



# Liability Insurance for PADI Dive Stores



<b>GENERAL INFORMATION</b>	<b>3</b>
1 . Introduction	3
2 . Important Information	3
3 . How to register a complaint	3
4 . Insurer Information	4
5 . Basis of Diving Cover	4
6 . How to make a Claim	4
<b>GENERAL DEFINITIONS</b>	<b>5</b>
1 . Definitions	5
<b>GENERAL CONDITIONS</b>	<b>8</b>
1 . Conditions	8
<b>GENERAL EXCLUSIONS</b>	<b>10</b>
<b>COVERAGE SECTIONS</b>	<b>11</b>
1 . LEGAL EXPENSES	11
2 . THIRD PARTY LIABILITY	14
3 . DIVING RISK FOR TRY DIVE CLIENTS	18
4 . DIVING RISK FOR STUDENT CLIENTS	19

# GENERAL INFORMATION

## 1 . Introduction

For the purpose of this policy, the **Policyholder** is **PADI EMEA**, situated at The Pavilions, Bridgwater Road, BS13 8AE, United Kingdom, and the beneficiaries of the policy's benefits are the Dive Stores, associated with **PADI EMEA**, under the policy.

This agreement does not give the **Policyholder**, direct rights under the Policy of insurance but enables the **insured**, to receive the benefits described below.

Strict compliance with the terms and conditions of this agreement is required if the **insured** is to receive its benefits.

Each **Insured** should read this policy, policy schedule and any endorsements carefully, keep them in a safe place and refer to them should a policy service be required, or a claim occur.

## 2 . Important Information

**Your right to cancel** – if having purchased this insurance **you** decide that it does not meet your requirements please return this policy at once to:

The **Administrator**, VING Insurance Brokers Ltd, Continental Operations Office, C.da Padune 11, 64026 Roseto degli Abruzzi (TE), Italy or telephone on +39085-8930333 within 14 days of the date of issue and provided that no claim has been made, the premium will be refunded in full.

**Material Facts** – **you** MUST tell us all **Material Facts**. A **Material Fact** is one which is likely to influence the cover provided. If, after buying the policy, a **Material Fact** becomes known or changes you must tell us and we reserve the right to impose special terms.

## 3 . How to register a complaint

It is **our** intention to provide an excellent service to all our policyholders, however, **we** recognise that there may be occasions when **you** feel that this has not been achieved. If **you** are unhappy with any aspect of the service that you receive, please contact either your usual insurance adviser or:

**The General Manager**

VING Insurance Brokers Ltd

DAN Building, Level 2-3, Sir Ugo Mifsud Street, Ta' Xbiex, XBX 1431, Malta

Telephone no. +356 2016 1600 Email: [daneuropecomplaint@vinginsurance.com](mailto:daneuropecomplaint@vinginsurance.com)

Please state the nature of **your** complaint, the Policy and/or Claim Number, the name of any claim handling organisation with whom you have been dealing and their reference number.

If after taking this action you are still unhappy with our response please write to:

**The Complaints Manager**

IDA Insurance Ltd.

DAN Building, Level 1, Sir Ugo Mifsud Street, Ta' Xbiex, XBX 1431, Malta

Telephone no. +356 2016 1646 Email: [daneuropecomplaint@idassure.eu](mailto:daneuropecomplaint@idassure.eu)

If **you** are still unhappy, you may seek assistance from:

**Office of the Arbiter for Financial Services**

1<sup>st</sup> Floor, St. Calcedonius Square, Floriana, FRN 1530, Malta

Further information can be found at: <https://financialarbiter.org.mt>

## 4 . Insurer Information

All cover under this policy is provided by IDA Insurance Ltd. (the **Insurer**) which is registered in Malta Number C36602 with an establishment situated in Malta as defined by the Insurance Companies Act 2006. IDA Insurance Ltd. is authorised and regulated by the Malta Financial Services Authority and operates throughout the European Union and the European Economic Area under freedom of services authorisation.

## 5 . Basis of Diving Cover

**We** will (unless specified to the contrary) provide EACH **Insured** named in the policy schedule with insurance in the manner described in each Section of this policy subject to the terms, provisions, conditions, limitations and exclusions therein and the General Exclusions and General Conditions of this policy.

**We** will insure **you** for **your** civil and legal liabilities for claims made against **you** by third parties or clients arising out of the **dive store services you** provide and which are **insured by us**.

In the provision of these **dive store services** provided by you or by diving professionals employed by you or under your direction we will cover you for such claims so long as the diving professional involved in the accident has been declared to us and entered under your policy.

**You** should therefore ensure that any such individual is included under **your** policy by entering the full details of this person in the relevant area of **your** MyDAN space by adding a new user within the Insurance tab.

**You** should also deactivate individuals who are no longer under **your** employ or direction.

## 6 . How to make a Claim

If there are any circumstances that may give rise to a claim under this policy the **Insured** (or his/her legal or personal representatives) must in respect of any claim:

1. **Legal Expenses and Civil, Legal and Professional Liability Claims –**
  - a. DO NOT admit liability or offer or promise any payment or indemnity
  - b. Forward to the **Administrator** IMMEDIATELY upon receipt, every letter, claim, writ, summons or process
  - c. Notify the **Administrator** in writing IMMEDIATELY that you have knowledge of any impending prosecution, inquest, fatal **accident** or ministry inquiry in connection with any **accident** that may result in a claim
  - d. Comply with the policy Claims Conditions and Procedures
2. **FAILURE TO COMPLY WITH THE TERMS OF THIS POLICY MAY PREJUDICE ANY CLAIM.** Please refer to the appropriate Section for full details.
3. **YOU MUST ALSO:**
  - a. Give all information and assistance that the **Insurers** may require
  - b. Comply with all reasonable deadlines set by the **Insurers**
  - c. Comply with all deadlines set by any court or legally empowered authority for the disclosure of information, production of proof, evidence and/or documentation and provision of assistance.

# GENERAL DEFINITIONS

## 1 . Definitions

APPLICABLE TO ALL SECTIONS OF THE INSURANCE OTHER THAN AS STATED HEREIN TO THE CONTRARY

Wherever these words or phrases appear in bold italic type in this policy they will have these meanings:

### 1 — 24/7 Emergency Operating Centre

means the assistance services provided by the Contractor engaged by **us** to provide a 24/7 emergency contact service to **you**

### 2 — Accident

means a sudden, unexpected, unusual, specific event which occurs at an identifiable time and place

### 3 — Administrator

means VING Insurance Brokers Ltd, Continental Operations Office, C.da Padune 11, P.O. BOX 77, 64026 Roseto degli Abruzzi TE, Italy

### 4 — Bodily Injury

means identifiable physical injury which:

- a. is caused by an **Accident**; and
- b. solely and independently of any other cause, except illness directly resulting from, or medical or surgical treatment rendered necessary by such injury, occasions the death or disablement of the **Insured** within twelve months from the date of the **Accident**

### 5 — Country of Operation

means the country provided by **you** as the location of **your Dive Store** when applying for this Insurance accepted by us and appearing on the **Policy Schedule**.

### 6 — Country of Residence/Registration

means **your** country of permanent **residence** or for **insured** companies where the company operating the **dive store** is registered, provided by **you** when applying for this Insurance.

### 7 — Dive Boat

A waterborne vessel not exceeding fifteen (15) metres in length which is propelled by mechanical means for the purpose of conveying recreational or professional divers and their equipment to dive sites which they could not conveniently reach from the shore.

### 8 — Dive Store

means a Person, Company, Organisation or Association of any type providing **Dive Store Services** to persons planning to or participating in **Diving Activities**.

## 9 — Dive Store Services

means the provision of services related to **Diving Activities**, including:

1. providing advice and instruction in **Recreational and Professional Diving**
2. organising, supervising, escorting or guiding services provided by diving instructors, assistant instructors or underwater guides
3. the use of breathing gas compressor or other dive equipment that **you** are certified or competent to use
4. rental of dive equipment
5. Maintenance and repairs of dive equipment subject that you are certified to provide these services

## 10 — Dive Training Agency

means recognised dive training organisations, whether or not affiliated to R.S.T.C. or C.M.A.S., who establish and publish training programs, including guidelines and recommendations for safe diving practice.

## 11 — Diving Activity / Diving Activities

means:

- a. diving with scuba or rebreather apparatus from the moment the diver lifts the assembled Buoyancy Compensator Device / underwater breathing apparatus to wear it and enter water, until the diver totally exits water and the scuba tank or rebreather unit is placed on the ground or boat deck, whichever is first
- b. breath-hold diving or snorkelling, from the moment the diver completely enters until he/ she exits water
- c. Assembly / disassembly and checking of dive equipment
- d. Kitting up and kitting off from dive equipment
- e. Loading and unloading of dive equipment onto a means of transport for the purpose of directing oneself towards or from a dive location
- f. Embarkation or disembarkation onto / from a dive boat

## 12 — Endorsement

means the document confirming any alteration in **your** insurance confirmed by **Insurers**

## 13 — Excess

means the amount of money that the **Insured** will pay towards a claim as stated in the **Policy Schedule**

## 14 — Insured/you/your

means each person or company stated in the **Policy Schedule** as being insured and who will be benefiting from the policy's benefits issued in the name of the **Policyholder**, as defined below

## 15 — Material fact

means facts about **you** or **your** activities that are likely to influence **us** in accepting **your** insurance.

## 16 — Operative Location



means the premises owned and /or rented/leased by **You** and under **Your** care and custody at the address specified in the Schedule attached to this Policy

#### 17 — Period of Insurance

means the **Period of Insurance** stated in the **Policy Schedule**

#### 18 — Policyholder

means **PADI EMEA**, United Kingdom

#### 19 — Policy Schedule

means the document providing **you** with written confirmation of cover for the **Period of Insurance**

#### 20 — Professional Diving

means the provision of advice and instruction in **Recreational Diving** including all supervising, training, escorting or guiding services provided by diving instructors, assistant instructors or underwater guides

#### 21 — Recreational Diving

means **Diving Activities** with or without breathing apparatus whether as a student or not, including:

- a. Compressed air diving in any form
- b. Enriched air “nitrox” diving with fixed percentages with an open circuit or a “rebreather”
- c. The use of oxygen enriched air or of oxygen to maximize decompression safety
- d. The use of normoxic “Trimix” mixtures at depths less than 50m to minimize the narcotic effects of compressed air;  
DAN Europe recommends gas partial pressures up to a maximum of 1,6ATA Oxygen and 5,6ATA Nitrogen in the breathing mixture
- e. **Technical Diving** as defined subject to the medically recommended gas partial pressures of 1,4ATA Oxygen or up to a maximum of 1,6ATA Oxygen and 3,95ATA Nitrogen in the breathing mixture

#### 22 — Technical Diving

means dives conducted with the use of variable gas mixtures (Nitrogen-Helium-Oxygen otherwise called Trimix or Helium – Oxygen otherwise called Heliox) up to depths not exceeding 130 metres. On written submission of a full dive profile and proposed safety and support measures **Insurers** may consider providing specific per dive insurance for any dive exceeding 130 metres and/or the maximum gas partial pressure limits allowed above

#### 23 — Terrorism

means the use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of the public in fear. In any action, suit or other proceedings where the **Insurers** allege that by reason of the provisions of this clause any loss, destruction or damage is not covered by this Insurance, the burden of proving that such loss, destruction or damage is covered shall be upon the **Insured**

Words in the masculine gender shall include the feminine.

# GENERAL CONDITIONS

## 1 . Conditions

APPLICABLE TO ALL SECTIONS OF THE INSURANCE OTHER THAN AS STATED HEREIN TO THE CONTRARY. FAILURE TO COMPLY WITH THE TERMS OF THIS POLICY MAY PREJUDICE ANY CLAIM.

### 1 — Precautions

The **Insured** MUST:

- a. Adhere to the safety Standards imposed by **your Dive Training Agency** and take all reasonable precautions to prevent anything happening which may give rise to a claim under this policy and take all requisite steps for safeguarding and recovering any property insured
- b. Not book or accept to provide any **Dive Store Services** unless a Medical Declaration Form and Liability Waiver Form are completed and signed by the client
- c. Request any person aged 75 or over to provide a "Fit-to-Dive" Certification prior to any diving activities being undertaken

### 2 — Claims

If there are any circumstances that may give rise to a claim under this policy the **Insured** must follow the procedure How to Make a Claim, detailed in General Information

### 3 — Fraud

If any claim is in any respect fraudulent or if any fraudulent means or devices are used by the **Insured** or if there has been a misstatement or concealment by the **Insured** or any person acting on behalf of the **Insured** to obtain benefit under this policy, all benefit hereunder shall be forfeited

### 4 — Cancellation

**We** may cancel this policy by giving **you** 30 days notice of cancellation in writing by recorded delivery to **your** last known registered address and by returning a proportionate part of the premium for any unexpired **period of insurance**. **You** may cancel this policy by returning it to **us** together with written cancellation instructions at any time within 14 days of the inception or renewal date of the Policy and provided that no claim has been made, the premium will be refunded in full

### 5 — Observance

The due observance and fulfilment of the terms, provisions, conditions and limitations of this policy so far as they relate to anything to be done or complied with by the **Insured** and the disclosure of all **Material Facts** shall be a condition precedent to any liability of the **Insurers** to make any payment under this policy

### 6 — Arbitration in respect of all Sections

If any difference shall arise as to the amount to be paid under this policy (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with law applicable to this contract. The language of arbitration shall be English. Where any difference is by this condition to be referred to arbitration the making of an award shall be a condition precedent to any right of action against the **Insurer**.



## 7 — Jurisdiction

The applicable law shall be the law of Malta, unless the **insured** is an EU/EEA resident, in which case the applicable law shall be the law of the member state where the **insured** is resident at the time of taking out the policy and/or unless otherwise expressly provided by mandatory law.

## 8 — Uninsured Expenses

If any costs and/or expenses not covered by this insurance have been incurred by the **Insurers** on the **Insured's** behalf or any additional or increased costs and/or expenses incurred by the **Insurers** as a result of the **Insured's** failure to comply with the terms, provisions, conditions and limitations of this policy then the **Insured** shall repay all such costs and/or expenses to the **Insurers** within 30 days of his/ her being requested to do so by the **Insurers**.

## 9 — Other Insurance or Indemnities

- a. The **Insurers** will seek contribution from any other insurance held by the **Insured** where:
  - i. There is in force insurance covering the same claim in which case this policy shall apply only in excess of any amount paid under such other insurance or which would have been paid thereunder had this policy not been effected.
  - ii. The **Insured** also seeks to obtain indemnity in respect of the same claim from any other insurance in which case the **Insurers** will not be liable to pay more than their proportionate share of any such claim, costs and expenses in connection therewith.

## 10 — Data Protection Act

Personal Information – The **Insurers** in their role as Controller may collect, hold and process personal and sensitive data regarding the **Insured** (known as the data subject) for particular purposes as allowed by law. All data will be managed in accordance with the (EU) Regulation 2016/679 GDPR. By accepting this policy, the **Insured** consents to the **Insurer** processing this information and, where required by the **Insurer**, passing this information to third parties in accordance with (EU) Regulation 2016/679 GDPR in order to fulfil its obligations under the policy. The **Insured** may request a copy of the Policy of the Controller / Processor, and exercise his/her rights as a data subject in accordance with the (EU) Regulation 2016/679 GDPR.

## 11 — Sanctioned Countries

No (re)insurer shall be deemed to provide cover and no (re)**insurer** shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such benefit would expose that (re)**insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

## GENERAL EXCLUSIONS

APPLICABLE TO ALL SECTIONS OF THE INSURANCE OTHER THAN AS STATED HEREIN TO THE CONTRARY

1. This insurance does not cover any:
  - a. Loss, damage, **bodily injury**, death, disease, illness, liability costs or expenses arising out of or in connection with any wilful, malicious or criminal act of the **Insured** or breach of any law or enactment by the **Insured** or arising out of **Your** gross negligence
  - b. Claim arising out of a **Material Fact** which was not declared to **us** when **you** purchased this insurance cover
  - c. War, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war or any act, condition or warlike operation incident to war
  - d. Warlike action by a regular or irregular military force or civilian agents, or any action taken by any government, sovereign or other authority to hinder or defend against an actual or expected attack
  - e. Insurrection, rebellion, revolution, attempt to usurp power or popular uprising or any action taken by governmental or martial authority in hindering or defending against any of these
  - f. Discharge, explosion or use of a weapon of mass destruction whether or not employing nuclear fission or fusion, or chemical, biological, radioactive or similar agents, by any party at any time for any reason
  - g. Terrorist Action or any action taken by anyone to prevent real or perceived imminent Terrorist Action or to address ongoing Terrorist Action
  - h. Loss, destruction, damage, liability costs or expenses caused by pressure waves from aircraft or other aerial devices travelling at sonic or supersonic speeds
  - i. Claim directly or indirectly caused by, contributed to or arising from:
    - i. Ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
    - ii. The radioactive, toxic, explosive or other hazardous properties of any explosive, nuclear assembly or nuclear component thereof
2. Notwithstanding anything in the Insurance or in any extension(s) thereof, it is hereby declared and agreed that as an exclusion overriding all other terms (including the nature and terms of perils insured against) this Insurance does not cover loss or destruction of or damage to any property or **bodily injury** anywhere in the world or loss resulting therefrom caused by or happening through or in consequence of:
  - a. Civil commotion
  - b. Any unlawful, wanton or malicious act committed maliciously by a person or persons acting on behalf of or in connection with any unlawful association as defined by the national legislation on **Terrorism** in the **Country of Residence** of the **Insured**
3. Contracts (Rights of Third Parties) Exclusion Clause – Neither this policy nor any document issued pursuant to this policy shall confer any benefits on any third parties. No third party may enforce any term of this policy or of any provision contained in any document issued under this policy. This clause shall not affect the rights of the **Insured** (as assignee or otherwise) or the rights of any loss payee.

# COVERAGE SECTIONS

## 1 . LEGAL EXPENSES

### 1 — Definitions applicable to Section 1 only

1. **Representative** means the lawyer, or other suitably qualified person, who has been appointed by **Insurers** to act for an **Insured** in accordance with the terms of this Section
2. **Date of Occurrence** means the date of the event which may lead to a claim. If there is more than one event arising at different times from the same cause, then the **Date of Occurrence** means the date of the first of these events
3. **Costs and Expenses** means all reasonable and necessary costs chargeable by the **Representative** on a standard basis
4. **Insured Incident** means the occurrence or event arising whilst the **Insured** is performing **Dive Store Services** and which made it necessary for the **Insured** to incur legal expenses

### 2 — Coverage

In the event of an **Insured Incident**, we will pay the reasonable **Costs and Expenses** incurred to:

1. Defend **you** from a legal suit (including criminal) against **you** and which is not covered by a Third Party Liability policy
2. Oppose administrative procedures or sanctions of a value of not less than 550,00 € served against **you**
3. Negotiate for **your** legal rights arising out of **your Dive Store Services** against any third party:
  - a. Who causes property damage to **your** assets or possessions whether or not these damages are caused by marine or water craft
  - b. And arising out of the use of property, whether immovable or not

In addition **you** will be covered for:

4. Costs incurred by opponents in civil cases if an **Insured** has been ordered to pay them, or pays them with **Insurer's** agreement and **your** own or **your** opponents court costs as decided by a court

**Insurers** will pay the **Costs and Expenses** charged by a **Representative** appointed by **Insurers** up to the amount indicated in the **policy schedule**.

### 3 — Exclusions applicable to Section 1 only

**Insurers** shall not be liable for:

1. A claim reported to **Insurers** more than 180 days after the **Insured** should have known about the **Insured Incident**
2. An **Incident** or matter arising before the start of this cover
3. **Costs and Expenses** incurred before **Insurer's** written acceptance of a claim
4. Any claim relating to any illness or **bodily injury** which happens gradually or is not caused by a specific or sudden **accident**
5. Fines, penalties, compensation or damages which an **Insured** is ordered to pay by a court or other authority
6. An **Insured Incident** intentionally brought about by an **Insured**
7. A legal action that the **Insured** takes which **Insurers** or the **Representative** have not agreed to or where the **Insured** does anything that hinders **Insurers** or the **Representative**
8. A claim relating to an **Insured's** alleged dishonesty or alleged violent behaviour
9. A claim relating to written or verbal remarks which damage an **Insured's** reputation
10. A dispute with **Insurers** not otherwise dealt with under Condition 4.16 below

11. An application for judicial review
12. Any **Costs and Expenses** that are incurred where the **Representative** handles the claim under a contingency fee arrangement
13. A claim against the **Insurers** or any of their insurance intermediaries or agents
14. A claim relating to Deep Vein Thrombosis
15. A claim made against the **Insured** for any non-diving activity
16. Any claim made or action instituted in the first instance within all jurisdictions of the United States of America or Canada nor to any judgment or order for the enforcement of any judgment obtained in such territories whether by way of any reciprocal judgment agreement or otherwise

#### 4 — Conditions applicable to Section 1 only

1. The **Insured** must:
  - a. Try to prevent anything happening that may cause a claim
  - b. Take reasonable steps to keep any amount insurers have to pay as low as possible
  - c. Send everything **Insurers** ask for, in writing
  - d. Give **Insurers** full details of any claim as soon as possible and give **Insurers** any information **Insurers** need
2. **Insurers** can take over and conduct, in the name of an Insured, any claim or legal proceedings at any time and can negotiate any claim on behalf of an **Insured**.
3. The **Insured** is free to choose a Representative (by sending insurers a suitably qualified person's name and address) if:
  - a. **Insurers** agree to start court proceedings and it becomes necessary for a lawyer to represent the interests of the **Insured** in those proceedings;
  - or
  - b. there is a conflict of interest; **Insurers** may, in exceptional circumstances, choose not to accept the **Insured's** choice. If there is a disagreement over the choice of **Representative** in these circumstances, the **Insured** may choose another suitably qualified person
4. In all circumstances except those in 4.3 above, **Insurers** are free to choose a **Representative**
5. Any **Representative** will be appointed by insurers to represent the **Insured** according to **Insurers'** standard terms of appointment. The **Representative** must co-operate fully with insurers at all times
6. **Insurers** will have direct contact with the **Representative**
7. The **Insured** must co-operate fully with **Insurers** and the **Representative** and must keep **Insurers** up to date with the progress of the claim
8. The **Insured** must give the **Representative** any instructions that **Insurers** require
9. The **Insured** must tell **Insurers** if anyone offers to settle the claim
10. If the **Insured** does not accept a reasonable offer to settle a claim, **Insurers** may refuse to pay further **Costs and Expenses**
11. **Insurers** may decide to pay the **Insured** the amount of damages that the **Insured** is claiming, or which is being claimed against them instead of starting or continuing legal proceedings
12. The **Insured** must tell the **Representative** to have **Costs and Expenses** taxed, assessed or audited, if **Insurers** ask for this
13. The **Insured** must take every step to recover **Costs and Expenses** that insurers have to pay and must pay **Insurers** any **Costs and Expenses** that are recovered
14. If the **Representative** refuses to continue acting for the **Insured** or if the Insured dismisses a **Representative**, the cover **Insurers** provide will end at once, unless **Insurers** agree to appoint another **Representative**
15. If the **Insured** settles a claim or withdraws it without the agreement of **Insurers**, or does not give suitable instructions to a **Representative**, the cover **Insurers** provide will end at once and **Insurers** will be entitled to reclaim any **Costs and Expenses** **Insurers** have paid
16. If **Insurers** and the **Insured** disagree about the choice of a **Representative**, or about the handling of a claim, **Insurers** and the **Insured** can choose another suitably qualified person to decide the matter. **Insurers** and the **Insured** must both agree to the choice of this person in writing. Failing this, insurers

will ask the president of a relevant national law society to choose a suitably qualified person. All costs of resolving the disagreement must be paid by the party whose argument is rejected

17. **Insurers** may, at **Insurer's** discretion, require the **Insured** to obtain, at their expense, an opinion from a lawyer or other suitably qualified person chosen by the **Insured** and **Insurers**, as to the merits of a claim or proceedings. If the chosen person's opinion indicates that it is more likely than not that an **Insured** will recover damages (or obtain any other legal remedy that **Insurers** have agreed to) or make a successful defence, **Insurers** will pay the cost of obtaining the opinion
18. **Insurers** will not pay any claim covered under any other policy, or any claim that would have been covered by any other policy if this cover did not exist
19. This Section will be governed by the law of **your Country of Residence** / Registration
20. Apart from **Insurers** the **Insured** is the only person who may enforce all or any part of this Section and the rights and interests arising from or connected with it

## 2 . THIRD PARTY LIABILITY

### 1 — Coverage

1. The **Insurers** hereby agree to indemnify the **Insured** against all sums that the **Insured** shall become civilly or legally liable to pay as a result of accidental **bodily injury** or damage to property, occurring whilst providing **Dive Store Services** in **your Country of Operation** or elsewhere in the world, up to the Limit of Indemnity on the **Policy Schedule**.
2. The indemnity provided by this Section of the Policy is extended to include liability:
  - a. of any person or firm arising out of the performance of a contract with the **Insured** the primary purpose of which is the provision of labour only; whether an employee, apprentice or person undertaking study or work experience;
  - b. any self-employed person working for and under the control of the **Insured** including voluntary workers or volunteers whilst working on behalf of the **Insured** in connection with the **Dive Store Services**;
  - c. of directors and/or officials of the **Insured** in their private capacity arising from work undertaken for them by employees of the **Insured**;
  - d. of any Concessionaire as if that Concessionaire is named as an additional assured;
  - e. caused by or arising from any instruction or advice or lack of advice given by, or on behalf of, the **Insured** in the course of providing the **Dive Store Services**.

### 3. Premises Liability

If the **Policy Schedule** indicates "Premises Liability" as included under the "Extensions of Cover" section, then this Policy also includes your legal liability as owner and/or operator of the **Operative Location** specified in the **Policy Schedule**. Such legal liability is for accidental bodily injury of any third party person and/or for accidental loss of, or damage to, third party material property that happens inside the **Operative Location** and not necessarily related to the provision of **Dive Store Services**. This coverage extension is on condition that all slippery and/or wet surfaces are rendered safe by means of non-slip material.

Provided that:

- a. Coverage under this Section shall not apply to the extent that liability is covered under any other existing insurance and that coverage is always subject to the terms, coverage, exclusions and conditions contained herein.
- b. The trade, operating and employment licenses of **your Country of Operation** and/or where you operate professionally are complied with and observed.
- c. This indemnity shall not include any judgment or order made by a court by way of recognition or enforcement (whether by action or otherwise) of a judgment given previously by a court in a Territory not covered by this Policy.
- d. Legal Fees and other costs incurred in the legal defence of the **Insured** shall be payable up to and not greater than the Limit of Indemnity shown in the **Policy Schedule**.

### 4. Operating Dive Boats

If the **Policy Schedule** indicates "**Dive Boat** cover" as included under the "Extensions of Cover" section, then the **Insurer** will indemnify the **Insured** in respect of liability for accidental **bodily injury** of any third party person and/or for accidental loss of, or damage to diving equipment belonging to a third party arising out of, or from, the use of a **Dive Boat** not exceeding fifteen (15) meters in length owned or operated by the **Insured** in connection with the **Insured's** provision of **Dive Store Services**, on the condition that the **Insured** has no other available insurance in place covering the loss;

Provided that, as a condition precedent to the **Insurer's** liability:

- the person operating the **Dive Boat** has the appropriate licence or qualifications to do so;

- the **Dive Boat** is operated within the territorial waters of **your Country of Operation**;
- the **Dive Boat** is seaworthy and only used for the purpose for which it was intended with the appropriate number of people on board.
- any claim is subject to the **Excess** and Limit of Indemnity shown in the **Policy Schedule**.

This extension excludes and shall not cover liability caused by, or arising directly or indirectly from:

- any pollution from any **Dive Boat**;
- the breach of any regulation or law requiring the **Insured** to maintain compulsory insurance.

## 5. Search & Rescue

For the purposes of this cover, the Recreational Diver shall mean the client of the **Insured dive store** undertaking a **Diving Activity**.

If the **Policy Schedule** indicates "Search and Rescue" cover as included under the "Extensions of Cover" section, then the **Insurer** hereby agrees to indemnify the **Insured** reasonable Search and Recovery costs of the Recreational Diver's mortal remains whether successful or not if the **Insured** shall become civilly or legally liable to pay as a result of an **Accident** occurring during a **Diving Activity** and whilst providing **Dive Store Services** within the **Country of Operation**.

This coverage is on condition that:

- The Recreational Diver is carrying out **Diving Activities** within the limits of his Certification
- The Recreational Diver holds an Insurance Policy covering his **Diving Activities** including Search & Rescue cover
- The **Accident** occurs whilst the **Insured** is supplying **Dive Store Services** to the Recreational Diver and the **Diving Activity** is conducted with the execution standards of **Dive Training Agency**
- The **Insurers** will seek contribution from any other Insurance Policy held by the Recreational Diver, in which case this cover shall apply only in excess of any amount paid under the Recreational Diver's Insurance Policy.

This coverage excludes and shall not cover liability caused by, or arising directly or indirectly from:

- The Recreational Diver engaging in or taking part in any activity:
  - For naval, military or air force services or operations
  - For professional fishing
  - For record breaking attempts of any type
  - Outside the definition of Technical Diving
  - For commercial, industrial or any other business purposes
- Use of underwater transport craft whether or not under the control of or being used by the Recreational Diver except for underwater scooters for individual use.

## 2 — Exclusions applicable to Section 2 only

The insurance under this Section does not cover liability for:

- Bodily injury** or Disease caused to any person arising out of and in the course of his/her employment by the **Insured** or to any person arising out of and in the course of his/her employment or participation in the performance of a contract with the **Insured**, the primary purpose of which is the provision of labour only.
- Loss of or Damage to Property owned by the **Insured** or in the **Insured's** care, custody or control, other than:
  - Employees' property;
  - Premises not owned or rented by the **Insured** but temporarily occupied by them for the purpose of work therein or thereon;
- Bodily injury** or disease and/or loss of or damage to property:
  - Caused by the ownership or operation by or on behalf of the **Insured** of any vehicle for which insurance is required under any Road Traffic legislation whilst on any road within the meaning of this legislation.



- b. Caused by the ownership or operation by or on behalf of the **Insured** of any aircraft or waterborne vessel unless the **Policy Schedule** indicates "**Dive Boat** cover" as included under the "Extensions of Cover" section.
4. **Bodily injury** or disease and/or loss of or damage to Property arising (after they have ceased to be in the possession or under the control of the **Insured**) out of any goods or products designed, manufactured, constructed, altered or sold by the **Insured**.
5. Personal injury or **bodily injury** or loss of, damage to, or loss of use of property directly or indirectly caused by seepage, pollution or contamination, provided always that this paragraph shall not apply to liability for personal injury or **bodily injury** or loss of or physical damage to or destruction of tangible property, or loss of use of such property damaged or destroyed, where such seepage, pollution or contamination is caused by a sudden, unintended and unexpected happening during the Period of this Insurance.
6. The cost of removing, nullifying or cleaning-up seeping, polluting or contaminating substances unless the seepage, pollution or contamination is caused by a sudden, unintended and unexpected happening during the Period of this Insurance.
7. Fines, penalties, punitive or exemplary damages.
8. Any commercial or professional activity carried out by the **Insured** other than the provision of **Dive Store Services** as defined by the Policy.
9. Any claim made or action instituted in the first instance within all jurisdictions of the United States of America or Canada nor to any judgement or order for the enforcement of any judgement obtained in such territories whether by way of any reciprocal judgement agreement or otherwise.
10. Premises Liability - for **your** legal liability as owner &/or operator of any premises for accidental **bodily injury** of any third-party person and/or accidental loss of or damage to third-party material property. This exclusion does not apply if the Schedule attached to this Policy specifies under the "Extensions of Cover" section that "Premises Liability" is included, in which case any cover granted is subject to the conditions and limitations of Clause 4 of the Coverage section above.

### 3 — Memorandum applying to Section 2 only

The **Insurers** will also pay, in respect of any act or omission causing or relating to any event which may be the subject of indemnity under this section of the Policy any legal expenses incurred in the European Union or European Economic Area or any other country specified in the **Policy Schedule** with their consent for:

1. Representation at any Coroner's Inquest, or Fatal **Accident** Inquiry
2. Defending any proceedings in any Court of Summary Jurisdiction

### 4 — Conditions applying to Section 2 only

1. **LIMIT OF INDEMNITY CLAUSE** — The total liability of **Insurers** under this Section to pay damages and or claimants costs fees and expenses shall not exceed the sum stated in the Schedule or Certificate in respect of any one claim or series of claims against the **Insured** arising out of one Occurrence
2. **JOINT LIABILITY** — In the event that damages are caused by concurrent causes apart from the conduct of the **Insured**, coverage will apply only within the limits of the percentage share of responsibility that will be definitely established and attributed to the **Insured**, even in the case the any reimbursement obligation of the **Insured** is joint and obliges him to reimburse the total amount.
3. **CROSS LIABILITY CLAUSE** — It is hereby declared and agreed that where more than one party is named in the Insurance as "the **Insured**" cover under this Section shall apply as though individual Insurances had been issued to each such party. Provided always that **Insurers'** total liability shall not exceed the Limits of Liability stated in the **Policy Schedule**.
4. **INDEMNITY TO CONCESSIONAIRES CLAUSE** — It is hereby declared and agreed that Concessionaires as defined below are deemed to be considered as co-assured under this Policy. Where liability for any Diving Activities attaches to any Concessionaire, the said Concessionaire remains subject to the terms, exclusions and conditions of this Policy. Coverage under this clause applies only insofar that the legal liability was in the first instance the responsibility of the **Insured**. For the purposes of this clause Concessionaire means an individual, Company or Association permitting

- you** to operate from the Concessionaire's hotel, holiday village, tourist facility, cruise ships, liveboards or other leisure business premises, not domiciled in the USA or Canada.
5. **LANDLORD'S LIABILITY** – It is hereby declared and agreed that the owners of waterways, reservoirs, swimming pools or other premises used to organise a **Diving Activity** are deemed insured up to the policy limit of liability including the legal liability of the **Insured** for loss or damage to such owners' property provided that these Premises are temporarily occupied by and not owned or rented by the Insured for the purposes of **Diving Activity**.
  6. **CLAIMS PROCEDURE CLAUSE** – The **Insured** shall give to the **Insurers** notice as soon as possible in writing, with full particulars of the happening of any occurrence likely to give rise to a claim under this Section or of the receipt by the **Insured** of notice of any claim and of the institution of any proceedings against the **Insured**. The **Insured** shall not admit liability for or offer or agree to settle any claim without the written consent of the **Insurers**, who shall be entitled to take over and conduct in the name of the **Insured** the defence of any claim and to prosecute in the **Insured's** name for the Insurer's benefit any claim for indemnity or damages or otherwise against any third party and shall have full discretion in the conduct of any negotiations and proceedings and the settlement of any claim. The **Insured** shall give to the **Insurers** such information and assistance as the **Insurers** may reasonably require.
  7. **EXCESS CLAUSE** – The indemnity provided by this Section of the Policy does not cover the amount of the Excess shown in the **Policy Schedule** which shall be deducted from each and every claim for Loss of or Damage to Property.
  8. **INDEMNITY TO PARTICIPANTS** – **We** will indemnify any Participant in respect of his legal liability for Injury or Damage caused to another Participant arising out of any **Diving Activity**, in the terms of this policy but only if such Participant is not entitled to indemnity under any other Policy. A Participant is any person under **your** active supervision or instruction or who is participating in **your Diving Activities** or promotional events.
  9. **SERIAL LOSSES** – All claims arising out of or attributable to the same loss or cause form a serial loss and will be considered by this policy as a single loss regardless of the number of injured parties, claimants or beneficiaries.
  10. **DISCOVERY CLAUSE** – The indemnity provided by this section of the policy will also operate for up to 60 months after the expiry of this insurance solely in respect of losses occurring before the expiry of this insurance. Any claims received by **you** in respect of losses occurring before the expiry of **your** insurance and notified to **us** during this 60 month period will be considered as made within the **Period of Insurance** subject to **you** complying with all Policy terms, exclusions and conditions including **your** obligation to notify **us** immediately **you** become aware of any loss that may result in a claim under this policy.
  11. **Insurer's rights in the event of a claim**
    - a. The **Insurer** shall be entitled but not bound to take over and conduct in the name of the **Insured** the defence or settlement of any claim or to prosecute in the name of the **Insured** for its own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim.
    - b. The **Insurer** may at any time pay to the **Insured** in connection with any claim or series of claims under Section 2 the amount of the Limit of Indemnity (after deduction of any sum or sums already paid in Damages) or any lesser amount for which such claim or claims can be settled and upon such payment being made the **Insurer** shall relinquish the conduct and control of and be under no further liability in connection with such claim or claims except for the payment of Defence Costs recoverable or incurred prior to the date of such payment. The liability of the **Insurer** to pay Defence Costs where damages exceeding the Limit of Indemnity have to be paid and the **Insurer** has not exercised its rights under this Condition shall be limited to such proportion of the said Defence Costs as the Limit of Indemnity bears to the amount paid to dispose of the claim or series of claims.

### 3 . DIVING RISK FOR TRY DIVE CLIENTS

APPLICABLE ONLY IF TRY DIVE COVER EXTENSION IS NOTED IN THE **POLICY SCHEDULE**

1. For the purposes of this clause the definition of **Diving Activity** is restricted to Recreational Try Dives (or similarly limited trial dives) up to a maximum depth equivalent to that allowed by **your Dive Training Agency** but in any case not exceeding 15m.
2. Furthermore Try Dive Client shall mean the client of the **Insured Dive Store** undertaking a **Diving Activity** as defined above.

#### 1 — Coverage

**Your** Try Dive Client will be covered for the **Medical Expenses** he/she will have to pay or which **we** may elect to pay on his behalf, within the country where the **Accident** occurred and arising from a **Diving Activity** within the **period of insurance**. These expenses must be for first aid, medical, surgical, hyperbaric and hospital or clinic charges, emergency dental treatment, emergency transport by ambulance (or other rescue service), nursing home and nursing costs.

#### 2 — Conditions applicable to Section 3 only

1. If the consequences of an **Accident** shall be aggravated by any condition or physical disability of the Try Dive Client which existed before the **Accident** occurred, the amount of any compensation payable under this Section in respect of the consequences of the **Accident** shall be the amount which it is reasonably considered would have been payable if such consequences had not been so aggravated.
2. Notice must be given to the **Insurers** as soon as reasonably practicable of any **Accident** which causes or may cause **Medical Expense** within the meaning of this clause, and the Try Dive Client must as early as possible place himself under the care of a duly qualified medical practitioner.
3. It is a condition precedent to the **Insurers'** liability to pay compensation to the Try Dive Client or his representatives, that all medical records, notes, and correspondence referring to the subject of a claim or a related pre-existing condition shall be made available on request to any medical adviser appointed by or on behalf of the **Insurers** and that such medical adviser shall, for the purpose of reviewing the claim, be allowed so often as may be deemed necessary to make examination of the person of the Try Dive Client.
4. Any fraud, misstatement, or concealment by an **Insured** or the Try Dive Client in relation to any matter affecting this Section or in connection with the making of any claim hereunder shall render this Section null and void in so far as it relates to the Try Dive Client in question.
5. If at the time of an occurrence insured above the Try Dive Client is also entitled to receiving indemnity from another insurer **we** will only pay the amount not covered by them and any deductible applied by them.

## 4 . DIVING RISK FOR STUDENT CLIENTS

APPLICABLE ONLY IN RESPECT OF STUDENT DECLARED ONLINE VIA THE MYDAN SECTION ON [www.daneurope.org](http://www.daneurope.org) AND ONLY UP TO THE MAXIMUM AMOUNT OF STUDENTS INDICATED IN THE **POLICY SCHEDULE**

1. For the purposes of this clause the definition of **Diving Activity** is restricted to Recreational Instruction up to a maximum depth equivalent to that allowed by **your Dive Training Agency**.
2. Furthermore Student Client shall mean the client of the **Insured Dive Store** undertaking a **Diving Activity** as defined above and only for instruction purposes, up to the PADI Divemaster (or equivalent) level and excluding technical diving courses.

### 1 — Coverage

**Your** Student Client will be covered for the **Medical Expenses** he/she will have to pay or which **we** may elect to pay on his behalf, within the country where the **Accident** occurred and arising from a **Diving Activity** within the **period of insurance**. These expenses must be for first aid, medical, surgical, hyperbaric and hospital or clinic charges, emergency dental treatment, emergency transport by ambulance (or other rescue service), nursing home and nursing costs.

### 2 — Conditions applicable to Section 4 only

1. If the consequences of an **Accident** shall be aggravated by any condition or physical disability of the Student Client which existed before the **Accident** occurred, the amount of any compensation payable under this Section in respect of the consequences of the **Accident** shall be the amount which it is reasonably considered would have been payable if such consequences had not been so aggravated.
2. Notice must be given to the **Insurers** as soon as reasonably practicable of any **Accident** which causes or may cause **Medical Expense** within the meaning of this clause, and the Student Client must as early as possible place himself under the care of a duly qualified medical practitioner.
3. It is a condition precedent to the **Insurers'** liability to pay compensation to the Student Client or his representatives, that all medical records, notes, and correspondence referring to the subject of a claim or a related pre-existing condition shall be made available on request to any medical adviser appointed by or on behalf of the **Insurers** and that such medical adviser shall, for the purpose of reviewing the claim, be allowed so often as may be deemed necessary to make examination of the person of the Student Client.
4. Any fraud, misstatement, or concealment by an **Insured** or the Student Client in relation to any matter affecting this Section or in connection with the making of any claim hereunder shall render this Section null and void in so far as it relates to the Student Client in question.
5. If at the time of an occurrence insured above the Student Client is also entitled to receiving indemnity from another **Insurer we** will only pay the amount not covered by them and any deductible applied by them.
6. Cover is operative only if:
  - a. the instruction course does not include any form of **Technical Diving**.
  - b. The student client is duly registered by the **Insured** in the MyDAN section on [www.daneurope.org](http://www.daneurope.org)
  - c. The **Accident** occurs whilst the **Insured** is providing **Dive Store Services** to the Student Client.
7. The cover starts from the date of registration of the Student Client in the MYDAN section on [www.daneurope.org](http://www.daneurope.org), and terminates on the date of successful completion of the course or after 90 days from the date of registration or on the expiry of this policy, whichever comes first.

### 3 — How to make a Claim – Sections 3 & 4

If there are any circumstances that may give rise to a claim under this policy the **Insured** (or his/her legal or personal representatives) must in respect of any claim:

1. contact the **Administrator** as soon as practicable but within 14 working days of such circumstances:
  - a. giving brief details of such circumstances and requesting a claim form
  - b. when contacting the **Administrator** please quote the DAN membership number or the Policy Number stated in the Insurance Certificate or **Policy Schedule** of the **Dive Store** indicating that the injured party is **your** Try Dive or Student Client
  - c. complete and return the claim form together with all receipts, valuations, medical, police or other report(s) as may be applicable and requested by the **Insurer**.

Medical Expenses Claims – the **Insurer** via its **24/7 Emergency Operating Centre** MUST BE NOTIFIED PRIOR TO the Try Dive or Student Client being admitted as an inpatient at any hospital, clinic or nursing home

FOR ASSISTANCE TELEPHONE THE 24/7 HOTLINE INDICATED ON **YOUR** DAN CARD