

**MARITIMO OFFSHORE PTY LTD ABN 99 070 000 796**  
**WARRANTY**

**1. WARRANTY**

1.1 In this Warranty :

- (a) "Commencement Date" means the date on which the Purchaser first obtains possession of the Cruiser (irrespective of whether or not title to the Cruiser has passed to the Purchaser at such time);
- (b) "Maritimo Component" means any component of the Cruiser, or any equipment installed in or designed to be used with the Cruiser, which was manufactured by Maritimo;
- (c) "Non-Maritimo Component" means any component of the Cruiser, or any equipment installed in or designed to be used with the Cruiser, which was not manufactured by Maritimo;
- (d) "Relevant Warranty Period" means, subject to clause 4 :
  - (i) in respect of the hull of the Cruiser – the period commencing on the Commencement Date and ending on the day immediately before the fifth anniversary of the Commencement Date;
  - (ii) in respect of any other Maritimo Component – the period commencing on the Commencement Date and ending on the day immediately before the second anniversary of the Commencement Date.

1.2 Subject to the provisions of this Warranty, **Maritimo hereby warrants each Maritimo Component to be free from defects in workmanship and material under normal use and circumstances during the Relevant Warranty Period.**

1.3 Subject to the provisions of this Warranty, **Maritimo shall, at its option, repair, replace or adjust at Maritimo's expense any Maritimo Component that Maritimo finds was defective in workmanship and / or material at the Commencement Date, to the extent that such defect is notified to Maritimo during the Relevant Warranty Period.**

1.4 For the avoidance of doubt, Maritimo shall not be obliged to entertain any claim which is not notified to Maritimo during the Relevant Warranty Period (notwithstanding that, had the claim have been notified to Maritimo during the Relevant Warranty Period, such claim would otherwise have been covered by this Warranty).

**2. CLAIM PROCESS**

2.1 The Purchaser expressly acknowledges and agrees that Maritimo reserves the right to refuse claims which would otherwise be covered under this Warranty if the Purchaser fails to follow the claims process set out in this clause 2, the intention being that following the defined claim process is for the benefit of both the Purchaser and Maritimo in that the process allows Maritimo to deal with any claims by the Purchaser in a more efficient and timely manner than would otherwise be the case.

2.2 In the event that the Purchaser seeks to make a claim under this Warranty ("a Warranty Claim") :

- (a) the Purchaser shall provide the Vendor with written notice of the Warranty Claim as soon as possible (but, in any event, within fourteen (14) days) after discovery of the defect the subject of the Warranty Claim, including with such written notice, where appropriate, photographic evidence of such defect;

- (b) the Vendor shall provide Maritimo with all information provided by the Purchaser pursuant to clause 2.2(a) as soon as practicable after receipt;
- (c) Maritimo reserves the right to require the Purchaser to freight or transport the Cruiser or the relevant Maritimo Component/s to such location as Maritimo reasonably requires for the purposes of inspection by Maritimo, and all freight or transportation charges (including charges incurred in returning the Cruiser or Maritimo Component/s to the Purchaser) shall be at the Purchaser's sole cost; and
- (d) if the relevant Maritimo Component/s is proved to Maritimo's satisfaction to be defective in workmanship and / or material, and such defect is covered by this Warranty (taking into account the terms of this Warranty, including but not limited to the specific exclusions from this Warranty contemplated in clause 3), Maritimo shall cause and procure, at its sole election, the repair, replacement or adjustment of the relevant Maritimo Component/s at no charge to the Purchaser (other than as contemplated in this Agreement).

### 3. **SPECIFIC EXCLUSIONS FROM WARRANTY**

3.1 The Purchaser expressly acknowledges and agrees that, to the maximum extent permissible by law, this Warranty shall not apply in respect of :

- (a) any Non-Maritimo Components;
- (b) any defect in a Maritimo Component to the extent that such defect is directly or indirectly caused or exacerbated by :
  - (i) the Cruiser being modified or operated outside of the Cruiser's original design specifications;
  - (ii) the Cruiser being used for commercial or competitive purposes;
  - (iii) the Cruiser not being routinely maintained and / or used in accordance with the specifications set out in documentation provided to the Purchaser at the time of supply of the Cruiser;
  - (iv) the Cruiser being subjected to misuse, abuse, negligence, unreasonable use, accident, vandalism or improper mooring / docking;
  - (v) the installation of Maritimo Components or Non-Maritimo Components in the Cruiser by any person other than Maritimo;
  - (vi) the use of Non-Maritimo Components other than those installed by Maritimo; and / or
  - (vii) failure to take all reasonable steps available to the Purchaser to mitigate the effect of any damage caused as a result of a defect in any component of the Cruiser (whether or not a Maritimo Component);whether by the Purchaser or by any other person;
- (c) without limiting any other provision of this clause 3.1 :
  - (i) stainless steel finishes, chromium plates, gelcoats, paints, varnishes and fabrics;
  - (ii) electrolysis, galvanic or other corrosion;
  - (iii) any deterioration of underwater items;

- (iv) any consumables;
- (v) any Maritimo Components which are reasonably expected to have a useful operational life which is shorter than the Relevant Warranty Period; and / or
- (vi) ordinary wear and tear; and

(d) any failure by the Cruiser to meet any estimated performance characteristics (including, but not limited to, speed and fuel consumption).

3.2 For the avoidance of doubt :

(a) neither Maritimo nor the Vendor shall be required to provide the Purchaser with any compensation or recompense in relation to any loss, damage, expense or outgoing suffered or incurred by the Purchaser with respect to; and

(b) the Purchaser shall have no right, claim, demand or action (whether legal or equitable) against Maritimo and / or the Vendor in respect of;

any matter which is excluded from coverage under this Warranty pursuant to clause 3.1.

3.3 In relation to Non-Maritimo Components, where possible Maritimo shall endeavour to transfer to the Purchaser the benefit of any warranties given by the manufacturers of such Non-Maritimo Components PROVIDED HOWEVER THAT to the extent that such transfer is not possible, the Purchaser shall have no right, claim, demand or action (whether legal or equitable) against Maritimo and / or the Vendor in respect of the relevant Non-Maritimo Component/s.

#### 4. **TRANSFERABILITY OF WARRANTY**

4.1 In the event that the Purchaser parts with legal and / or beneficial title to the Cruiser at any time during the Relevant Warranty Period :

(a) in respect of the applicability of this Warranty to the hull of the Cruiser – in Maritimo's sole discretion, this Warranty shall continue to apply for the balance of the original Relevant Warranty Period, provided that the person who obtains legal and / or beneficial title to the Cruiser enters into an agreement on substantially the same terms as this Warranty for the balance of the original Relevant Warranty Period; and

(b) in respect of the applicability of this Warranty to any other Maritimo Component – the Relevant Warranty Period shall be deemed to have ended on the date on which the Purchaser first parts with legal or beneficial title to the Cruiser;

the intention of the parties being that this Warranty shall (subject to Maritimo's discretion) only be transferable to a person other than the Purchaser in relation to the hull of the Cruiser, and not in relation to any other Maritimo Component.

#### 5. **MODIFICATION OF PRODUCTS BY MARITIMO**

5.1 The Purchaser expressly acknowledges and agrees that Maritimo reserves the right to modify the design, material and construction of its products at any time, without incurring any obligation to incorporate such changes into products already built (whether or not such products have been sold) or in use at such time.

#### 6. **ENTIRE WARRANTY**

6.1 To the maximum extent permissible at law :

(a) no warranties are given by Maritimo in relation to :

- (i) the Cruiser or any Maritimo Component save and except those set out in this Warranty; and

(ii) any Non-Maritimo Component;

- (b) all conditions or warranties implied by statute, common law or otherwise, are hereby expressly negated and excluded from this Warranty;
- (c) any implied warranties and conditions which cannot be excluded shall be limited in the duration of their application to the Relevant Warranty Period;
- (d) other than as expressly contemplated in this Warranty, Maritimo shall bear no liability or responsibility for the design, manufacture, or construction of the Cruiser, or for direct or indirect consequential damages in relation to the use or operation of the Cruiser, and the Purchaser undertakes not to make any claim, demand or institute any proceedings, actions or suits against Maritimo in any way in respect of same; and
- (e) this Warranty contains a complete and exclusive statement of Maritimo's obligations with respect to the Cruiser or any component of same.

6.2 The Purchaser hereby expressly acknowledges and agrees that :

- (a) it has read and fully understood this Warranty; and
- (b) in signing this Warranty, it has not relied on any written or oral representations made to it by Maritimo, the Vendor or any third party (including, but not limited to, representatives, agents or dealers of Maritimo or the Vendor), except as expressly set out in this Warranty.

## 7. MISCELLANEOUS

- 7.1 No amendment of this Warranty shall be of effect unless such amendment is in writing and executed by all parties.
- 7.2 This Warranty may be executed in original form and / or by facsimile transmission in any number of counterparts and all counterparts taken together shall constitute one and the same instrument.
- 7.3 If any provision (or part thereof) of this Warranty is or is determined to be illegal, invalid, void or voidable by a Court of competent jurisdiction, that provision (or part thereof) shall be severed and the legality or validity of the remainder of this Warranty shall not be affected and shall continue in full force and effect.
- 7.4 This Warranty shall be governed by and construed in accordance with the laws of Queensland, and the parties each irrevocably and unconditionally submit to the non exclusive jurisdiction of the courts of Queensland whether State or Federal, and each waives any immunity or any objection it may have to any action in those courts and to a claim that any action has been brought in an inconvenient forum or to those courts not having jurisdiction.
- 7.5 All covenants, undertakings and representations given or made by any party under or by this Warranty and all obligations of any party under this Warranty which are of a continuing nature or are not fully satisfied and discharged on completion or termination of this Warranty shall not merge on completion or termination and shall remain in full force and effect.
- 7.6 The rights provided under this Warranty are cumulative and not exclusive of any rights provided by law.
- 7.7 A right in favour of a party under this Warranty, subject to any express provision of this Warranty to the contrary, may be waived prospectively or retrospectively by writing signed by that party, and no other act, omission or delay by a party shall constitute a waiver of a right.
- 7.8 In this Warranty, unless the contrary intention appears :

- (a) a reference to this Warranty or another document includes any variation or replacement of it notwithstanding any change in the identity of the parties and includes all documents and instruments referred to in this Warranty;
- (b) a reference to any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or replacement of any of them by any government body;
- (c) words importing the singular includes the plural and vice versa;
- (d) if a word or phrase is defined cognate words and phrases have corresponding meanings; and
- (e) an agreement, covenant, obligation, representation or warranty on the part of, or in favour of, two or more persons binds them, or is for the benefit of them, jointly and severally.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**MARITIMO'S SIGNATURE** \_\_\_\_\_

**SIGNED** by \_\_\_\_\_ for and on behalf of

Maritimo Offshore Pty Ltd ABN 99 070 000 796

**PURCHASER'S SIGNATURE** \_\_\_\_\_

**SIGNED** by \_\_\_\_\_ for and on behalf of

\_\_\_\_\_

**VENDOR'S SIGNATURE** \_\_\_\_\_

**SIGNED** by \_\_\_\_\_ for and on behalf of

Maritimo Sales Pty Ltd ABN \_\_\_\_\_