only pay a percentage of what we would otherwise be obligated to pay. We will determine the percentage by dividing the Number of Crew covered by the total number of crew aboard at the time of the loss.

### **Aggregate Limit of Crew Liability**

Unless stated to the contrary on the Cover Note or Declarations Page, the amount shown for Section B)-P&I or Liability is the most Underwriters will pay under this section in any one policy period regardless of the number of insured persons, claims made or vessels involved in any one accident, or series of accidents, arising out of the same event. The amount available under Section B)-P&I or Liability shall be reduced by any payment made under Section B)-Commercial Passenger Liability &/or Section B)-Crew Liability

### **Third Party Liability Coverage Extension to include Commercial Passenger Liability**

If a sum insured is shown in the "passenger liability section of the insuring agreement cover note we will extend this insuring agreement to cover all sums which you become legally liable to pay to fare paying passengers or passengers carried under charter as a result of ownership or operation of the insured vessel. We will settle or defend as we deem appropriate any claims or suits brought against you using attorneys of our choice. The maximum amount recoverable in respect of Passenger Liability claims shall be the amount shown in the insuring agreement cover note less the deductible; such deductible will apply to each passenger liability claim and shall form part of the a maximum recoverable under the Third Party Liability sum insured.

### **Aggregate Limit of Commercial Passenger Liability**

Unless stated to the contrary on the Cover Note or Declarations Page, the amount shown for Section B)- is the most Underwriters will pay under this section in any one policy period regardless of the number of insured persons, claims made or vessels involved in any one accident, or series of accidents, arising out of the same event and in any event is a sublimit of Section B)-P&I. If any amount is paid under Section B)-Commercial Passenger Liability the amount of insurance available for payments under Section B)-P&I shall be reduced by any amount paid under Section B)-Commercial Passenger Liability

### **Exclusions to Coverage Commercial Passenger Liability**

Passenger Liability coverage is not provided for:

- 1) Your liability to your spouse, other members of your family or persons who reside in your household, or their liability to you.
- 2) Liability assumed by you under any contract or agreement.
- 3) Liability that arises while the insured vessel is being transported on its own trailer or otherwise, except where the vessel is being hauled out or launched by an insured person.
- 4) Punitive damages.
- 5) Intentional acts.
- 6) Bodily injury or death benefits which are required to be or are covered by any State or Federal Act or Statute.
- 7) Bodily injury or death benefits to any person employed by you, hired as crew or not.
- 8) Liability to persons being towed, or to be towed, or having been towed in or on the water or in the air, from the time they commence to leave the insured vessel until they are back safely on board.

## PROFESSIONAL MARINERS INSURING AGREEMENT

### **Non-owned vessels**

- 9) Liabilities, medical expenses, costs, fees or any other related expense whatsoever arising out of illness or injury in any way related to or caused by exposure to the sun or the sun's rays either cumulatively or suddenly.
- 10) Any claim arising from directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HILV II) or Lymphadenopathy Associated Virus (LAV) or the mutants derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome or any syndrome or condition of a similar kind howsoever it may be named.
- 11) Losses arising from any pollution hazard or damage to the environment directly or indirectly.
- 12) Losses, injuries or claims arising from the operation of any ship's equipment, machinery, rig or similar device.
- 13) Loss, injuries or claims when proper safety gear or equipment is not donned and continuously and properly fitted and worn so as to prevent or limit injury. Such losses if any and if covered shall be limited to \$50,000.
- 14) Loss, injuries or claims arising from providing alcoholic beverages. Such losses if any and if covered shall be limited to \$25,000.
- 18) Loss, injuries or claims arising from the consumption of alcoholic beverages brought aboard by guests.

### **Recreational Dive Boat/Snorkel Boat Activity General Endorsement and Limited Passenger Liability Extension**

Notwithstanding anything to the contrary contained within this insuring agreement, if so indicated in the insuring agreement cover note, it is hereby noted and agreed that in consideration of the additional premium paid, permission is granted to use the insured vessel(s) for the commercial purpose of carrying passengers for hire on sport diving/snorkel excursions.

#### **In consideration of this endorsement it is mutually agreed, understood and warranted that:**

- A) Commercial Passenger Liability is extended to cover divers and/or snorkelers for water ingress only and/or water egress only for an aggregate sub-limit of \$50,000 or the amount shown as sum insured under Commercial Passenger Liability, whichever is less, as the maximum amount recoverable in respect of any claim(s) arising from diving or snorkelling activity. Nothing in this paragraph A) shall serve to increase the total coverage afforded under the Liability Section to exceed \$50,000 or the amount shown as sum insured under Commercial Passenger Liability, whichever is less, for all claims submitted from any one accident, incident or occurrence.
- B) Life vests are always made readily and easily available to all persons on board the scheduled vessel(s).
- C) Warranted all Life Vests or Personal Floatation Devices (PFD) are equipped with operational seawater-activated lights and an operational whistle and the wearer/user has been instructed in the use and operation of the Life Vest or Personal Flotation Device (PFD) and any accessory thereto.
- D) The insured vessels(s) shall have suitable ladder(s) for access to and from the water.
- E) The number of passengers on board shall not exceed the certified number of passengers for the insured vessel(s).
- F) You the insured shall promptly advise insurers in writing of any incident which may give rise to a claim being made hereunder.
- G) You the insured will require all passengers (including any instructor or assistant not declared as paid crew) intending to engage in diving/snorkel activity to read and sign an approved Complete Liability Release and that any person who does not sign or refuses to sign this release shall not be permitted to participate in any diving/snorkel activity, such signed Complete Liability Release to be kept for not less than three (3) years.
- H) You the insured will ensure that all necessary licenses, permits and certificate pertaining to the use and operation of the vessel as a dive and/or snorkel excursion vessel shall remain in full force and effect throughout the period of this insuring agreement.
- I) For diving activity you the insured will ensure that the instructor or diving leader on board the insured vessel(s) will have Professional Liability Insurance placed elsewhere, if there is no instructor on board, the diving activity leader will oversee the diving operations, including any divers assist and/or rescue. The instructor and/or diving leader shall name the vessel and the vessel's owner as an Additional Assured in the said Professional Liability Insurance which shall remain in full force and effect through out the period of the policy.
- J) For diving activity you the insured will ensure that liability coverage is provided elsewhere for all claims for loss of life or bodily injury as a result or as a consequence of any person engaging in diving activity.

#### **EXCLUSIONS**

- K) We do not provide coverage for any person for bodily Injury, illness, disease, death or property damage while in the water in connection with any diving activity, or as a consequence of any diving activity.
- L) We do not provide coverage for any person for bodily injury, illness, disease, death or property damage while in the water in connection with any snorkel activity, or as a consequence of any snorkel activity.
- M) We do not provide coverage for bodily injury, illness, disease, death or property damage arising out of any sales, servicing or the use of diving or snorkel equipment of any kind.
- N) We do not provide coverage for bodily injury, illness, disease, death or property damage sustained by any crew or helper, paid or unpaid.
- O) We do not provide coverage for loss or damage to the Assured's diving/snorkel equipment unless included in the schedule attached hereto, and then only in the case of Total or Constructive Total Loss of the insured vessel.
- P) We do not provide coverage for loss resulting from cancellation of charters, non-collectibility of fare(s) or freight, bad debt(s), insolvency of agents or others, detention or demurrage of the Vessel.
- Q) Commercial Passenger Liability is extended to cover participants for water ingress and water egress for an aggregate sub-limit of \$50,000 or the amount shown as sum insured under Commercial Passenger Liability, whichever is less, as the maximum amount recoverable in respect of any claim(s) arising from watersports activity. Nothing in this paragraph shall serve to increase the total coverage afforded under the Liability Section to exceed \$50,000 or the amount shown as sum insured under Commercial Passenger Liability, whichever is less, for all claims submitted from any one accident, incident or occurrence.
- R) Warranted USCG, Transport Canada, MSA or equivalent approved Life vests or Personal Flotation Devices

# PROFESSIONAL MARINERS INSURING AGREEMENT

## **Non-owned vessels**

- (PFD) are properly sized for the wearer/user and always made readily and easily available to all persons on board the scheduled vessel(s) and must be properly and continuously worn during any watersports activity.
- S) Warranted all Life Vests or Personal Floatation Devices (PFD) are equipped with operational seawater-activated lights and an operational whistle and the wearer/user has been instructed in the use and operation of the Life Vest or Personal Flotation Device (PFD) and any accessory thereto.
- T) Warranted Life vests or Personal Flotation Devices (PFD) and eye and head protection shall be properly and continuously worn at all times by all persons on board any water toys, kayaks, water sleds, kneeboard, water-ski(s), water rings, water tubes, personal watercraft, dinghies, tenders, ship's boats and the like or similar devices, appliances or equipment.
- U) The insured vessels(s) shall have suitable ladder(s) for access to and from the water or any watertoy or watersports device.
- V) The number of passengers on board shall not exceed the certified number of passengers for the insured vessel(s).
- W) You the insured shall promptly advise insurers in writing of any incident which may give rise to a claim being made hereunder.
- X) You the insured will require all passengers (including any instructor or assistant not declared as paid crew) intending to engage in watersports activity to read and sign an approved Complete Liability Release and that any person who does not sign or refuses to sign this release shall not be permitted to participate in any watersports activity, such signed Complete Liability Release to be kept safely for not less than three (3) years.
- Y) You the insured will ensure that all necessary licenses, permits and certificate pertaining to the use and operation of the vessel as a watersports excursion vessel shall remain in full force and effect throughout the period of this insuring agreement.
- Z) For watersports activity you the insured will ensure that the instructor or watersports activity leader on board the insured vessel(s) will have Professional Liability Insurance placed elsewhere, if there is no instructor on board, the watersports activity leader will oversee the watersports operations, including any participant(s) assist and/or rescue. The instructor and/or watersports leader shall name the vessel and the vessel's owner as an Additional Assured in the said Professional Liability Insurance which shall remain in full force and effect through out the period of the policy.
- AA) For watersports activity you the insured will ensure that liability coverage is provided elsewhere for all claims for loss of life or bodily injury as a result or as a consequence of any person engaging in watersports activity.

### **EXCLUSIONS**

- BB) We do not provide coverage for any person for bodily Injury, illness, disease, death or property damage while in or on the water in connection with any watersports activity, or as a consequence of any watersports activity.
- CC) We do not provide coverage for bodily injury, illness, disease, death or property damage arising out of any sales, servicing or the use of watersports equipment of any kind.
- DD) We do not provide coverage for bodily injury, illness, disease, death or property damage sustained by any crew or helper, paid or unpaid.
- EE) We do not provide coverage for loss or damage to the Assured's watersports equipment unless included in the schedule attached hereto, and then only in the case of Total or Constructive Total Loss of the insured vessel.
- FF) We do not provide coverage for loss resulting from cancellation of charters, non-collectibility of fare(s) or freight, bad debt(s), insolvency of agents or others, detention or demurrage of the Vessel.

Persons participating in any diving or snorkelling or watersports activity are covered only as Commercial Passengers and only whilst aboard the mother vessel, or the vessel's diving platform, the Vessel's boarding ladder or the ship's boat(s) or ship's tender(s).

### **Medical Payments Coverage**

If a sum insured is shown under the Medical Payments section of the insuring agreement cover note we will pay reasonable medical and funeral expenses necessary due to accidental bodily injury of third parties, incurred whilst embarking disembarking or onboard the insured vessel. These expenses must be incurred within three (3) months from the date of the accident and will reduce any amount payable under the Third Party Liability section of the insuring agreement, arising from the same occurrence. The maximum amount payable for funeral expenses shall be \$1500. This coverage will be excess over any other applicable insurance.

Any sum insured under this section is our maximum liability for all claims arising from any one event, regardless of the number of persons involved. Any payment made by us under this section is not an admission of liability for you or by us. The deductible shown in the insuring agreement cover note shall apply to each claim made under this section of the insuring agreement cover note.

### **Exclusions to Medical Payments Coverage**

We do not provide medical payment coverage for:

- 1) You, your spouse, or other members of your family or persons who reside with you, or your employees or anyone that is or should be covered under a State, Provincial or Federal Act or Statute of any jurisdiction or country.
- 2) Responsibility assumed under any contract or agreement.
- 3) Anyone injured whilst the scheduled vessel is being transported, hauled out or launched, or whilst undergoing repair.
- 4) Trespassers on the insured vessel or injuries arising from any illegal or unlawful activity.
- 5) Anyone to or for whom benefits are payable under any Workers Compensation or under "Federal Longshoreman's and Harbour Workers Compensation Act" or similar or equivalent law.

# PROFESSIONAL MARINERS INSURING AGREEMENT

## Non-owned vessels

### Uninsured Boaters Coverage

If a sum insured is shown under the Uninsured Boaters section of the insuring agreement cover note, we will provide coverage for any sums which you are legally entitled to recover from a third party vessel owner or operator, but which cannot be recovered after your diligent effort to recover from any third party vessel owner or operator, either because they have no marine liability insurance and no realisable assets, or they cannot be identified, such as a hit-and-run operator. The deductible shown in the insuring agreement cover note shall apply to each claim made under this section of the insuring agreement.

The sum insured in respect of this coverage is our maximum liability for all uninsured boater claims regardless of the number of people involved and the number of claims made.

### Exclusions to Uninsured Boaters Coverage.

We do not provide coverage for:

- 1) Claims settled without our prior written consent.
- 2) Loss due to an uninsured vessel which is a Government vessel.
- 3) Loss due to a vessel operated or owned by you or a family member.
- 4) Loss where no physical damage to your insured property exists, evidencing collision.
- 5) Loss where no written report has been made to the Police, Coast Guard or any appropriate authority, of the loss/occurrence and its circumstances, such report to be submitted to Underwriters.

### Trailer Coverage.

If a sum insured is shown under the Trailer section of the insuring agreement cover note, we will provide coverage for accidental physical loss of or damage to the trailer if it is used exclusively for the transportation of the insured vessel insured under the insuring agreement.

Claims will be paid up to the limit of the sum insured, on the basis of the actual cost of repairing or replacing the trailer with a trailer of like kind and value.

Theft of the trailer is covered if the trailer is stolen from a marina, locked garage or locked storage building, or from such other storage place and subject to such storage conditions as we have prior approved in writing.

The deductible shown in the insuring agreement cover note shall apply to each claim under the insuring agreement including claims for actual or constructive total loss of the insured vessel plus the trailer and claims for expenses incurred in attempting to avoid or minimise a loss covered by the insuring agreement.

### Exclusions to Trailer Coverage

- 1) Damages sustained whilst being transported over land, more than 50 miles from the normal place of storage.
- 2) Losses due to wear and tear, submersion, gradual deterioration, lack of maintenance, weathering, and insects, mould, animal or marine life.
- 3) Marring, scratching or denting.
- 4) Manufacturing defects or design defects, including latent defects.
- 5) Tyre damages.
- 6) Losses resulting from exceeding the manufacturers recommended maximum load or speed specifications.
- 7) Losses caused directly or indirectly by ice or freezing.
- 8) Your personal expenses or those of your family included, but not limited to, cost of your own labour, hotel or accommodation costs, car rentals, or communication costs.

### Personal Property Coverage

If a sum insured is shown under the Personal Property section of the insuring agreement cover note, we will provide coverage for direct loss or damage to personal property from any accidental cause, whilst the property is onboard, being loaded onto, or unloading from the insured vessel arising directly from the vessel being stranded, sunk, burnt, struck by lightning, on fire, in collision or in contact with any external substance other than water.

Theft losses shall only be recoverable in accordance with the conditions detailed under the Hull Section "of the insuring agreement cover note and only concerning property specified in the schedule given on insurance. Our maximum liability in respect of all claims arising from one event is the amount of the sum insured and our maximum liability for any one item; pair or set is \$500.

Claims will be settled on the basis of actual cash value of personal property, less the deductible shown in the insuring agreement cover note.

### Named Windstorm, Earthquake, Tsunami Deductible Clause

In the event of loss of or physical damage to Personal Property insured arising from or contributed to by a Named Windstorm, &/or an earthquake &/or earth tremor &/or aftershock &/or other seismic activity or event &/or Tsunami, such loss or physical damage shall be subject to a 100% increase in deductible shown on the Declarations Page or Cover Note.

**The provisions of this Named Windstorm, Earthquake, Tsunami Deductible Clause are paramount and shall override any provisions contained in this insurance to the contrary.**

Coverage for loss of or physical damage to Personal Property insured arising from or contributed to by a Named Windstorm, whilst the property insured is located within the area defined as the Hurricane Box between 11 degrees North & 28 degrees North Latitude & 55 degrees West & 92 degrees West Longitude for the duration of 1<sup>st</sup> June to 30<sup>th</sup> November inclusive is subject to the acceptance by Underwriters of a written and signed Hurricane Preparedness Plan.

# PROFESSIONAL MARINERS INSURING AGREEMENT

## Non-owned vessels

### Catastrophe Deductible Clause

In the event of loss of or physical damage to Personal Property insured arising from or contributed to by an event that is assigned a catastrophe number by Property Claim Services such loss or physical damage shall be subject to a 100% increase in deductible shown on the Declarations Page or Cover Note), such deductible to apply to each Section of the Policy and to each and every claim for such loss of or physical damage including actual and/or constructive and/or compromised Total Loss of the insured vessel(s).

**The provisions of this Catastrophe Deductible Clause are paramount and shall override any provisions contained in this insurance to the contrary.**

### Exclusions to Personal Property Coverage

We will not cover loss or damage to:

- 1) Money, jewellery, watches, traveller's cheques or any form of paper of value, photos, works of art, furs, china, glass, and silverware, antiques, collectibles or computer software.
- 2) Fishing gear or fishing tackle, which is permanently affixed to the insured vessel, unless the insured vessel shall become an actual or constructive total loss.
- 3) Wear and tear, gradual deterioration, inherent vice, corrosion, damage due to changes in humidity or temperature or mechanical or electrical failure.
- 4) Breakage of articles of a brittle nature unless caused by the vessel being stranded, sunk, burnt, on fire, or in collision or, burglars.
- 5) Loss of water-skis, snorkel or diving equipment, unless as a result of fire, or theft following forcible entry, or a total loss of the scheduled vessel.

### General Conditions & Warranties

This policy is subject to English Law and Practice.

- 1) It is warranted that the scheduled vessel, its equipment, tender(s), dinghy(ies) and/or ship's boats(s) is/are seaworthy at the inception of the insuring agreement and shall be maintained in a seaworthy condition during the term of this insurance. Violation of this warranty will void this insuring agreement from its inception.
- 2) This insuring agreement does not cover any loss or damage caused by your failure to exercise due diligence properly to manage the insured vessel or maintain it in a seaworthy condition.
- 3) This insuring agreement incorporates in full your application or proposal, supporting schedules &/or supporting documentation and other representations for insurance and it constitutes the entire contract between us. At your request, various provisions of this insuring agreement may be varied but only with our prior written agreement.

4) This insuring agreement does not cover any loss or damage, including liability to others, caused by your failure or the failure of any operator or owner or insured to exercise due diligence in operating or managing the vessel in a prudent, seamanlike manner including using proper and prudent anchoring, storm preparation, mooring, docking or alongside techniques.

Due diligence includes specific storm preparation and protection of the Insured Property for Named or Numbered Storms, Northeasters, Typhoons, Cyclones and similar weather phenomena wherever situated in the world and it is warranted all removable vessel equipment including deck furniture, outboard motors and electronics, shall be removed and safely stowed out of harm's way belowdecks or ashore. Furthermore all docking, mooring and anchor lines shall be of adequate size, strength, age and condition using commonly accepted seamanship practices and shall be doubled (double lines) at a minimum and protected against chafe and wear with customary materials seized into place. All lines shall be routed through proper and adequately-sized and securely installed hawse-pipes, chocks or fairleads and terminated at each end to a cleat, bollard, structural member or other substantial item capable of withstanding shock loads and severe storm conditions for an extended period of time. Warranted moorings are structurally sound, correctly installed and used, are properly sized and securely augured into the seabed following manufacturer's specifications and practice. Warranted all anchors (minimum of two laid out at not less than ninety degrees to one another) and ground tackle is structurally sound, adequately sized and suitable for local bottom conditions.

- 5) This insuring agreement does not cover any loss or damage which occurs whilst the vessel is operated single-handed between the local hours of sunset and sunrise.
- 6) This insuring agreement does not cover any loss or damage, which occurs after its expiration.
- 7) This insuring agreement may be cancelled at any time by the Assured or by the Insurers giving 10 days' notice in writing of such cancellation. In the event of cancellation by the insurers they will return in respect of the unexpired period pro rata portion of the premium. In the event of cancellation by the Assured the return shall be calculated in accordance with the attached short rate scale.

1-30 days on risk	25% annual premium
31-60 days on risk	30% annual premium
61-90 days on risk	40% annual premium
91-120 days on risk	50% annual premium
121-150 days on risk	60% annual premium
151-180 days on risk	80% annual premium
181+ days on risk	100% annual premium

Cancellations due to sale of the scheduled vessel or non-payment of the due premium are deemed to be cancellations by you. Cancellation by you shall be effective the day the notice is received by us unless you instruct us to cancel at a later date. **FLAT CANCELLATIONS NOT ALLOWED.**

- 8) If the insured vessel is pledged or sold or ownership is otherwise transferred in part or in full, this insuring agreement is

## PROFESSIONAL MARINERS INSURING AGREEMENT

### Non-owned vessels

immediately cancelled.

- 9) In the event of a claim under this insuring agreement for an actual, agreed or constructive total loss, the premium is deemed as being fully earned.
- 10) It is hereby agreed that your brokers or any substituted brokers (whether surplus lines approved or otherwise or duly licenced to act as your insurance agent, broker or intermediary or not), shall be deemed to be exclusively the agent(s) of you and not of us in any and all matters relating to, connected with or affecting this insurance. Any notice given or mailed by or on behalf of us to the said brokers in connection with or affecting this insurance, or its cancellation, shall be deemed to have been delivered to you.
- 11) We need not accept or pay for any property abandoned by you. At our option however we are entitled to the salvage value of any property or equipment where we have settled a claim in full under this insuring agreement, in respect of such property or equipment.
- 12) It is warranted that covered persons at all times comply with all relevant Statutes, Laws, By-laws and US Coast Guard, Transport Canada, Canadian Coast Guard, MCA and/or all other similar local regulations, governing the use of the insured vessel(s).
- 14) If the insured vessel is fitted with fire extinguishing equipment, then it is warranted that such equipment is properly sized for the area to be protected, properly installed and properly maintained in good working order at all times. This includes the weighing of tanks once a year and recharging as necessary.
- 15) If you give up your rights or our rights to recover damages from anyone who may be liable to you, denying us the benefit of the right of recovery, payment of any admissible loss under this insuring agreement shall be reduced by the amount we have been denied.
- 16) This contract is null and void in the event of non-disclosure or misrepresentation of a fact or circumstances material to our acceptance or continuance of this insurance. No action or inaction by us shall be deemed a waiver of this provision.
- 17) We will not pay for any loss resulting from
- i) Radioactive contamination, or nuclear reaction
  - ii) War declared or not, civil war, insurrection, riot, civil commotion, unlawful assembly, rebellion, revolution or the consequences of any of these events
  - iii) Capture, seizure, arrest, restraint or detainment by any government power or authority, lawful or otherwise.
    - a) Notwithstanding the foregoing the Assured shall notify insurers of any capture, seizure, restraint or detainment of any vessel(s) covered under this policy, within ten (10) days of the actual appropriation of said vessel(s).
    - b) The Assured shall file a written complaint opposing the appropriation and/or procedure and/or correctness of said confiscation, within ten (10) days of the actual appropriation of said vessel(s) and file with the proper authorities, at the Assured's expense, whatever bond is necessary in order to take immediate possession of the vessel(s).
    - iv) Any loss or losses arising out of the actions of Pirates, Piracy or Assailing thieves.
- 18) If we take steps to protect the damaged or endangered property, this action does not constitute acceptance of abandonment of that property by us.
- 19) If any insured person has any other relevant insurance for a property damage loss covered by this insuring agreement, we will only pay the proportion of the claim which our sum insured bears to the total of all the sums insured covering the loss. If this insuring agreement provides liability coverage, this insurance shall be excess over all other valid and collectible liability insurances.
- 20) Unless it is agreed between us and you in writing, and the appropriate endorsement issued, this insuring agreement does not cover any loss or liability incurred during a race or speed trial or during preparation, setup and/or takedown for a race or speed trial.

21) Unless we agree in writing to the contrary, if we request a survey of the scheduled vessel then such survey must be received by us within 30 days of the effective date of this agreement.  
If the survey contains any recommendations &/or deficiencies &/or suggested improvements or enhancements with respect to the insured vessel, then it is warranted that all such recommendations, deficiencies, suggestions or enhancements are completed or complied with, prior to any incident that may give rise to a claim hereunder, by skilled workmen using fit and proper materials and that you have signed a compliance form to that effect.

**Failure to comply with this warranty will void this agreement from inception**

- 22) Claims will be settled on the basis of actual cash value of all property including Hull and Machinery, Personal Effects, Tenders, Dinghies, Ships Boats and all property of every description insured under this policy of insurance, less the deductible shown in the insuring agreement cover note. Depreciated or actual cash value means replacement cost less depreciation.
- 23) If the hull is made in whole or in part of plywood, fibreglass, GRP, metal or other material of similar nature its repair shall be made by applying suitable patches to the damaged hull area in accordance with generally accepted good repair practice. It is a condition of this insurance, in respect of any damage occurring to the vessel or any of its parts, components or fittings which requires replacement of planking or wood, structural or nonstructural, insurers have the option to elect any such damage be repaired using any suitable alternative hardwood or softwood or plywood.
- 24) This insuring agreement does not cover the cost or expense of painting or impregnating colour beyond the immediate damaged area or areas.
- 25) We have the right to settle any physical loss or damage claim under this insuring agreement, either by making payment to you of the estimated loss agreed between you and us, or by making repairs or replacements, like with like, for your lost or damaged property.
- 26) No suit or action on this insuring agreement for the recovery of any claim will be sustainable in any court of law or equity, unless you have fully complied with all the requirements of this insuring agreement, nor unless such suit or action is commenced within one (1) year from the date of the happening or the occurrence out of which the claim arose.
- 27) Unless specifically agreed in writing otherwise, it is hereby noted and agreed by all parties hereto, that this insuring agreement shall be subject to the exclusive jurisdiction of the English Courts and to English Law and Practice.

## PROFESSIONAL MARINERS INSURING AGREEMENT

### **Non-owned vessels**

- 28) Neither this insuring agreement nor any document issued pursuant to this insuring agreement shall confer any benefits on any Third Parties. No Third Party may enforce any term of this insuring agreement or any provision contained in any document issued under this insuring agreement.
- 29) The Contracts (Rights of Third Parties) Act 1999 is hereby expressly excluded from this from this insuring agreement, including any other document issued pursuant thereto.
- 30) Where a lay up period has been specified within the insuring agreement cover note, it is warranted that the scheduled vessel will not be used, navigated or utilised, in any manner whatsoever, during the dates so specified. This includes, but is not restricted to, living on board the insured vessel.
- 31) Warranted no coverage is provided under this policy when the Insured vessel(s) is/are being operated by anyone other than those listed as operators including those listed on any bareboat charter agreement.
- 32) Warranted the vessel when underway is under the command of an experienced and qualified skipper at all times.
- 33) Warranted approved Life Vests or Personal Floatation Devices (PFD) are always made readily and easily available to all persons on board the scheduled vessel(s), all persons on board the vessel have been shown their location and all persons on board have been instructed on their retrieval and instructed in their proper use and operation.
- 34) Warranted all Life Vests or Personal Floatation Devices (PFD) are equipped with operational seawater-activated lights and an operational whistle and the wearer/user has been instructed in the use and operation of the Life Vest or Personal Floatation Device (PFD) and any accessory thereto.
- 36) Warranted vessel is in compliance with all local and customary safety and operational requirements at all times.
- 37) Warranted all necessary or required licenses, permits and certificates pertaining to the use and/or operation of the Vessel are in force and effect as of the effective date of the coverages provided, and will be so during the period of this insurance, and that during all such times you will comply with all laws, rules and regulations that apply to the uses for which the Vessel is employed.
- 38) Warranted any insured vessel insured as a bareboat charter vessel shall be rented to others subject to a bareboat charter agreement that shall include a "Hold Harmless" agreement in favour of Underwriters. Failure to provide such "Hold Harmless" protection to insurers shall be grounds to avoid a claim under this policy.
- 39) Warranted all engines, transmissions and similar mechanical devices including generator engines, outboard motors and ship's main engines are equipped with functional audible and visible overheat and oil pressure alarms.
- 40) Losses arising from or contributed to by or from the use, ownership or operation of portable electric generators are excluded under this policy.
- 41) There is no coverage whatsoever for claims arising from or contributed to or resulting from work, refit or repairs performed on or around the vessel.

### **Wreck Removal Exclusion**

This policy does not cover claims, loss, costs or expense, fine, penalty or other sum directly or indirectly arising out of any removal of wreck of any vessel in whole or in part and/or vessel lines or other parts, components or devices.

### **Valuation Clause**

This insurance is subject to a 100% coinsurance requirement. If, at the time of any loss, the Actual Cash Value (ACV) of any Property Insured under this policy exceeds the Sum Assured for that Section shown on the Declarations Page, Policy Declarations or Cover Note, we will only pay a percentage of what we would otherwise be obligated to pay. We will determine the percentage by dividing the Sum Assured by the total Actual Cash Value of the property insured at the time of the loss. This provision shall apply separately to each Section.

Our Limit of Liability for loss shall not exceed the lesser of:

- A) The Actual Cash Value of the stolen or damaged property;
- B) The amount necessary to repair or replace the stolen or damaged property with like kind and quality with deduction for depreciation
- C) The limit of liability stated on the Declarations Page, Policy Declarations or Cover Note less any reasonable cost incurred in protecting the property insured.

Notwithstanding anything to the contrary in this policy or its endorsements the scheduled vessel or vessels or endorsement or endorsements issued thereto by Underwriters shall be valued and claims subject to payment on the basis of depreciated or actual cash value less the applicable deductible.

Depreciated or Actual Cash Value or Actual Cost value means replacement cost less depreciation.

### **Sexual &/or Physical Abuse &/or Harassment Exclusion**

This insurance does not apply to any injury sustained by any person arising out of or resulting from:

- A: Sexual and/or Physical Abuse and/or Harassment by any person whosoever, regardless of degree of culpability or intent and whether the acts are alleged to have been committed by the insured or any representative, officer, agent, servant or employee of the insured or by any other person; or
- B: Any actual or alleged negligent act or omission in the:
  - 1: Employment;
  - 2: Investigation;
  - 3: Supervision;
  - 4: Reporting to the proper authorities or failure to so report; or
  - 5: Retention of a person for whom the insured is or ever was legally responsible, which results in Sexual and/or Physical Abuse and/or Harassment; or
- C: Any actual or alleged negligent act or omission in the prevention or suppression of any act of Sexual and/or Physical Abuse and/or Harassment.

# PROFESSIONAL MARINERS INSURING AGREEMENT

## Non-owned vessels

Sexual and/or Physical Abuse or Harassment are defined as sexual or physical injury or abuse, including but not limited to assault and battery, negligent or deliberate touching, corporal punishment and verbal, mental or emotional abuse or harassment of any person.

### Named Operator Endorsement

No coverage is provided under this policy when the Vessel is operated by anyone other than those listed as Assured.

### Charter & Delivery Endorsement

It is hereby noted, warranted and agreed coverage is extended to a vessel to be used for captained charter or a vessel undergoing delivery by the most direct route provided always that:

When underway, the vessel is under the command of a competent person who holds all appropriate qualifications required by any applicable regulations and under the direct supervision of the Assured at all times whilst in command.

### Personal use exclusion

Claims arising from the personal use of any non-owned vessel by the Assured are not covered.

### Dripless Shaft Seal Endorsement

It is a condition of this insurance, in respect of any damage occurring to the vessel or any of its parts, components or fittings caused in whole or in part by failure of any "dripless" shaft seals or stuffing box devices is not covered whatsoever by this policy of insurance.

### Duty to defend not covered

Where there is no coverage under this policy, there is no duty to defend.

### Plastic Hatches, Ports & Port lights Endorsement

It is a condition of this insurance, in respect of any damage occurring to the vessel or any of its parts, components, fittings or contents caused in whole or in part by failure in whole or in part of any hatch &/or hatchway &/or port &/or Portlight &/or deck prism &/or inspection opening or inspection opening closure or cover whose body &/or frame &/or dogs &/or latches &/or handle construction is non-metallic in construction is not covered whatsoever by this policy of insurance.

### Plastic Thru-hull Endorsement

It is a condition of this insurance, in respect of any damage occurring to the vessel or any of its parts, components, fittings or contents caused in whole or in part by failure in whole or in part of any thru-hull &/or through-hull &/or seacock &/or valve whose body &/or ball &/or stem &/or handle construction is non-metallic in construction is not covered whatsoever by this policy of insurance.

### Personal Expenses

No coverage is provided for any personal expenses whatsoever including but not limited to, cost of the Assured's labour, lodging, hotel or accommodation costs, automobile rental or automobile expenses, meals, communication costs, airfare.

### Use of Firearms, Knives, Marlinspikes and Tools

No coverage is provided for any claim arising from the use of firearms, knives, tools, marlinspikes or similar equipment or devices.

- 2) Payments for the charter to be made by credit card and/or bank transfer and/or cheque with bank details recorded of the charterer.
- 3) Unless specifically agreed by Insurers in writing such agreements may only be made for the purposes of recreational charter to individuals and not to other charter companies or commercial organizations.

In the event of cash or cheque payments in whole or in part direct with the Charter Operator and/or Charter Manager and/or vessel owners; a properly processed, validated and approved deposit by Credit Card or Debit Card or Bank Card should be made with a copy of the current passport and/or Driving License and/or Identity Card retained, such Driving licence and/or Identity Card to bear a clear, recognizable and current photo of the charterer(s)/bearer(s).

Warranted the Owner and/or the "Manager" detailed or not in the policy schedule shall be responsible for verifying the qualifications, experience and suitability of the charterer(s) and to properly instruct him on the handling of the vessel including but not limited to the use of the "Emergency Manual" before handing the scheduled vessel(s) over to the charterer(s).

It is warranted any charter(s) or bareboat vessel(s) operator shall have a minimum of six (6) months cumulative verifiable experience within the twelve (12) years preceding the charter voyage; in the operation and handling of a vessel or vessels similar in size and/or weight and/or power and/or configuration. In the absence of such experience, no coverage exists under this policy.

This insurance is also extended to cover the risk of embezzlement of the insured yacht by the charterer(s) provided the Charter operator has obtained not less than three (3) third party references on the identity and the current address of the person(s) signing the charter party by means other than a copy of the passport, i.e. a copy of a recent bank statement or a municipality or government bill or invoice before commencement of the charter voyage, such reference documents to be not more than sixty (60) days old at the time the vessel(s) are released to the charterer(s). Copies of the respective documents are to be kept on file not less than three (3) years. Claims for embezzlement are subject to a deductible of 50% of the sum insured.

This policy of insurance does not cover loss or damage to the Vessel(s) and/or legal fees and/or expenses incurred in obtaining the release of the Vessel(s) following impounding, arrest, detention, confiscation or any like act by any government or authority of same as a result of any act (whether it be legal or otherwise) committed by a Charterer(s) and/or Captain(s) and/or Crewmember(s) and committed without your consent, knowledge or approval.

# PROFESSIONAL MARINERS INSURING AGREEMENT

## **Non-owned vessels**

The above policy of insurance is also hereby amended to exclude coverage in the event of a Breach of Warranty by the Charterer(s) and/or Captain(s) and/or Crewmember(s), whether intentional or otherwise.

In no event will the limit of the coverages stated above exceed the amount shown on the Declaration Page and nothing set forth herein will in any way otherwise alter, amend or modify the terms of the above policy of insurance.

### **Deductible includes Fees and Expenses**

Deductibles are applicable to all losses and shall include adjuster's fees and other incurred costs.

### **Mechanical Breakdown**

No coverage whatsoever is provided by this insurance for mechanical and/or machinery breakdown, catch cargo and/or gear.

### **No Benefit to Bailee**

No person or organization having custody of the Property Insured, and being paid for services, shall benefit from this insurance.

### **Several Liability Notice**

Where more than one insurer or underwriter is subscribing to this policy, the subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

### **Premium Payment Warranty**

Where a premium is paid in one or more installments as agreed it is the express provision of this policy all installments shall be paid in the amount agreed and on the date agreed.

Failure to pay the installment(s) when due shall have the effect of immediate cancellation at 00:01 AM the day following the due date of the installment(s).

If payment of any installment, in whole or in part, for any reason, is not honoured by your bank, it shall have the effect of immediate cancellation at 00:01 AM the day following the due date of the installment(s).

If payment of your premium, in whole or in part, for any reason, is not honoured by your bank, you did not have nor do you have any coverage under this Policy.

### **Pre-Dispute Arbitration Clause**

- A. You the insured(s) by accepting this insuring agreement agree(s) the following disclosures form part of the Pre-dispute Arbitration Clause and are conditions precedent to the issuance of the insuring agreement.
  1. The parties are hereby waiving their right to seek remedies in Court, including a jury trial.
  2. Pre-arbitration discovery is generally more limited than and different from Court proceedings.
  3. The arbitrator's award is not required to include factual findings or legal reasoning and any party's right to appeal or to seek modification of rulings by the arbitrators is strictly limited.
  4. Arbitration is final and binding on all parties.
  
- B. You the insured(s) agrees to submit any and all controversies arising under this insuring agreement to arbitration. This includes if that person is entitled to recover at all and if so how much in damages;
  1. When any party makes a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third arbitrator.
  2. Each party will pay the expenses it incurs; and bear the expenses of the third arbitrator equally.
  3. No person will bring a putative or certified class action to arbitration.
  4. Both parties to agree as to the location of the arbitration, agreement not to be withheld unreasonably. If the parties fail to agree, then arbitration will take place in Road Town, Tortola, British Virgin Islands and a decision agreed to by two of the arbitrators will be binding.
  5. This arbitration and any coverage or damages will be interpreted in accordance with English Maritime Law and Customs.

## PROFESSIONAL MARINERS INSURING AGREEMENT

### Non-owned vessels

#### **YOUR DUTIES IN THE EVENT OF A LOSS**

1) Immediately take all possible steps to minimise the loss and protect the insured vessel from further loss or damage.

**It is in your best interests to act as a “prudent uninsured”.**

*Failure to do so may invalidate your insurance coverage or reduce the amount of any claim that may be payable hereunder.*

2) As soon as possible, but no later than 30 days after the loss, give us direct written notification of the loss and its circumstances.

3) Comply with any reasonable request made of you, by us with regard to the loss.

4) Advise the Police, Coast Guard, or any appropriate authority of the loss and its circumstances.

5) Give us an opportunity to examine the damaged property before it is repaired or discarded.

6) Submit a claim form and/or statement describing the loss, together with a minimum of two estimates of repair cost and/or records to substantiate the amount of the loss.

7) Neither assume obligation, nor admit liability without our express written permission to do so.

8) Immediately forward to us any legal papers or notices received in connection with the loss. In case of theft, burglary or robbery submit us the Police crime report within 30 days.

9) Co-operate with us in the investigation, defence or settlement of any loss and agree to be examined under oath if we so request

10) Allow examination by physicians of our choice.

11) Assist us in obtaining copies of medical records and reports.

12) Give us a notarised statement or statutory declaration if we so request.

13) Give us a proof of loss and discharge of liability once the amount of the claim under this insuring agreement has been agreed with you.

14) Preserve your right of recovery from others. When we pay a loss, your right to recover becomes ours up to the amount of our payment together with any legal fees and expenses. You must also co-operate with us to recover the losses we may pay. Any amounts recovered from others belong to us up to the amount of our payment together with any legal fees and expenses.

**Failure to comply with each Your Duties In The Event Of a Loss will void the claim.**