



Independent Contractor Policies and Agreement

This Agreement is made by and between "DRISCOLL", on behalf of: Driscoll, Inc.; Driscoll Mission Bay LLC; Driscoll Marina Ltd.; Driscoll Management Inc.; Intrepid Boat Works, LLC., and the Independent Contractor, noted below:

Business Name: _____
 Business Address: _____
 Owner's Name: _____
 Owner's Signature: _____
 Phone: _____ Fax: _____

Witness: _____ Signature: _____

Approval of Independent Contractors:

1. DRISCOLL reserves the right to approve which Independent Contractors may work on DRISCOLL premises. This approval covers: Driscoll, Inc.; Driscoll Mission Bay LLC; Driscoll Marina Ltd.; Driscoll Management Inc.; Intrepid Boat Works LLC. DRISCOLL will keep centralized records of all approved contractors at the Driscoll Boat Works facility at 2500 Shelter Island Drive. Independent Contractors will not have to maintain duplicate documentation at other DRISCOLL facilities.
2. No Independent Contractor has any assumed right to work on any DRISCOLL premise.
3. Approval of an Independent Contractor will only be given after: This Policies Statement is signed and returned; Evidence of appropriate insurance is presented (See "Insurance Policies", attached); a copy of a current Business License is provided.
4. After being approved to work on a specific DRISCOLL premises, the Independent Contractor must check in at each facility, for each job they are planning on doing. The boat owner must also notify DRISCOLL of their intention to use that Independent Contractor for a proposed project. DRISCOLL reserves the right to approve all proposed projects on a project-by-project basis. It is understood that permission to access a DRISCOLL premises is solely for the limited purpose of working on the specific project vessel, and no access is allowed to other vessels.
5. Independent Contractor workers must sign in at the facility office and will be required to leave such ID as required in exchange for a premises access key. Workers are allowed on the premises only during the posted working hours for that facility, unless specifically approved by the management of that facility.
6. This approval by DRISCOLL of an Independent Contractor shall continue until cancelled or modified by DRISCOLL. No annual or periodic renewal of approval is required, unless DRISCOLL subsequently requires it in writing. Renewal of required insurance is required, based on the policy renewal period, and it is the responsibility of the Independent Contractor to have current insurance documentation on file at DRISCOLL.
7. DRISCOLL may at any time, in its sole discretion and without liability of any kind, revoke its permission for the Independent Contractor to access its premises.
8. DRISCOLL and the Independent Contractor agree that this Agreement does not constitute any joint venture, agent or contractor relationship between the parties.

Signature: _____ Print: _____

General Policies:

1. DRISCOLL yard ladders and scaffolding **may not**, under any circumstances, be used by anyone other than DRISCOLL employees. Scaffolding/Ladders/Draping required must be provided by the independent contractor and used "at your own risk". All scaffolding must be to OSHA standards and provided by a recognized scaffolding contractor.
2. Independent Contractors must provide **all** of their own equipment, tools, compressors, air hoses, etc.
3. All DRISCOLL yard shops are **off limits**. DRISCOLL equipment/tools **are not** available for use, loan, or rental.
4. **All sanding and grinding operations must be free of visible emissions.**

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5. Spray-painting, welding, the use of welding equipment and torches by independent contractors is prohibited, unless specific, written approval is given by DRISCOLL for that project.
6. Independent Contractors agree to be held personally responsible for abiding by all laws/regulations (Federal, State, and Local), including having all required permits.
7. Should the negligence of the Independent Contractor allow or cause a spill or discharge of hazardous material (oil, bilge waste, etc.) they shall be held ultimately responsible for any and all actions, fines, or recourse taken against DRISCOLL as a result of such negligence. DRISCOLL holds the Independent Contractor responsible for the cleanup and off-site disposal of trash, oil, and/or hazardous waste, and will impose a "clean up fee", if required. Yard trash and hazardous waste receptacles are for the use of DRISCOLL employees only; charges will be assessed for their use.
8. All DRISCOLL premises are non-smoking areas, and no alcohol consumption is allowed. Violation of these clauses will be cause for immediate ejection from the premises.
9. An Independent Contractor failing to abide by all rules and regulations above may be charged a fee for non-compliance, asked to pay any moneys owed the yard, and leave immediately.

Insurance Policies:

1. All Independent Contractors **must provide a Certificate of Insurance naming DRISCOLL as an additional insured prior to the start of any work. This certificate shall, at minimum, show evidence of commercial general liability and ship repairer's legal liability with limits of at least \$1,000,000, per occurrence, and a deductible of no more than \$2,500.**
2. If the independent contractor has any employees, the certificate **must also show workers compensation coverage with statutory benefits, and United States Longshoremen & Harbor Workers Act coverage (if working on commercial boats).**
3. **If the independent contractor has no employees, and has no workers compensation coverage, the owners of that company warrant by their signature(s) below that they are fully aware of the laws regarding Workers Compensation and USL&H insurance but have elected to exercise their rights as owners to exclude themselves from coverage.**

Signature: _____ Print: _____

4. The owners of the independent contractor company warrant by their signature(s) below that they are not employees of DRISCOLL, and have no rights to the benefits of State and Federal workers compensation laws that DRISCOLL provides for it's employees via the purchase of workers compensation insurance, including USL&H.

Signature: _____ Print: _____

5. Independent Contractor's failure to comply with or demonstrate compliance with this requirement does not, in any way, constitute a waiver by DRISCOLL of this requirement.
6. Regardless of the above insurance covers, the Independent Contractor agrees to all sums associated with damage caused by the presence of its workers on DRISCOLL premises, including but not limited to damages resulting from the use or misuse of electrical or any other equipment located on the premises. The Independent Contractor further agrees to pay to the owner(s) of vessels or other third parties all sums associated with damage to vessels or other property, not owned by DRISCOLL, which are caused or occasioned by the presence of an Independent Contractor's worker(s).
7. **Specific Insurance Requirements are attached here, for transmission to Independent Contractor's insurance brokers.**

Underwater Hull Cleaning Companies:

In addition to the above requirements, underwater hull cleaning companies are required to be registered with the Port of San Diego. Any divers wanting to clean boat bottoms in DRISCOLL premises on San Diego Bay must be on the Port's listing of approved divers and must present a copy of their Port Certificate, in addition to the other requirements shown here.

Assumption of Risk:

Independent Contractor expressly agrees that vessels, ship yards, marinas and areas in and around shipyards, marinas and marine repair facilities can be hazardous to both property and persons, thereby posing a substantial risk of damage and injury to both property and persons. Such hazards include, but are not limited to slips, falls, flying and falling tools, vessels and other objects, toxic or noxious fumes, fires, explosions, falls overboard,

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drowning, prop wash, wave and wind damage, vessel collisions and vessel sinking. Independent Contractor expressly agrees, as a material part of the consideration for this Agreement, that the Independent Contractor hereby expressly assumes the risk of any damage, injury or death to Independent Contractor, Contractor's agents, employees, contractors, family, or guests that may occur for any reason whatsoever, even if said damage, injury or death occurs solely or partially as a result of negligence of DRISCOLL, its agents, employees or contractors. The Independent Contractor agrees to instruct any/all of its workers as to the above dangers, the requirement for its workers to exercise utmost care for their safety while on DRISCOLL premises, the requirement to read and abide by any/all posted safety signs and notices and comply with any DRISCOLL instructions. The permission to come onto DRISCOLL facilities is only for the purpose of working on a specific, approved project, as requested of DRISCOLL by a DRISCOLL tenant. Further, this permission is granted only to the Independent Contractor workers, employees and agents who are to do this work. No guests, friends, family, or other non-involved workers are allowed.

Signature: _____ Print: _____

Hold Harmless and Limitation on Damages:

The independent contractor holds DRISCOLL, its officers, and employees harmless, and indemnifies DRISCOLL, its officers, and employees, against any and all claims, losses, expenses, obligations, and liabilities (including costs of litigation and reasonable attorney's fees) which arise, result from, or are related to the independent contractor's presence on DRISCOLL premises. The independent contractor, on the behalf of their insurance carriers, hereby waives any right to subrogation against DRISCOLL.

The parties expressly agree that, even if every other provision of this Agreement is deemed invalid, unenforceable or inapplicable, DRISCOLL's liability, including on claims of subrogation, for loss or damage to any persons or property, including the Vessel, arising out of or relating to this Agreement shall have a maximum limit of no more than \$1,000, even if DRISCOLL and/or its agents and/or employees are found to be partially or solely negligent.

Signature: _____ Print: _____

Dispute Resolution:

The parties expressly agree to have all disputes, suits or claims arising out of or relating to this Agreement fully and finally decided by binding arbitration pursuant to the rules and procedures of the American Arbitration Association ("AAA") in San Diego County, California. The parties expressly waive their right to a trial by jury and the right of appeal. The parties further agree that this Agreement shall be enforceable and any court having jurisdiction may enter a judgment upon any award rendered by the arbitrator(s).

Waiver and Consent/Invalidity:

A waiver of any term or condition of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other term or condition. In the event any provision of this Agreement is declared to be illegal, invalid or otherwise unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no ways be affected, impaired, or invalidated thereby.

Discharge Prohibitions (from CWC 13243):

- 16) *The discharge of untreated sewage from vessels to San Diego Bay is prohibited.*
- 17) *The discharge of treated sewage from vessels to portions of San Diego Bay that are less than 30 feet deep at mean lower low water (MLLW) is prohibited.*
- 18) *The discharge of treated sewage from vessels, which do not have a properly functioning U.S. Coast Guard certified type I or II marine sanitation device, to portions of San Diego Bay that are greater than 30 feet deep at mean lower low water (MLLW) is prohibited.*

Driscoll Inc. applies San Diego Bay Discharge restrictions to Driscoll Mission Bay Marina. Any violation of the above discharge prohibitions by the owner/operator of a vessel located in a Driscoll facility will result in notification of the violation to the Regional Water Quality Control Board and the U.S. Coast Guard.

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Insurance Requirements for Independent Contractors

All independent contractors/subcontractors wishing to do business with Driscoll Inc., or be on any DRISCOLL facility, whether working as a subcontractor for DRISCOLL or directly for a boat owner, are required to provide DRISCOLL a current, valid Certificate of Insurance naming DRISCOLL as an “Additional Insured” and including the following minimum coverage. Certificate shall be provided and approved *prior* to commencement of any work. If DRISCOLL receives a “Cancellation Notice” on the above required insurance, the independent contractor / subcontractor will not be allowed to work on the premises.

1. **COMMERCIAL GENERAL LIABILITY AND SHIPREPAIRER’S LEGAL LIABILITY** with an insurance carrier acceptable to DRISCOLL and providing the following minimum limits of coverage.

Combined single limit	\$1,000,000/ Occurrence
Products/Completed Operations Aggregate	\$1,000,000/Occurrence
General Aggregate Limit	\$1,000,000/Policy Year
Fire legal Liability	\$50,000/Occurrence
Premises Medical Payments	\$5,000/person
Deductible (Not to Exceed)	\$2,500/Occurrence

2. **WORKER’S COMPENSATION** coverage providing 1) State Act and 2) United States Longshoremen & Harbor workers Act coverage, if working on any boat 65 ft. or greater in length. ***This is required if the independent contractor / subcontractor has any employees.*** A **written statement** (on company letterhead) listing the names of all workers covered under the current worker’s compensation policy is also required.
3. **AUTO LIABILITY** with a limit of \$1,000,000/occurrence, for both company and non-company owned vehicles – if vehicles will be used while working on projects within the Driscoll premises.
4. **PROTECTION & INDEMNITY** with a limit of \$1,000,000, if any vessels will be operated while working on projects within Driscoll premises.
5. **Approval of an Independent Contractor will only be given after:**
 - The **Independent Contractor Policies and Agreement** is signed by the Company Owner and returned along with an approved employee list, on company letterhead;
 - **Evidence of appropriate insurance** is presented; and.
 - A copy of the company’s **current business license** is provided.

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