



THE ROYAL INSTITUTION OF NAVAL ARCHITECTS

Naval Architects and Professional Indemnity

Implicit in the Institution's Code of Professional Conduct is the requirement for members offering services under contract to have professional indemnity insurance. This article from Vincent Egon, Underwriter, Marine Professional & Logistics Liability at Beazley (a Corporate Partner member of the Institution), is a timely reminder of the need for such insurance.

Maritime industries have been confronted with a difficult and unpredictable business environment in the last few years. This is particularly true for marine professionals, including naval architects and marine designers who face two trends that could – without the right precautions – have serious implications for their businesses. The first is a changing attitude to contracts; the second involves an increasing tendency to litigate when things go wrong.

Clients are requesting their marine professionals enter into non-standard form contracts. These can include the designer assuming full responsibility for the "direction" provided by the client – in essence clients want the authority to direct without accepting any responsibility. They can also require the designer to warrant that the material they provide is adequate for the completion of the vessel, without limitation or recognition that the shipbuilder has the responsibility to provide many of the documents necessary to conduct the work.

In addition, while designers typically provide a design package that defines everything necessary for a shipyard to estimate a firm price for the project, they have no control over what the shipyard ultimately does with the design. The possibility exists for the yard/owner to make their own changes, influencing the weight, trim, stability and performance of the vessel. Although the designer may be completely unaware of the modifications made, they potentially remain solely responsible for the vessel's performance, which may not be as intended. This ultimately impacts their reputation and future business prospects.

Robert G Allan FRINA, Executive Chairman of naval architects firm, Robert Allan Ltd., said: "These sorts of contracts should be avoided, but we are often tempted to accept such terms because we have a high degree of confidence in our ability to design vessels well"..

"[Under these contracts], the designer is entirely responsible for ensuring that the vessel meets all specified requirements, and achieves the performance required, even when many aspects of that performance are far more embedded in the

suppliers' responsibility than their own. Owners in general do not understand or appreciate the level of effort involved in providing a comprehensive and fully engineered design to the level required to be even close to 'foolproof'."

Inevitably, when times are tough, litigation tends to increase as parties look for someone to blame and seek compensation. In the last two years, we have seen a considerable increase in the number and size of claims being brought against maritime professionals. The risk is not just that a designer might be sued for an alleged mistake; increasingly they need protection against being caught up in a case brought against them by a third party.

It is therefore crucial for designers to ensure they have insurance that protects them against the costs of that litigation – not only because without it their balance sheet could be undermined, but also because clients are increasingly insisting that their suppliers have this type of cover.

Many designers are not aware that a specialist insurance market exists; a market that understands the issues and concerns of those seeking protection. Naval architects and engineers face their own challenges and nobody wants to be associated with (or worse, pay for), problems in other professions.

As well as specialist knowledge, financial strength is a key component to look for in an insurance provider – designers need the assurance that their insurer will still be around to pay claims, even if they occur years down the road.

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For information about Beazley, visit their Corporate Partner page at www.rina.org.uk/Beazley