

Vero Marine Helmsman Wording

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Introduction

Privacy Act and the Insurance Claims Register (ICR)

The ICR is a database of insurance claims to which participant insurers have access. The purpose of the ICR is to prevent insurance fraud. The ICR is operated by Insurance Claims Register Limited (ICR Ltd), PO Box 474, Wellington.

This policy is issued to *you* conditional upon *you* authorising *us* to place details of any claims made against this policy on the database of ICR Ltd, where they will be retained and be available for other insurance companies to inspect.

You also authorise *us* to obtain from ICR Ltd personal information about *you* that is (in *our* view) relevant to this policy or any claim made against it. *You* have certain rights of access to and correction of this information, subject to the provisions of the Privacy Act 2020, and any subsequent re-enactments.

Definitions

Throughout this policy, whenever the following words are used in italics, this is what they mean.

- **"You"** and **"Your"** refer to the "Assured(s)" shown in the schedule.
- **"We"**, **"Us"** and **"Our"** refer to the Company providing this insurance.
- **"Agreed Value"** means we have agreed on the value of the *vessel* and other property specified in Section A of the Vessel Schedule. It is the amount that will be paid in the event that the *vessel* is completely lost or destroyed.
- **"Bodily Injury"** means physical personal injury excluding purely mental or emotional harm.
- **"Deductible"** means the first amount of any claim which *you* must pay as specified in the Vessel Schedule for each *vessel*. This amount is deducted from the sum payable for the claim.
- **"Dinghy"** means any small tender and the motors, provided *you* are the owner and the *dinghy* is used to service the *vessel* and is not more than 4 metres in length.
- **"Gear & Equipment"** means ancillary gear, equipment, consumables not otherwise insured. This includes, but is not limited to fishing gear, dive gear and any items relating to the on board operation of *your* business.
- **"Personal Effects"** means any property not ancillary to the *vessel* belonging to *you*, *your* family or *your* employees not otherwise insured. Excludes jewellery, furs, money, credit cards, travellers' cheques or other valuable papers or documents.
- **"Terrorism"** means an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted.
- **"Trailer"** means any *trailer* used to transport the *vessel*.
- **"Vessel"** means any *vessel* specified in the Vessel Schedule including spares, sails, machinery, furniture, *dinghy* and other equipment normally used in the operation of the *vessel* or its machinery.
- **"War"** means any war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) civil war, rebellion, revolution, insurrection, military or usurped power, derelict weapons of war.

Section A: Hull Insurance

The Property Insured

The *vessel* described in the proposal and specified in the Vessel Schedule.

Cover

1. The Property Insured is covered afloat and while ashore or being transported on a land conveyance, including loading or unloading. The *vessel* is covered whilst towing or being towed, provided that such towing or tow is to the first safe port or place when assistance is required or as is customary in connection with loading and discharging.

If any part of the Property Insured is temporarily not on board the *vessel* and is ashore, the sum insured is split proportionately between the value of the Property Insured temporarily removed and the value of that remaining on the vessel.

2. *You* are insured against the risks of

- (a) sudden and unforeseen accidental direct physical loss or damage excluding *war*.
- (b) physical damage that is caused directly by any latent defect in the *vessel*.

This insurance does not cover the cost of repairing or replacing any defective part.

3. Loss or Damage Prevention

You are insured for all expenses necessarily and reasonably incurred by *you* in preventing or attempting to prevent loss or damage, where a claim would have been or has been admitted under this Policy.

Our liability, unless agreed by *us* in writing, shall not exceed the sum of 25% of the sum insured specified under Section A in the Vessel Schedule.

4. Fire Extinguishment and Safety Costs

You are insured for the reasonable costs of replenishing, refilling or replacing fire extinguishers and/or safety flares used during an incident giving rise to a claim which has been admitted under this Policy. *Our* limit of liability shall not exceed NZD 1,000.

5. War (not applicable whilst *vessel* is on land)

You are insured for loss of or physical damage to the *vessel* caused by *war*.

Claim settlement

We have the option

1. to settle up to the sum insured specified in the Vessel Schedule, by payment, reinstatement or replacement; or
2. to repair, or take or require to be taken tenders for repair.

We will pay for the total loss of the *vessel* and other property only if the *vessel* is completely lost or destroyed. We will also pay for a constructive total loss if the cost of recovering and repairing the *vessel* is greater than the amount of insurance specified for the *vessel* in the Vessel Schedule. If we pay for a total loss or constructive total loss *you* agree that the amount we pay will be reduced by the proceeds of any salvage.

Claims are payable without deduction new for old. If there is a total loss of the *vessel*, we will not deduct for depreciation in determining the value of any property. If there is a partial loss however, we will deduct for depreciation on sails and protective covers of fabric or similar material.

Deductible

We will deduct the *deductible* specified in the schedule from any payment we make under this section for all losses due to a single accident.

In the event of a single claim involving items under Section A, B, C and/or D, the maximum *deductible* will be the amount specified in the Vessel Schedule under Section A for each *vessel*.

Section B: Trailer Insurance

The Property Insured

The *trailer* as described in the proposal and specified in the Vessel Schedule.

Cover

You are insured against the risks of accidental physical loss of or damage to the *trailer* from any external cause.

Condition

In the event that the *trailer* is stolen it is a condition precedent to liability that the *trailer* was fitted with a suitable anti-theft device that was overcome. Where the *trailer* is attached to a vehicle and both are stolen the vehicle is to have been immobilised.

Claim settlement

We have the option

1. to settle up to the sum insured specified in the Vessel Schedule by reinstatement or replacement less an allowance for depreciation; or
2. to repair, or take or require to be taken tenders for repair.

Deductible

We will deduct the *deductible* specified in the Vessel Schedule from any payment we make under this section for all losses due to a single accident.

In the event of a single claim involving items under Section A, B, C and/or D, the maximum *deductible* will be the amount specified in the Vessel Schedule under Section A for each *vessel*.

Section C:

Gear & Equipment Insurance

The Property Insured

Gear & equipment specified in the proposal and Vessel Schedule.

Personal effects are automatically covered up to an amount of NZD 1,000.

Cover

1. *You* are insured against the risk of physical accidental loss of or damage to the Property Insured whilst it is on board or being carried onto or off of the *vessel*.
2. *You* are insured against the risk of accidental physical loss of or damage to the Property Insured, excluding as a result of burglary or theft whilst the Property Insured is temporarily ashore.
3. *You* are insured against the risks of burglary or theft whilst the Property Insured is temporarily ashore following violent and forcible entry into the *vessel* or into the building containing the Property Insured.
4. There is no cover while the *vessel* is laid up for storage or repair.

Claim settlement

We have the option

1. to pay the replacement value, less depreciation, of the insured item stolen, lost or damaged; or
2. to repair or replace the property damaged with material of like kind and quality.

Our liability for any one item will not be more than NZD 2,500 and shall not exceed the total sum insured specified in the Vessel Schedule under Section C for each *vessel*.

Deductible

We will deduct the sum of NZD 500 from any payment we make under this section resulting from theft/burglary. We will deduct the sum of NZD 250 from all other insured losses. These amounts will apply unless otherwise specified in the Vessel Schedule under Section C.

In the event of a single claim involving items under Section A, B, C and/or D, the maximum *deductible* will be the amount specified in the Vessel Schedule under Section A for each *vessel*.

Section D:

Third Party Liability Insurance

Cover

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

1. Physical loss or damage to any other vessel, or property on such other vessels, or any other fixed or movable object whatsoever, which arises from *your* ownership or use of the *vessel*.
2. Loss of life or *bodily injury* or illness (excluding crew and employees) which results from the ownership or use of the *vessel*.
3. The rescue of *you*, the passengers or members of the crew including reasonable accommodation and travel costs to the point of original embarkation.
4. Loss of or damage to passengers' personal property.
5. Any attempted or actual raising, removal or destruction of any fixed or moveable object or property or other thing, including the wreck of the *vessel*, or any neglect or failure to raise, remove or destroy the same.
6. Loss or damage to third party property resulting from the transportation of the *vessel* on land provided not otherwise insured.
7. Loss, damage or contamination caused by the sudden accidental discharge or escape of oil or any other polluting substance from the *vessel* or the wreck of the *vessel*.
8. The costs of measures reasonably taken to prevent, avoid or minimise an imminent danger of pollution caused by an accident for which a claim is otherwise payable under Section A of the Policy.
9. Loss or damage to property caused by measures taken to prevent, avoid or minimise pollution caused by an accident for which a claim is otherwise payable under Section A of the Policy.
10. Punitive or exemplary damages.

In addition, we will reimburse you in respect of the following:

1. The expenses of the removal of the wreck of the *vessel* from any place owned, leased or occupied by *you*.
2. Sistership Clause

Should the *vessel* come into collision with or receive salvage services from another *vessel* belonging wholly or in part to the same owners or under the same management, *you* shall have the same rights under this insurance as *you* would have were the other *vessel* entirely the property of owners not interested in the *vessel* insured in this Policy; but in such cases the liability for the collision and/or salvage services amount payable shall be limited to the reasonable costs of tow, fuel and wages to bring the *vessel(s)* to the next port of safety.

Limit of liability

Our liability under this section shall be subject to a maximum limit of liability as specified under Section D in the schedule. *Our* obligation to pay, settle and defend ends when we have paid that amount on *your* behalf. This is the most we will pay regardless of the number of persons or boats involved in anyone accident or series of accidents arising out of the same event.

1. In respect of passengers' personal property, *our* liability is limited to NZD 2,500 anyone item and NZD 20,000 any one event.
2. In respect of rescue of *you*, the passengers or members of the crew, these costs are limited to NZD 10,000 unless incurred as a result of a risk covered under Section A.
3. In respect of liability for pollution costs and/or expenses as specified under the cover provided by 7, 8 and 9 (above), *our* maximum liability shall not exceed NZD 250,000 any one event and in total any one period of insurance.
4. In respect of liability for punitive or exemplary damages as specified under the cover provided by clause 10 (above), *our* maximum liability shall not exceed NZD 250,000 any one event and in total any one period of insurance.

In any event *our* total and absolute maximum liability under cover provided by all of the above, shall not exceed the maximum liability specified under Section D in the Vessel Schedule.

Supplementary payments

In addition to the limit of liability specified in the Vessel Schedule, we will pay on *your* behalf the following:

1. Interest on *our* portion of the judgement that is earned before we make payment.
2. NZD 250 a day for attendance at court proceedings at *our* request.
3. Legal or other reasonable expenses incurred at *our* request or with *our* prior written approval. In the event of such expenses being approved by us we reserve *our* option to take over the control and conduct of any legal proceedings including the choice and selection of all legal representatives.
4. Legal representation costs where *you* or *your vessel* are involved or implicated in a maritime accident, which is the subject of a Maritime New Zealand, Transport Accident Investigation Commission or Coroner's inquiry. With prior written approval from ourselves, we will pay reasonable costs for legal representation to a maximum of NZD 25,000.

Deductible

We will deduct the *deductible* specified in the Vessel Schedule from any payment we make under this section for all losses due to a single accident.

In the event of a single claim involving items under Section A, B, C and/or D, the maximum *deductible* will be the amount specified in the Vessel Schedule under Section A for each *vessel*.

Section E:

Loss of Earnings Insurance

Definitions

- **"Excess Period"** means the period of time between the date of the loss and the policy commencing to respond.
- **"Expected Charters"** means all booked and deposit paid charters, plus charters that could have been expected but for the loss or damage, based on the previous trading pattern of the vessel and other circumstances affecting the business.
- **"Indemnity Period"** means the maximum number of days we shall pay whilst the vessel is not able to undertake expected charters.
- **"Daily Indemnity Amount"** means the amount specified in the schedule we shall pay for each 24 hour period that the insured vessel is not able to undertake expected charters. This amount should represent the normal daily charter fee, less any costs saved due to the vessel not operating.

Cover

You are insured for loss of earnings where the vessel is prevented from earning charter fees or similar as a result of a claim payable under Section A (Hull Insurance) of this policy.

Claim settlement

1. We will pay the *daily indemnity amount* specified in Section E of the Vessel Schedule for each 24 hour period that the vessel is unable to undertake *expected charters*, for the *indemnity period* specified in the Vessel Schedule.
2. In the event that the vessel becomes an actual or constructive total loss the *daily indemnity amount* payable under this section will cease on the day payment is made by us for the vessel.
3. We have the right to require you to incur expense which would reduce our liability under this section and agree to reimburse you for such incurred expense.

Excess Period

This Policy will not respond until the *excess period* specified in the Vessel Schedule for this vessel under Section E has been exhausted.

Exclusions

(Applicable to Sections A, B, C, D & E)

Please read the following exclusions carefully. They apply to Sections A, B, C, D & E of the Policy and may tell *you* that a loss is not covered.

You are not insured for

1. physical damage or loss caused by or resulting from normal wear and tear, gradual deterioration, marine life (except for marine mammals and large fish), mechanical breakdown, electrolysis, osmosis, corrosion, rust, dampness, normal wetting or weathering.
2. claims for marring, denting, scratching or chipping. This exclusion shall not apply to damage caused by the *vessel* being stranded, or in collision or in violent contact with another *vessel*, pier or jetty.
3. loss, damage or liability deliberately caused by *your* wrongful acts or wilful misconduct.
4. loss or damage arising from the *vessel* being left moored or anchored and unattended off an exposed beach or shore.
5. loss or damage due to ice, freezing or extremes of atmospheric temperature.
6. repairing or replacing any defective part condemned solely in consequence of a latent defect or an error in design or construction.
7. claims for unexplained disappearance of property, gear or equipment from the *vessel*.
8. any liability assumed (by contract or otherwise) by *you* unless *you* receive *our* prior written consent to do so.
9. loss, damage or liability which occurs while the insured *vessel* is racing or is engaged in speed testing.
10. any loss during war or peace caused by or resulting from
 - (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
 - (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.
 - (e) any chemical biological bio-chemical or electromagnetic weapon.
11. claims caused by or arising directly or indirectly out of
 - (a) transporting, distributing or storing asbestos
 - (b) any process of decontamination, treatment or control of asbestos
 - (c) the presence of asbestos in any property insured
 - (d) asbestos pollution or contamination.

12. any loss, damage or liability arising while the *vessel* is being operated by person/s under the influence of alcohol or any drugs or who does not hold a valid Maritime Document/Licence or is not suitably qualified as lawfully required by the appropriate authorities.

However, this exclusion does not apply in respect of Sections A, B, C and the removal of wreck of the *vessel*, or any neglect to raise, remove, or destroy the wreck provided

- (a) the person operating the *vessel* was without the knowledge or consent of any of *you* or any manager or director of *you*; and
 - (b) *you* have not compromised or waived any right of recovery against the person operating the *vessel*; and
 - (c) *you* co-operate fully in any subrogated recovery action; and
 - (d) the policy *deductible* for the relevant Section is doubled.
13. loss, damage or liability if *you* or any other person operating the *vessel* fail to exercise due diligence to comply with any Acts, Regulations, Rules, Orders or Notices to Mariners and any other requirements issued or notified by Maritime New Zealand from time to time or administered by them or their successors, governing or relating to the construction, seaworthiness, surveying outfitting, manning, use, operation or navigation of the insured *vessel*.
14. loss, damage or liability where the vessel is in an unseaworthy condition, other than where such condition resulted from an insured peril and repairs could not be effected.
15. loss or damage following theft of trailered craft unless the *trailer* is fitted with a suitable anti-theft device preventing removal of the *trailer* when left unattended.
16. in respect of the *trailer*, damage to tyres by application of brakes or by puncture, cuts or bursts.
17. any liability while the *vessel* and/or its *trailer* is being towed by or attached to a motor vehicle or has broken away or become accidentally detached from a motor vehicle.
18. fines or penalties.
19. liability for personal injury where such injury falls within the scope of cover provided by the Accident Compensation Act 2001 or any replacement Act or would so be entitled had a claim been lodged under that Act.

Section F:

Statutory Liability Insurance

Definitions

- **"Act"** means as the context requires

- (a) The Resource Management Act 1991
- (b) The Health and Safety in Employment Act 1992
- (c) The Maritime Transport Act 1994

or any amendment to or re-enactment of any of these *Acts* and any regulations or other subordinate legislation made under these *Acts*.

- **"Defence Costs"** means costs and expenses incurred, with *our* prior written consent, for investigating and defending any civil or criminal action (including but not limited to any threat or intimation of any such action or any circumstance which may give rise to any such action) arising out of an *occurrence* and includes the costs and expenses of being represented at any conference, hearing, inquiry, investigation, proceedings or review relating to any *Act*.
- **"Occurrence"** means any event neither expected nor intended by *you* which results in an allegation of the commission of an offence under any section of any *Act*, or which results in an inquiry, investigation, conference, hearing, proceeding, review or settlement negotiation in respect of any such allegation.

Cover

We will reimburse *you* for

1. *defence costs* incurred by *you* with *our* prior written consent in the defence of prosecutions or threatened prosecutions for an alleged offence under any *Act*.
2. *defence costs* incurred by *you* with *our* prior written consent in being represented at or in relation to any conference, hearing, inquiry, proceedings or settlement under any *Act* arising out of an *occurrence* during the period of insurance which is connected with the operation of the *vessel* and is first made against *you* or which *you* first become aware of within six months of the *occurrence*.

Limit of liability

Our liability under this section inclusive of all *defence costs* shall not exceed the limits specified in the Vessel Schedule in respect of any one claim or series of claims arising from one source or original cause.

Provided that the maximum amount payable in the aggregate in any one period of insurance inclusive of all *defence costs* shall not exceed the limit of indemnity specified in the Vessel Schedule.

Deductible

We will deduct the *deductible* specified in the Vessel Schedule for each *vessel* from any payment we make under this section for all claims arising from one source or original cause.

Exclusions

(Applicable to Section F)

Please read the following exclusions carefully. They may tell *you* that a loss is not covered.

We will not reimburse *you* for any liability for

1. any *occurrence* which has arisen out of
 - (a) any deliberate or reckless breach by you of any provision or provisions of any specified Act
 - (b) your failure to comply with a lawfully given direction or other enforceable obligation pursuant to any statutory or regulatory provision.
2. the handling or disposal of materials by any person or organisation acting on *your* behalf unless *you* have taken all reasonable steps to ensure that the materials will be handled or disposed of in a lawful manner.
3. any claim arising directly or indirectly from an *occurrence* prior to the attachment of this insurance.
4. any claim brought about or contributed to by any dishonest, fraudulent, criminal or malicious act or omission by *you*.
5. any liability of whatsoever nature directly or indirectly caused by or arising from or attributable to
 - (a) war, invasion, act of foreign enemy, warlike operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, insurrection, military or usurped power, derelict weapons of war
 - (b) strikers, labour disturbances, riots or civil commotion, any act of terrorism
 - (c) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.
 - (d) the radioactive, toxic, explosive, or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component
 - (e) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
 - (f) 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.
 - (g) any chemical biological bio-chemical or electromagnetic weapon.
6. claims caused by or arising directly or indirectly out of
 - (a) transporting, distributing or storing asbestos
 - (b) any process of decontamination, treatment or control of asbestos
 - (c) the presence of asbestos in any property insured
 - (d) asbestos pollution or contamination.
7. any claim arising from or relating to any express term of any contract or agreement.
8. the unjustifiable dismissal of any person or other personal grievance arising out of a contract of employment.

Section G: Employers Liability Insurance

Definitions

- **"Employee"** means
 - (a) any person directly employed by *you* in the business and from whose remuneration *you* make PAYE tax deductions
 - (b) any consultant or person temporarily employed while working for *you* in connection with the business
 - (c) any sub-contractor contracted by *you* to work in connection with the business.
- **"Litigation costs"** means the claimants' costs and expenses and your costs and expenses incurred with *our* prior written consent.
- **"Personal injury"** means *bodily injury*, sickness or disease including death resulting therefrom, disability, shock, fright, mental anguish or mental injury but does not include *personal injury*
 - (a) sustained by an *employee* prior to the attachment date specified in the Vessel Schedule
 - (b) caused by or arising out of sexual harassment or sexual abuse.

For the purpose of this Policy *personal injury* shall be sustained when the *employee* is first exposed to conditions in New Zealand out of which the *personal injury* arose.

Cover

We will reimburse *you* against all claims (including *litigation costs*) which *you* become legally liable to pay as the result of claims first made against *you* during the period of insurance as a result of any *employee* sustaining *personal injury* in New Zealand arising out of or in the course of their employment in operating any *vessel* specified in the Vessel Schedule.

Limit of liability

Our liability under this section inclusive of all costs and expenses shall not exceed the limits specified in the Vessel Schedule in respect of any one claim or series of claims arising from one source or original cause.

Provided that the maximum amount payable in the aggregate in any one period of insurance shall not exceed the limit of indemnity specified in the Vessel Schedule regardless of the number of claims made.

Deductible

We will deduct the *deductible* specified in the Vessel Schedule from any payment we make under this section for all claims arising from one source or original cause.

Exclusions

(Applicable to Section G)

Please read the following exclusions carefully. They may tell *you* that a loss is not covered.

We will not reimburse *you* for any liability for

1. *personal injury* where such injury falls within the scope of cover provided by the Accident Compensation Act 2001 or any replacement Act or would be so entitled had a claim been lodged under that Act.

2. any *employee* not directly employed to carry out the normal activities of the business unless *you* give prior notice of such employment to *us* and we confirm *our* agreement in writing.
3. any claim arising in any such way out of any failure by *you* to comply with any improvement, prohibition or suspension notice issued to *you* or any *employee* under The Health and Safety in Employment Act 1992 or equivalent notices issued under any replacement Act.
4. any fine or penalty levied against *you*.
5. any *personal injury* sustained prior to the attachment of this Policy.
6. any claim brought about or contributed to by any dishonest, fraudulent, criminal or malicious act or omission by *you*.
7. any liability of whatsoever nature directly or indirectly caused by or arising from or attributable to
 - (a) war, invasion, act of foreign enemy, warlike operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, insurrection, military or usurped power, derelict weapons of war
 - (b) strikers, labour disturbances, riots or civil commotion, any act of *terrorism*
 - (c) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
 - (d) the radioactive, toxic, explosive, or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component
 - (e) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
 - (f) 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.
 - (g) any chemical, biological, bio-chemical or electromagnetic weapon
8. any claim arising from or relating to any express term of any contract or agreement.
9. the unjustifiable dismissal of any person or other personal grievance arising out of a contract of employment.
10. claims caused by or arising directly or indirectly out of
 - (a) transporting, distributing or storing asbestos
 - (b) any process of decontamination, treatment or control of asbestos
 - (c) the presence of asbestos in any property insured
 - (d) asbestos pollution or contamination.

Section H

Legal Defence Costs Extension

Definitions

- **"Legal action"** means any legal proceedings, including appeals, of the type in the following Cover sections A or B, in any court, authority or tribunal in New Zealand. But:
 - (a) the alleged conduct must have taken place in New Zealand; and
 - (b) *you* must have been first threatened with the *legal action* during the period of insurance; and
 - (c) *you* must also have notified *us* of the *legal action* during the period of insurance or within 28 days of its expiry.
- **"Legal expenses"** means the amount(s) which *you* had to spend and which it was reasonable for *you* to spend on *legal action* in relation to *solicitors'* fees, expenses and disbursements.
- **"Solicitor"** means any *solicitor*, firm of *solicitors*, barrister or Queens Counsel appointed to act for *you* in relation to any *legal action*.
- **"You"** and **"Your"** is extended to include the following: skipper, boat owner, user of boat with owners' permission, *employees* of owner in respect of this Section H only.
- **"We"**, **"Us"** and **"Our"** is extended to include Vero Liability Insurance Limited in respect of this Section H only.

Cover and Limit of Liability

We will reimburse *you* for the *legal expenses* of defending *legal action* taken against *you* under A or B below. We will pay *you* up to NZD 100,000 for all *legal action* commenced against *you* during the period of insurance, less the *deductible* as shown in the Vessel Schedule.

A. Work Place Protection

Any alleged offence under the Crimes Act 1961 arising in the course of *your* employment, such employment being directly related to and arising out of the operation of the insured *vessel*. But:

1. *You* must not have been charged with any similar offence in the 7 years before *you* obtained this extension; and
2. *You* must be intending to plead not guilty; and
3. *Your* plea of not guilty must be reasonable, based on the evidence, the law and the prospect of a successful defence; and
4. *You* must not have cover under any other policy, or otherwise be entitled to indemnity from any other source; and
5. In relation to any traffic prosecution arising solely out of or from the *vessel's* road *trailer* insured by this policy:
6. *You* must have been charged with an alleged offence or infringement under the Land Transport Act 1998, or Transport Act 1962, or their amendments; but
 - (a) *You* must not have been charged with any of the following types of offences: alcohol/drug-related; log book; overloading; insecure load; road user charges; or speeding including dangerous or excessive speed;
 - (b) *You* must be liable to be disqualified from driving; and
 - (c) If *you* are under 24 years old at the date of the alleged offence, *you* must be at risk of being imprisoned for more than 3 months.

B. Criminal Protection

Any alleged offence under the Crimes Act 1961 arising other than in the course of *your* employment, and, being directly related to and arising out of the operation of the insured *vessel*. But:

1. *You* must not have been charged with any similar offence in the 7 years before *you* obtained this extension; and
2. *You* must be intending to plead not guilty; and
3. *Your* plea of not guilty must be reasonable, based on the evidence, the law and the prospect of a successful defence; and
4. *You* must not have cover under any other policy, or otherwise be entitled to indemnity from any other source; and
5. In relation to any traffic prosecution arising solely out of or from the *vessel's* road *trailer* insured by this policy:
 - (a) *You* must have been charged with an alleged offence or infringement under the Land Transport Act 1998, or Transport Act 1962, or their amendments; but
 - (b) *You* must not have been charged with any of the following types of offences: alcohol/drug-related; log book; overloading; insecure load; road user charges; or speeding including dangerous or excessive speed;
 - (c) *You* must be liable to be disqualified from driving; and
 - (d) If *you* are under 24 years old at the date of the alleged offence, *you* must be at risk of being imprisoned for more than 3 months.

Exclusions

(Applicable to Section H)

Please read the following exclusions carefully. They may tell *you* that a loss is not covered.

We will not reimburse *you* for any *legal action* arising from, or for

1. anything which, as at the date on which *you* first bought the continuous Legal Defence Costs insurance from *us*, had already happened or is alleged to have already happened and/or was still happening or is alleged to have still been happening.
2. any alleged breach of professional duty, or duty as a director, trustee, or power of attorney.
3. any agreement under which *you* have agreed to accept a liability which *you* would not have otherwise have had.
4. any employment disputes.
5. any Fisheries legislation.
6. fines, penalties, damages of any type or any other form of compensation payment, and interest.

What to do in the case of a prosecution being notified to *you* or an infringement notice being received by *you*:

CALL 0800 LAWSAFE

available 24 hours a day, 7 days a week

General Conditions

(Applicable to all Sections)

Additions and Deletions

It is agreed that any item purchased during the period of insurance shall be deemed as being covered but limited to 25% of the total sum insured specified in each section of the Vessel Schedule. It is further agreed that any item sold shall be deemed deleted from the Vessel Schedule.

In the event of a loss falling within the scope of the Policy, receipts and/or invoices must be produced. Adjustments to the sum insured and premium will be completed at renewal.

Admission of Liability

You shall not without *our* written consent

1. make any admissions of liability or fact;
2. take any action which may be considered an admission of liability; or
3. repudiate or settle a claim.

Basis of Policy

The proposal, declaration, and master's questionnaire(s) submitted by *you* or on *your* behalf are the basis of, and are deemed to be incorporated in, this Policy.

Cancellation

1. This Policy may be cancelled at any time by either party subject to 30 days notice in writing. The mailing of notice by registered mail to *your* last known address is sufficient proof of notice of cancellation.

In respect of war risks cancellation of cover will take effect on the 7th day after the notice has been sent out.

Where cancellation is requested by *you*, we will provide a refund of 80% of the unexpired premium. Where cancellation is initiated by *us* a full refund of unexpired premium will be provided.

2. In the event of a total loss or constructive total loss the Policy will be cancelled effective from the date of loss and any outstanding premium will be paid in full by *you*.
3. This Policy will be automatically cancelled in the event that the *vessel* is arrested, impounded or re-possessioned by any government authority or financial institution. Cancellation will be effective from the date of arrest or re-possession. However, cover may continue following discussion with *us* and subject to *our* written agreement.

Change in Circumstances

You will immediately inform *us* in writing if any material circumstances change during the period of cover.

Claim Notification

You shall give *us* immediate notice of

1. any event arising or likely to result in a claim being recoverable under the Policy
2. the receipt of notice from any person of any intention to hold *you* responsible for the results of an alleged personal injury or occurrence
3. any circumstances of which *you* shall become aware which may give rise to a claim or claims under this Policy

irrespective of whether the amount is likely to be within or above the amount of the *deductible* specified in the Vessel Schedule.

In respect of Sections A to G inclusive, notification is to be given to Vero Marine Insurance. In respect of Section H, notification is to be given to Vero Liability Insurance Limited. Contact details for both Vero Marine and Vero Liability are contained in the Claims Procedure incorporated in this Policy.

Conduct of Claim

1. *We* may if *we* so desire take over and conduct in *your* name the defence or settlement of any claim or prosecute in *your* name for *our* benefit any claim or counter claim and shall have full discretion in the conduct of any proceedings and in the settlement of any claim or counter claim.
2. *You* shall give all such assistance as *we* may require.
3. *We* reserve the right to select legal representatives.

Continuation

If *you* are away from any port at the time this Policy ends, *we* will extend *your* cover until *you* arrive at the nearest safe port. *You* must notify *us* as soon as possible and pay the additional premium required. This continuation privilege does not apply if the Policy is cancelled by you or us.

Duty of Care

You shall take reasonable precautions

1. to prevent personal injury and any occurrence
2. to comply with all obligations and regulations set out in any legislation applicable or imposed by any Authority
3. to maintain the property insured in proper repair
4. to remedy and/or eliminate (at your own expense) any defect or any danger that may give rise to personal injury or an occurrence
5. to prevent loss or damage to the property insured.

False Statements

No incorrect statement shall be made in support of a claim.

Fraudulent Claims Clause

Should any representation made in support of a claim be fraudulent *we* will decline the claim and terminate the Policy.

Joint Assureds

If any of the property specified in the Vessel Schedule is owned jointly, then cover under this Policy on such property shall also be provided jointly.

Jurisdiction, Law & Practice and Dispute Resolution

No party to this Policy shall commence any court or arbitration proceedings relating to any dispute arising out of or relating to this Policy (including any dispute as to the validity, breach, or cancellation of this Policy) unless that party has first complied with this clause.

The parties agree to the mediation of any such dispute in accordance with the Arbitrators' and Mediators' Institute of New Zealand Inc. current Mediation Protocol.

The mediation shall be conducted by a mediator agreed by the parties, at a fee agreed by the parties. Failing agreement by the parties, the mediator shall be selected, and the mediator's fee shall be determined, by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc.

In the event that mediation is unsuccessful, any dispute, of whatever nature, arising out of or in relation to any other clause incorporated in or matter relating to this Policy shall be determined by court proceedings issued in New Zealand. New Zealand courts shall have exclusive jurisdiction to hear and determine any such Proceedings and resolve any such dispute.

Any Institute Clause incorporated in this Policy shall be subject to English Law and Practice.

NZ Goods and Services Tax

Where applicable, GST will be added to any claims monies payable.

For the purpose of this clause, GST means tax payable under Section 5(13) of the Goods and Services Tax Act 1985 or under any statutory amendment to or re-enactment of the Section or Act.

Observance of Terms and Conditions

The observance and fulfilment of the terms and conditions of this Policy by *you* insofar as they relate to anything to be done or complied with by *you* and the correctness of any statements contained in any proposal or made elsewhere to *us* by *you*, are conditions precedent to any liability for *us* to provide any indemnity under this Policy.

Other Insurance

Other than in respect of Section H, in which case refer to that specific Section, if *you* have other insurance that covers *your* loss, the insurance under this Policy is considered to be in excess. This means that *we* will only pay *you* the amount of *your* loss otherwise covered under this Policy that *you* are unable to recover from other insurance even if that policy has a condition to the same or similar effect.

Permanent Mooring Condition

It is a condition precedent to any liability under this Policy that:

- 1 the permanent moorings meet the minimum specifications recommended by the Harbour Authority or other appropriate Authority that has control of or responsibility for the area in which the moorings are laid for a vessel of the tonnage, size and dimensions of the *vessel*.
- 2 these permanent moorings will be maintained in good working order, and that swing moorings will be lifted for inspection at least every 36 months.

Progress Claim Payments Clause

Where a claim is payable under this Policy, *we* may, at *your* request, make progress claim payments.

You must submit documentation satisfactory to *us* for as much of the loss or damage for which the progress claim payment is being sought, prior to such payment being made.

No payment will be made until the amount of loss is known to exceed the amount of any *deductible* applicable and the *deductible* will be applied to the first progress claim payment made.

Subrogation

Upon accepting liability for a claim under this Policy, *we* are entitled to become subrogated to *your* rights of recovery or indemnity from any other person or corporation. *You* must, at *our* expense, do and concur in doing and permit to be done, anything reasonably required by *us* or the purpose of enforcing that right.

Any amount so recovered shall be applied firstly for *our* benefit to the extent of the amount paid by *us* in respect of that claim (including related costs and expenses) and the remaining amount shall be paid to *you*. Any interest will be pro-rated between *us* and *you* on the above basis.

Transfer of Interest

If *you* sell, transfer, mortgage or pledge *your vessel* or this Policy, cover will cease without further notice to *you* unless *we* accept such change in writing.

Claims Procedure

What to do in case of loss or accident

Depending on the nature of the loss, please advise Vero Marine and/or Vero Liability Insurance Limited (refer General Conditions – Notification of Claim) immediately. We can advise *you* and arrange for an assessor and/or solicitor to look after *your* claim.

You must act as though *you* are not insured and

- (a) take all reasonable steps to minimise the loss or damage or any liability, and to safeguard the property insured
- (b) in the case of theft, vandalism or loss, advise the police
- (c) send to *us* any communication received from any other person.

You must not, without *our* prior written consent

- (a) incur any expense in making good any loss or damage (other than to minimise the damage)
- (b) negotiate, pay, settle, admit or decline any claim.

What to do in case of a liability

Depending on the nature of the liability, please advise Vero Marine and/or Vero Liability Insurance Limited (refer General Conditions – Notification of Claim) immediately

- (a) of any claim made against *you*
- (b) if *you* receive any notice from any person of any intention to hold *you* responsible for the results of an alleged occurrence
- (c) of any circumstance which *you* become aware of which may give rise to a claim.

Contact details

Vero Marine

During normal working hours:

Vero Marine Insurance
PO Box 1759
Auckland

Telephone: 09 363 2600

Toll Free Telephone: 0508 856 856

Vero Liability

During normal working hours:

Vero Liability Insurance Limited
Private Bag 92055
Auckland

Telephone: 09 306 0350

Email: info@vl.co.nz

Emergency after hours:

Sedgwick Marine Claim Assessors
Telephone: 0800 800 270

24 hours a day, 7 days a week:

Toll Free Telephone: 0800 LAWSAFE