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Marine Contractors Risk Checklist

MARINE CONTRACTORS RISK CHECKLIST

DISCLAIMER:

*Not only are policy forms, clauses, rules and court decisions constantly changing, but each risk is unique and policy forms and conditions vary from company to company and state to state. This checklist is intended as a general guideline and may not apply to all situations. **LIG Educational & Consulting Services, shall not be liable or responsible to any individual or entity with respect to any loss or damage allegedly caused directly or indirectly resulting from use of this checklist***

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This checklist is designed to verify the exposures unique to a marine contractor, it does not cover the “Dry” risk associated with any account and should be considered as a supplement to your agencies “Dry” account checklist. Exposures not included are; Automobile, Property, Crime, Bonds, D&O, E&O, EPL, EBL, Fiduciary Liability, Benefits, Land-based Pollution, Boiler & Machinery, E-Commerce, Liquor Liability & all other “Dry” exposures.

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NAME OF INSURED:		LINE: Marine General Liability/ Commercial Marine Liability	
SECTION	ACTION	EXPLANATION	COMPLETE
Watercraft Exclusion "g"	Delete or require carrier to confirm they will not use to decline products/comp operations losses	Carriers will occasionally use the ISO watercraft exclusion to deny products-completed operations claims. Either require the carrier to delete the watercraft section of the exclusion, or ask them to confirm, in writing, that they do not intend to use this exclusion to deny products/completed operations. Failing that move to another carrier!	<input type="checkbox"/>
CCC Exclusion	Buyback using Care, Custody or Control coverage form	See page 6 - If we have any vessels or equipment in our CCC, we will need one or more CCC coverages. These can usually be endorsed onto the MGL or CML policy	<input type="checkbox"/>
Premium	Check Minimum & Deposit against estimated annual	Marine M&D's can frequently be far removed from the annual premium. Take a few minutes with a calculator to work out the estimated annual premium. If the M&D is much lower then prepare the client for the large audit. If higher, renegotiate the minimum with the carrier to reduce. Note: MOST marine policies have a MINIMUM annual premium.	<input type="checkbox"/>
Your Product or Your Work exclusion	Manuscript removal or modification if needed	If you have a large value item that would be considered "your work" or "your product", then look at manuscripting an endorsement to cover.	<input type="checkbox"/>
Contractual Liability	Identify and Cover	Does your MGL policy provide for contractual cover? Do you need individual contracts to be approved by underwriters? Policies vary greatly on this – ensure that you explain to client.	<input type="checkbox"/>

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NAME OF INSURED:		LINE:	Hull. Equipment & Marine Property
SECTION	ACTION	EXPLANATION	COMPLETE
Collision & towers liability	Ensure in Hull &/or P&I policy	Collision & towers liability provides coverage for physical damage to other vessels (vessels you are towing for Towers liability). Typically hull policies include collision liability up to the HULL policy limit, and P&I policies provide excess C&T up to the P&I limit. Occasionally underwriters may structure all the C&T as part of the P&I either way ensure coverage for these exposures are there.	<input type="checkbox"/>
Equipment	Remove waterborne limitation	Most inland marine policies contain a waterborne limitation in the property not covered or the exclusions of the policy.	<input type="checkbox"/>
Docks & piers	Cover if exposure	Docks and piers are excluded under ISO forms so must be endorsed by CPI410 or Monoline policy placement.	<input type="checkbox"/>
Docks & Piers	Verify	Include wind / ice / flood / collision – dependent on location (Use CP1070 to add ice & collision coverage)	<input type="checkbox"/>
Business Interruption and/or Extra Expense	Add	Analyze where exposure exists and add	<input type="checkbox"/>
Leased / Rented	Add if exposure	Vessels or equipment leased or rented	<input type="checkbox"/>
Automatic Acquisition Clause	Add	For newly acquired vessels / equipment. Verify if policy contains a limitation of time.	<input type="checkbox"/>
All	Valuation	Check valuation clauses and adjust as needed.	<input type="checkbox"/>

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NAME OF INSURED:		LINE:	Protection & Indemnity / Watercraft Liability	
SECTION	ACTION	EXPLANATION		COMPLETE
Policy Wording	Request SP23	SP23 is the broadest of the three most common commercial marine P&I forms and typically costs no more.		<input type="checkbox"/>
Wreck Removal	Covered in your form?	Many manuscript forms, particularly “watercraft liability” forms, exclude wreck removal.		<input type="checkbox"/>
Funeral Expenses	Increase to \$2,500 - \$5,000	Limited to \$200 or \$1,000 in certain forms, it is certainly inadequate. Most underwriters will increase to \$2,500 to \$5,000 upon request.		<input type="checkbox"/>
Crew Exclusion	Check for one buried in the policy and remove	Are you comfortable with a crew exclusion? See page 7 for more details		<input type="checkbox"/>
Contractors Exclusion	Remove	Often buried in the policy, particularly if crew is excluded, is an exclusion for contractors or subcontractors – on your vessels. Extremely dangerous through direct suits or subrogation.		<input type="checkbox"/>
Trading Limits / Territorial Limits	Ensure adequate for client	Request up front – usually much easier than mid-term. Use “Where could you possibly work!”		<input type="checkbox"/>

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NAME OF INSURED:		LINE: Care, Custody or Control Liabilities (C.C.C.)	
SECTION	ACTION	EXPLANATION	COMPLETE/ N/A
Ship Repairers Legal Liability	Add Coverage	Repair, service or maintenance any type or size of vessel	<input type="checkbox"/>
Wharfingers Legal Liability/Landing Operators Legal Liability	If any exposure either endorse the CGL/CML policy for these coverages or buy separate policy	Store, moor, or keep vessels of any type or size? – think of this as Garage Keeper’s Legal Liability for vessels.	<input type="checkbox"/>
Stevedores/Terminal Operators Legal Liability	Add Coverage	Load/unload vessels or operate/own a terminal – Use the combined stevedores / terminal operators form.	<input type="checkbox"/>
Territory	Extend?	Is Territory wide enough for your client? Extend?	<input type="checkbox"/>
Other Work Endorsement	Add endorsement	A great, usually free, endorsement that provides CCC coverage for items other than vessels/equipment being worked upon. Fills in a great gap for those “other” items – Purchase when vessel work is quiet.	<input type="checkbox"/>
Traveling workman endorsement	Add endorsement to SRL form	If you work off premises you need this endorsement, as standard policy is location only! Usually free.	<input type="checkbox"/>
Demurrage/loss of time/Consequential loss exclusion	Delete exclusion	Most marine CCC policies exclude demurrage, loss of time, consequential loss and other similar items. This is critical coverage... the loss of use of a vessel may well be far larger than the damage to the vessel itself. Delete this exclusion.	<input type="checkbox"/>
Charterers Legal	Add coverage	If vessels chartered	<input type="checkbox"/>

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NAME OF INSURED:		LINE: Workers Compensation and other liability to employees	
SECTION	ACTION	EXPLANATION	COMPLETE
W.C. State Act	Cover	Vital – also protects Longshore exclusion for exempt employers as without State Act Comp, the Longshore exclusions vanish (See page 14).	<input type="checkbox"/>
All States coverage	Cover	For out of state work in 3c	<input type="checkbox"/>
Longshore Endorsement	Add	For Longshore Exposure – See page 15 for list of jobs excluded from Longshore and page 16 for the penalties for not purchasing.	<input type="checkbox"/>
Longshore all states	Cover	Longshore endorsement covers only injuries in states listed in the endorsement – Amend to all states if carrier allows	<input type="checkbox"/>
Longshore Carrier	Check if Approved	Use LIG’s or DOL’s website to verify if carrier is approved to write Longshore. www.LIGMarine.com/uslhcarriers.asp	<input type="checkbox"/>
Admiralty Exposures	Add if Exposed	Own or operate vessels – you need admiralty coverage for employees by either crew section of P&I or by Maritime Employers Liability. Typically referred to as “Jones Act”, this includes Maintenance & Cure, Unseaworthiness, Wrongful Death, Death on the High Seas Act and related Admiralty exposures.	<input type="checkbox"/>

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NAME OF INSURED:		LINE: Miscellaneous	
SECTION	ACTION	EXPLANATION	COMPLETE
Oil Pollution Act	Cover	All vessels carrying fuel / pollutant as cargo and all vessels over 300 tons are required to carry. Great inexpensive cover even if under 300 tons.	<input type="checkbox"/>
Builders Risk	Cover if exposed	For new vessels under construction. Can include P&I for the vessel for sea trials, demos and often deliveries.	<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

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NAME OF INSURED:		LINE:	Common Endorsements
SECTION	ACTION	EXPLANATION	COMPLETE
In Rem	Add	This endorsement includes some Latin phrases, but simply stated says that if someone sues a vessel, the policy will respond as if the suit was against an insured.	<input type="checkbox"/>
Seepage & pollution	Add	This sudden and accident form of coverage is usually free with most marine policies. It is a strict claims-made type of coverage, with limited value, but as free, it's worth every penny!	<input type="checkbox"/>
W.C. Exclusion	None	Really designed for the Texas marketplace, this endorsement usually says that we won't pay for injuries to any employee, even if leased. Forms differ, but usually attached to a marine GL policy.	<input type="checkbox"/>
Discovery Clause	Remove	A very dangerous endorsement often deeply buried, this leaves coverage gaps as you renew policies year to year due to the absence of a retro date. Vital to eliminate.	<input type="checkbox"/>
Waiver of Subrogation	Caution	Often an easy form to add, but often too easily granted. Remember it may come back to haunt your clients loss ratio!	<input type="checkbox"/>
Other Manuscript Endorsements	Caution	Marine Insurance is ripe with manuscript endorsements. Make sure you know what each one does so you can explain to your client.	<input type="checkbox"/>

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NAME OF INSURED:		LINE: Umbrella/Excess	
SECTION	ACTION	EXPLANATION	COMPLETE
Collision & towers Liability	Include	If hull value is = or > primary P&I limit, schedule the collision and towers as an underlying coverage in the excess.	<input type="checkbox"/>
Drop Down	Include	Although it is difficult to find many examples of claims covered by a drop down provision in an umbrella – always wise to request.	<input type="checkbox"/>
Excess MEL/P&I For Your Employees	Include	If you have admiralty exposure (See Page 7) make sure included in umbrella.	<input type="checkbox"/>
Excess Pollution/OPA	Include	If you have Pollution / OPA exposure (See Page 8) make sure included in umbrella.	<input type="checkbox"/>
Excess EL/Auto	Include	Most Marine excess/umbrella will cover over non-marine EL/Auto. Include on submission	<input type="checkbox"/>
Concurrent Dates	Ensure	Although many marine policies do not contain aggregates, typically the MGL does. Ensure the policy dates are concurrent so no erosion of aggregate outside excess policy period!	<input type="checkbox"/>

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Marine Insurance Terminology

This is a general guide only; individual circumstances and policy forms vary.

Bareboat Charter

The charter of a vessel without captain/crew.

Blue Water Vessel

One that sails outside the U.S., typically ocean-going or to/from the Caribbean.

Brown Water Vessel

A vessel, most typically a tug/barge that operates in the river system or coastal U.S.

Bumbershoot

See umbrella.

Collision Liability

Liability for physical damage to another vessel you might hit. Typically included in the hull policy up to the limit of that hull policy.

DBA - Defense Base Act

A federal workers compensation program for private workers on a U.S. Defense base. It is usually required by contract, and is most frequently covered as part of an international policy.

DOHSA - Death on the High Seas Act

Available to seaman and non-seaman, a tort-based action for anyone who is killed upon the high seas beyond U.S. territorial water.

Excess

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See Umbrella.

Hull

Physical damage to your own vessel.

Jones Act

The Merchant Marine Act of 1920 allows seamen a remedy to sue their employer for negligence in the event of injury or illness incurred in service of the vessel.

LOLL - Landing Owners Legal Liability

The inland version of Wharfingers Legal Liability. See below.

M&C - Maintenance & Cure

An absolute, “no-fault” liability to seamen (captain and crew): Maintenance is living expenses; Cure is medical expenses incurred until maximum medical improvement.

Marine Umbrella

See Umbrella.

MEL - Maritime Employers Liability

A method of insuring an employer's liability under Admiralty law (Jones Act, Maintenance & Cure etc.) to his employees. It provides similar coverage for employees as contained in a P&I policy. It does not cover Longshore or any third-party liabilities.

MGL - Marine General Liability

Similar to a normal general liability policy, it is sometimes adapted to expand or eliminate the watercraft exclusion. Typically includes products/complete operations and all usual CGL coverages. It is often based on older versions of CGL forms.

MOLL - Marina Operators Legal Liability

Coverage for physical damage to vessels in the care custody and control of the insured. Often limited to “private pleasure vessels” only.

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OCSLA - Outer Continental Shelf Lands Act

A federal workers compensation act which allows workers on fixed platforms on the Outer Continental Shelf access to the Longshore Act. Most common in the Gulf of Mexico.

ORVA - Oceanographic Research Vessel Act

Allows scientists on officially classed research vessels access to the same benefits as seamen, without having to qualify under the Jones Act or sign seaman's papers.

P&I - Protection and Indemnity

The marine equivalent of Automobile Liability, it covers the liability of a boat owner for bodily injury and property damage. It may include or exclude liability to captain or crew.

SRLL - Ship Repairers Legal Liability

Physical damage to vessels, their cargo, and equipment in your care custody and control for the purpose of being repaired, or serviced.

StLL - Stevedores Legal Liability

Liability for cargo being loaded or unloaded from a vessel and damage to a vessel. Usually written with Terminal Operators Legal Liability in a combined form.

TLL - Terminal Operators Legal Liability

Liability for cargo in your care custody and control at a terminal prior to loading or after discharge from a vessel. Most commonly written in combination with Stevedores Legal Liability.

Towers Liability

Liability to a vessel and its cargo that you are towing or pushing.

Umbrella

Or marine umbrella. A combined excess policy. Sometimes has a dropdown provision. May or may not be excess over EL, Automobile or other non-marine policies. Wordings vary greatly.

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USL&H

Longshoremen and Harbor Workers Compensation Act. (Actually should be LHWCA). It is a federal workers compensation program designed predominately for “dockside” workers.

Wet Charter

The charter of a vessel with a captain/crew.

WhLL - Wharfingers Legal Liability

The marine version of “garage keeper’s legal liability.” Covers damage to vessels and their cargo which is in the insured’s care custody and control for storage, mooring, docking etc. Usually specifically excludes any repair work.

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Longshore Act - Definition of Employee

Updated for Feb 2009 Amendments

§ 902 (3)

The term “employee” means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term does not include-

- (A) Individuals employed exclusively to perform office clerical, secretarial, security, or data processing work;
- (B) Individuals employed by a club, camp, recreational operation, restaurant, museum, or retail outlet;
- (C) Individuals employed by a marina and who are not engaged in construction, replacement, or expansion of such marina (except for routine maintenance);
- (D) Individuals who
 - (1) are employed by suppliers, transporters, or vendors,
 - (2) are temporarily doing business on the premises of an employer described in paragraph (G) and
 - (3) are not engaged in work normally performed by employees of that employer under this Act;
- (E) aquaculture workers;
- (F) individuals employed to build any recreational vessel under sixty-five feet in length; or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel;
- (G) a master or member of a crew of any vessel; or
- (H) any person engaged by a master to load or unload or repair any small vessel under eighteen tons net;



If individuals described in clauses (A) through (F) are subject to coverage under a State workers compensation law.

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Longshore Act – Penalties For Not Insuring

<Emphasis Added>

§ 938 (a)

Any employer required to secure the payment of compensation under this Act who fails to secure such compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the ***president, secretary, and treasurer*** thereof shall be also severally liable for such ***fine or imprisonment*** as herein provided for the failure of such corporation to secure the payment of compensation; and such president, secretary, and treasurer shall be severally ***personally liable***, jointly with such corporation, ***for any compensation*** or other benefit which may accrue under the said Act in respect to any injury which may occur to any employee of such corporation while it shall so fail to secure the payment of compensation as required by Section 32 of this Act.