



Precision Underwriting Pty Ltd

PUBLIC & PRODUCTS BROADFORM LIABILITY

INSURANCE POLICY

Leisure and Amusement Industry

31 Willoughby Road, Terrigal NSW

ABN 67 617 807 333 | AFSL 511917

1. Important Information

About Your Insurer

The insurance is issued by Precision Underwriting Pty Ltd, AFSL 511917, ABN 67 617 807 333 on behalf of certain underwriters at Lloyd's.

In this document, references to "We", "Us" and "Our" means the insurer.

Notices

The information contained in this section is general information only and does not form part of your contract with us.

Your Duty of Disclosure

Before You enter into a contract of general insurance with an insurer, You have a duty, under the *Insurance Contracts Act 1984*, to disclose to the insurer every matter which You know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, on what terms. You have the same duty to disclose those matters to Us before You renew, extend, vary or reinstate a contract of insurance.

Your duty however does not require disclosure of a matter:

- that diminishes the risk to be undertaken by Us;
- that is common knowledge;
- that We know, or in the ordinary course of business as an insurer, should know;
- as to which compliance with your duty is waived by Us.

Cooling-Off Period

You have the right to return the policy to Us within 14 days of the date that the cover is incepted. If you return the Policy during the cooling-off period, We will refund all of the Premium You pay for insurance under the Policy, less any duties or taxes payable. To do this You must advise Us in writing. You will not receive a refund if You have made a claim under the Policy during the cooling-off period.

Privacy

Precision Underwriting is committed to protecting the privacy of the personal information You provide Us. Precision Underwriting collects, uses and retains Your personal information in accordance with the National Privacy Principles.

We need to collect the personal information on the applicable proposal form to consider Your application for insurance and to determine the premium (if Your application is accepted) when You are applying for, changing or renewing an insurance policy with Us. This information will also be used if You lodge a claim under Your policy. We may also need to request additional information from You in connection with your application or a claim. If You do not provide Us with this information, or any additional information We request, We may not be able to process Your application or offer You insurance cover or respond to any claim.

We may disclose the personal information we collect:

- (a) To our relevant employees involved in delivering our services;
- (b) If Your insurance broker collects this form from You, to that broker;
- (c) To facilitators such as legal firms, professional experts such as accountants, actuaries, engineers and technology experts;
- (d) To the insurance companies with whom we transact business;
- (e) To the Lloyd's Syndicates we represent (which are located in the United Kingdom);
- (f) To insurance reference bureau or credit reference bureau;
- (g) To reinsurers or reinsurance brokers (which may include reinsurers located outside of Australia).

Where we do disclose the information as above the recipient may hold the information in accordance with its own privacy statement/policies. Those may include, by way of example, disclosing the information to and storage of that information by its associated entities which may be located overseas. We may also be required to provide Your personal information to others for purposes of public safety and law enforcement and if required by law or by a law enforcement body to do so.

You may request access to Your personal information, and where necessary, correct any errors in this information (some restrictions and costs may apply). If You would like to access a copy of Your personal information or You wish to correct or update Your personal information, please contact us at info@precisionunderwriting.com.au.

By completing and returning a proposal form or providing Us with any additional information in connection with Your application, You agree to us using and disclosing your information as set out above. This consent to the use and disclosure of Your personal information remains valid unless you alter or revoke it by giving us written notice.

From time to time, we may use Your personal information to send You details of new insurance products or other insurance related information that may be of interest to You. If You do not wish to receive such information, please advise us at info@precisionunderwriting.com.au

Code of Practice

Lloyd's Australia subscribes to the Insurance Council of Australia's General Insurance Code of Practice with the exception of any claims adjusted outside of Australia. Precision Underwriting and Certain Underwriters at Lloyd's proudly support the General Insurance Code of Practice. The purpose of Code is to raise standards of practice and service in the general insurance industry.

A copy of the code is available from the Code's dedicated website www.codeofpractice.com.au.

Enquiries

Any enquiry other than a claim, notice of an event which is likely to give rise to a claim, or a complaint relating to this Policy should be addressed to Precision Underwriting and should be sent to:

Precision Underwriting

31 Willoughby Road

TERRIGAL NSW 2260

E: info@precisionunderwriting.com.au

W: www.precisionunderwriting.com.au

Complaints Procedures

Lloyd's aim is to provide the highest service to its Australian policyholders and, to this end, has developed the following procedures for the fair handling of complaints from Lloyd's policyholders including Insured Persons under this Policy. There are established procedures for dealing with complaints and disputes regarding Your insurance or claim and are set out below:

Stage 1	Any complaint relating to this Policy or a claim should be addressed to Precision Underwriting as Lloyd's insurance intermediary in the first instance – in most cases this will resolve Your grievance. Please send to: Gail Hogan Complaints Officer Precision Underwriting Suite 4.38, Level 4, 200 Central Coast Highway, Erina NSW 2260 gail@precisionunderwriting.com.au 0449 602 026	We will acknowledge Your complaint immediately by telephone or email. We aim to resolve Your complaint where possible within 15 business days.
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<p>Stage 2</p>	<p>If Stage 1 does not resolve the matter or You are not satisfied with the way a complaint has been dealt with, You should contact:</p> <p>Lloyd’s Australia Limited Level 16, Suite 1603 1 Macquarie Place Sydney NSW 2000 Australia</p> <p>T: +61 (0)2 8298 0700 F: +61 (0)2 8298 0788 E: ldraustralia@lloyds.com</p>	<p>Your dispute will be acknowledged in writing within 10 business days of receipt and will be reviewed by a person with appropriate authority to deal with the dispute.</p>
<p>External Dispute Resolution</p>	<p>If Your complaint is not resolved within 45 calendar days, or not resolved in a manner satisfactory to You, You may refer the matter to Australian Financial Complaints Authority (AFCA) as follows:</p> <p>AFCA can be contacted by post GPO Box 3, Melbourne VIC 3001, phone 1800 931 678 or email info@afca.org.au. More information can be found on their website www.afca.org.au.</p> <p>AFCA is an independent body that operates nationally in Australia and aims to resolve disputes between You and Your insurer. AFCA provides fair and independent financial services complaint resolution that is free to consumers. Determinations made by AFCA are binding upon Us.</p>	<p>This service is free of charge to policyholders.</p>

Sanctions

We shall not provide cover and We shall not be liability to pay any Claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such Claim or provision of such benefit would expose Us to any sanction, prohibition or restriction under United States resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America

2 Definitions

Any word or expression which this Policy defines as having a particular meaning will have the meaning everywhere it appears.

- 2.1 **“Business”** means the business described in the Schedule including the provision and management of canteens, social, sports and welfare organisations for the benefit of the Insured’s employees, first aid, fire and ambulance services and the maintenance of the Insured’s premises.
- 2.2 **“Damage”** means:
- 2.2.1 physical damage to or destruction of tangible property, (other than Product) including all resulting loss of use of that property. All such loss of use shall be deemed to happen at the time of the physical damage that caused it.
 - 2.2.2 loss of use of tangible property, (other than Product) that is not physically damaged or destroyed provided such loss of use is caused by physical damage of other tangible property which first happened during the Period of Insurance. All such loss shall be deemed to happen at the time of the physical damage or destruction that caused it.
- 2.3 **“Employee”** means any person engaged under a contract of or for service or apprenticeship with the Insured designated in Clause 2.7.1 or 2.7.2 but does not include any person employed under such a contract who is excluded from the definition of ‘worker’ under any workers’ compensation legislation.
- 2.4 **“Employment Practices”** means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination directly or indirectly related to employment or prospective employment of any person or persons by the Insured.
- 2.5 **“Excess”** means the amount payable by the Insured stated in the Schedule.
- 2.6 **“Injury”** means:
- 2.6.1 bodily injury, disease, sickness, death, disability, shock, fright, mental anguish and mental injury. In the event of claims for Injury arising from latent injury, latent disease or latent sickness, such injury, disease or sickness in respect of each claim shall be deemed to have first happened on the day such injury, disease or sickness was first medically diagnosed and to be covered under this Policy, that diagnosis must first occur during the Period of Insurance;
 - (1) the effects of false arrest, wrongful detention, false imprisonment or malicious prosecution;
 - 2.2.2 the effects of wrongful entry or eviction;
 - 2.6.4 the effects of a publication or utterance of defamatory or disparaging material;

- 2.6.5 the effects of assault and battery not committed by the Insured or at the Insured's direction unless reasonably committed for the purpose of preventing or eliminating danger to persons or property.

2.7 "Insured" means:

- 2.7.1 The Insured named in the Schedule, and;
- 2.7.2 all the subsidiary companies (now or subsequently constituted) of the Insured named in the Schedule;
- 2.7.3 any director, executive officer, employee, partner or shareholder of one of the Insured designated in Clause 2.7.1 or 2.7.2 but only whilst acting within the scope of their duties in such capacity;
- 2.7.4 every principal, in respect of that principal's vicarious liability for the acts or omissions of one of the Insured designated in Clause 2.7.1 or 2.7.2 in the performance by them of work for that principal, but subject always to the extent of coverage and the Limit of Indemnity provided by this Policy
- 2.7.5 every office bearer or member of social and sporting clubs, canteen and welfare organisations and first aid, fire and ambulance services formed with the consent of the Insured designated in Clause 2.7.1 or 2.7.2 in respect of claims arising from their duties connected with the activities of any such club, organisation or service, provided that this Clause shall not apply to an Insured designated in Clause 2.7.4 or 2.7.6.
- 2.7.6 Each partner, joint venturer, co-venturer or joint lessee of the Insured named in the Schedule but only:
- 2.7.6.1 if the Insured named in the Schedule assumes active control of, or is required to arrange insurance for, the partnership, joint venture, co-venture or joint lease; and
- 2.7.6.2 With respect to liability incurred as the partnership, joint venture, co-venture or joint lease; and
- 2.7.6.3 any director or senior executive of the Insured designated in Clause 2.7.1 or 2.7.2 in respect of private work undertaken by the Insured's employees for such director or senior executive.
- 2.8 **"Limit of Indemnity"** means the applicable Limit of Indemnity stated in the Schedule.
- 2.9 **"Medical Persons"** means qualified medical practitioners, nurses and first aid attendants.
- 2.10 **"Multiple Damages"** means additional damages resulting from the multiplication of compensatory damages against an Insured, such additional damages being awarded as a result of the Insured or their legal advisors or both having engaged in unnecessary delaying tactics or having hindered the due process of the court in some other manner.

- 2.11 **“Occurrence”** means an event, including continuous or repeated exposure to substantially the same general conditions, which results in Injury or Damage neither expected nor intended from the standpoint of the Insured. All events of a series consequent on or attributable to one source or original cause shall be deemed one Occurrence.
- 2.12 **“Period of Insurance”** means the period stated in the Schedule and any extension to it which may be agreed to in writing.
- 2.13 **“Policy”** means this policy wording, the Certificate of Insurance, the Schedule, and any Endorsements attaching to this policy wording and these documents shall be read together as one contract.
- 2.14 **“Pollutants”** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste material. Waste material includes material to be recycled, reconditioned or reclaimed.
- 2.15 **“Product”** means any goods, products and property (after they have ceased to be in the Insured’s possession or under the Insured’s control), which are or is deemed to have been manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed by the Insured (including any container thereof other than a vehicle).
- 2.16 **“Schedule”** means the schedule signed and issued by Trafalgar Underwriting or Underwriters.
- 2.17 **“Insurer”** means Precision Underwriting Pty Ltd
- 2.18 **“Territorial Limits”** means anywhere in the world subject to Exclusions 4.9 and 4.19.
- 2.19 **“Terrorism”** means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.
- 2.20 **“Tool of Trade”** means any Vehicle, which has any equipment either forming part of it or as an attachment, which is designed or used as a tool, including but not limited to, use in excavation, digging, scraping, grading, drilling, lifting, leveling, pumping, spraying, vacuuming and the like, whilst the equipment is at rest or being used or being prepared for use or being decommissioned after use for which it was designed. Tools of trade does not include any vehicle whilst travelling to or from a worksite or vehicles that are used to carry goods to or from any premises.
- 2.21 **“Underwriter”** means certain underwriters at Lloyd’s of London participating in this Policy.
- 2.22 **“Vehicle”** means any type of machine on wheels or self laid track made or intended to be propelled by other than manual or animal power and any trailer or other attachment to be utilized in conjunction with or drawn by any such machine.

3. Coverage

In consideration of the payment to the Underwriter of the amounts payable for this insurance, the Underwriter will indemnify the Insured in accordance with this Policy.

3.1 Operative Clause

The Underwriter will pay:

3.1.1 all sums which the Insured becomes legally liable to pay by way of compensation;

3.1.2 all costs awarded against the Insured;

in respect of Injury or Damage happening during the Period of Insurance and caused by an Occurrence within the Territorial Limits in connection with the Business.

3.2 Defence of Claims

With respect to the indemnity provided by this Policy, the Underwriter will:

3.2.1 defend in the Insured's name and on the Insured's behalf any claim or legal action against the Insured seeking damages on account of Injury or Damage even if the action is groundless, false or fraudulent, and the Underwriter will investigate, negotiate and settle any claim or legal action as the Underwriter sees fit.

3.2.2 pay all legal costs and expenses incurred by the Underwriter and all interest accruing after entry of judgement until the Underwriter has paid, tendered or deposited in court such part of the judgement as does not exceed the Limit of Indemnity;

3.2.3 reimburse the Insured for all reasonable expenses, other than loss of earnings incurred, with the Underwriter's consent, in the defence of a claim or legal action against the Insured seeking damages on account of Injury or Damage;

3.2.4 pay reasonable expenses incurred by the Insured for first aid to others at the time of Injury caused by an Occurrence (other than medical expenses prohibited by Section 126 of the Health Insurance Act 1973)

Provided that:

3.4.2.1 The Underwriter will not be obliged to pay any claim or judgement or to defend any claim or legal action after the Limit of Indemnity has been exhausted by payment of judgements or settlements;

3.4.2.2 if a payment exceeding the Limit of Indemnity has to be made to dispose of a claim, or legal action, the Underwriter's liability to pay any costs, expenses and interest under section 3.2 will be limited to that proportion of those costs, expenses and interest as the Limit of Indemnity bears to the amount paid to dispose of the claim.

The amounts thus incurred, except payments in settlement of claims, actions and all costs awarded against the insured, are payable by the Underwriter in addition to the Limit of Indemnity.

3.3 Limit of Indemnity

- 3.3.1 The Underwriter's maximum liability in respect of any claim or series of claims for Injury or Damage caused by or arising out of one Occurrence shall not exceed the Limit of Indemnity less any excess which is listed in the schedule.
- 3.3.2 The Underwriter's total aggregate liability during any one Period of Insurance for all claims arising out of the Insured's Products shall not exceed the Limit of Indemnity less any excess which is listed in the schedule.
- 3.3.3 Any other limit less any excess which is listed in the schedule.

3.4 Cross Liability

- 3.4.1 Where more than one party comprises the Insured, each of the parties will be considered as a separate and distinct entity and this Policy shall be considered as applying to each party in the same manner as if a separate policy had been issued to each of them provided that nothing in this Clause will result in an increase of the Underwriter's Limit of Indemnity in respect of any Occurrence or Period of Insurance.

3.5 Exclusions

This insurance shall not apply to:

- 3.5.1 Any claims or claims first made against You prior to the inception of this Policy
- 3.5.2 Any fact, situation or circumstance which You had become aware of prior to the inception of this Policy, which a reasonable person on Your position would have considered may give rise to a claim or claims under this or similar or like Certificates or Policies
- 3.5.3 Any claim for which cover is provided for elsewhere in this insurance
- 3.5.4 Any claim which is based on or is attributable to any failure or omission on the part of You to effect or maintain insurance
- 3.5.5 Any claims arising out of delays in the performance of services or the supply of products
- 3.5.6 Any claims arising out of any forms of industrial action, whether such action is taken by Your employees or by others
- 3.5.7 Any claim for the failure to perform to the conditions of any contract

- 3.5.8 This insurance does not apply to any Personal Injury sustained by any person arising out of or resulting from molestation by:
- 1) any insured
 - 2) any employee of any insured
 - 3) any volunteer

The Underwriters shall have no obligation to defend any action, suit or proceeding against the Insured either directly or vicariously, seeking damages on account of such injury

4. All Other Policy Exclusions

This Policy does not cover liability in respect of:

4.1 Aircraft and Aircraft Products

Claims arising out of:

- 4.1.1 the ownership, maintenance, operation or use by the Insured or on the Insured's behalf of any aircraft.
- 4.1.2 Products that are aircraft component parts where such component parts affect the safety, flight, controls or takeoff or landing of an aircraft.

4.2 Asbestos

Injury or Damage directly or indirectly caused by, contributed to or aggravated by or arising from exposure to asbestos in whatever form or quantity.

4.3 Assault and Battery

Injury or Damage caused by or arising from assault and battery committed by the Insured or at the Insured's direction unless reasonably necessary for the protection of persons or property.

4.4 Biological or Chemical Materials

Loss, Damage cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

4.5 Contractual Liability

Any obligation assumed by the Insured under any agreement or contract except to the extent that:

- 4.5.1 the liability would have been implied by common law;

4.5.2 the liability arises from a provision in a contract for lease of real or personal property other than a provision which obliges the Insured to effect insurance or provide indemnity in respect of the subject matter of the contract;

4.5.3 the obligation is assumed under those agreements specified in the Schedule.

4.6 Defamation

4.6.1 made prior to the commencement of the Period of Insurance; or

4.6.1 made by the Insured or at the Insured's direction with knowledge of its falsity; or

4.6.3 related to advertising, broadcasting or telecasting activities conducted by the Insured or on their behalf.

4.7 Employment Liability

Injury imposed:

4.7.1 by any workers' compensation law;

4.7.2 by the provision of any industrial award, agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award, agreement or determination or contract of employment or workplace agreement; or

4.7.3 for or in respect of Employment Practices provided that if the Insured is:

4.7.4 required by law to insure or otherwise fund, whether through self insurance, statutory fund or other statutory scheme, all or part of any common law liability (whether limited or not) for such Injury;

4.7.5 not required to so insure or otherwise fund such liability by reason only that the Injury is to a person who is not a worker or employee for the purposes of the relevant workers' compensation law or the Injury is not an injury which is subject to such law;

then this Policy will respond to the extent that the Insured's liability would not be covered under any such fund, scheme, policy of insurance or self insurance arrangement had the Insured complied with their obligations pursuant to such law.

4.8 Excess

The Excess stated in the Schedule being the first amount of all claims (including any costs and expenses) arising out of any one Occurrence.

4.9 Exports to the USA or Canada

Claims in respect of Injury or Damage caused by or arising out of the Insured's Products knowingly exported by the Insured, or their agents or servants, to the United States of America or Canada.

4.10 **Faulty Workmanship**

Damage to that part of any property upon which the Insured is or has been working where the Damage arises from the Insured's work, or the costs of performing, correcting or improving any work undertaken by the Insured.

4.11 **Fines, Penalties**

Fines, penalties, aggravated, punitive, multiple, exemplary and liquidated damages.

4.12 **Loss of Use**

Loss of use of tangible property which has not been physically damaged, or lost or destroyed resulting from:

4.12.1 a delay in or lack of performance by or on the Insured's behalf of any agreement;

4.12.2 the failure of the Insured's Product to meet the level of performance, quality, fitness or durability expressly or implied, warranted or represented by the Insured, but this Exclusion does not apply to the loss of use of other tangible property resulting from the sudden and accidental physical damage to, or loss or destruction of the Products after they have been put to use by any person or organisation other than the Insured designated in Clause 2.7.1 or 2.7.2.

4.13 **Pollution**

4.13.1 Injury or Damage caused by or arising out of the discharge, dispersal, release, seepage, migration or escape of Pollutants into or upon land, the atmosphere, or any water course or body of water, but this Exclusion does not apply if the discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended and takes place in its entirety at a specific time and place;

4.13.2 Any costs and expenses incurred in the prevention, removing, nullifying or clean-up of such contamination or pollution but this Exclusion does not apply to clean-up, removal or nullifying expenses only, which are consequent upon a sudden, identifiable, unexpected, unintended happening taking place in its entirety at a specific time and place which results in Injury and / or Damage.

4.13.3 The actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants caused by any Product that has been discarded, dumped, abandoned or thrown away by others.

The Underwriter's liability under Clauses 4.13.1 and 4.13.2 in respect of any one discharge, dispersal, release, seepage, migration and for all discharges, dispersals, releases and escape of Pollutants during any one Period of Insurance shall not exceed the Limit of Indemnity.

4.14 **Product Defect**

Damage to Product if the Damage is attributed to any defect in it or its harmful nature or unsuitability.

4.15 Product Recall

Claims arising out of or resulting from any loss, cost or expense incurred by the Insured for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of the Product or of any property of which they form a part, if such Product or property are withdrawn from the market or from use because of any known or suspected defect, deficiency, inadequacy or dangerous condition in them.

4.16 Professional Liability

The rendering of or failure to render professional advice or service by the Insured or any related error or omission, but this Exclusion does not apply to the rendering of or failure to render professional medical advice by Medical Persons employed by the Insured to provide first aid on the Insured's premises.

4.17 Property in Custody or Control

Damage to:

- 4.17.1 Property owned or leased or rented to the Insured; or
- 4.17.2 Property in the Insured's physical or legal control. But this Exclusion does not apply to liability for Damage to:
- 4.17.3 Premises (including landlord's fixtures and fittings) which are leased or rented to the Insured;
- 4.17.4 Premises (or their contents) not owned, leased or rented by the Insured but temporarily occupied by the Insured for work therein;
- 4.17.5 Vehicles (not belonging to or used by the Insured) in the Insured's physical or legal control where the Damage occurs while the Vehicles are in a car park owned or operated by the Insured, unless the Insured owns or operates the car park for reward;
- 4.17.6 The property of an employee of the Insured designated in Clause 2.7.1 or 2.7.2;
- 4.17.7 Property (excluding any Vehicle which is registered or which is required under any legislation to be registered) in the Insured's physical or legal control for the purpose of repair, service.

4.18 Radioactive Contamination

Claims directly or indirectly caused by or contributed to, by or arising from:

- 4.18.1 Ionising radiations or contamination from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purposes of this exclusion only, combustion shall include any self sustaining process of nuclear fission or fusion.
- 4.18.2 Nuclear weapons material.
- 4.18.3 The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

4.19 **Territorial Limits**

- 4.19.1 Claims made and actions instituted within the United States of America or Canada or any other territory coming within the jurisdiction of the courts of the United States of America or Canada.
- 4.19.2 Claims and actions to which the laws of the United States of America or Canada apply.

Provided that:

- 4.19.3 Exclusions 4.19.1 and 4.19.2 do not apply to claims and actions arising from the presence of any employees' and / or directors, partners of the Insured resident outside the United States of America or Canada who are not undertaking manual work or supervision of work of any kind whilst in the United States of America or Canada;
- 4.19.4 The Limit of Indemnity in respect of coverage provided under Clause 4.19.3 is inclusive of all costs, expenses and interest as set out in Clause 3.2 of this Policy.

4.20 **Terrorism**

Injury or Damage of whatsoever nature directly or indirectly caused by, or resulting from or in connection with any:

- 4.20.1 Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the Injury or Damage; or
- 4.20.2 Action taken in controlling, preventing, suppressing or in any way relating to Terrorism.

4.21 **Tobacco**

Injury arising directly or indirectly out of or due to the inhalation or ingestion of, or exposure to:

- 4.21.1 Tobacco or tobacco smoke;
- 4.21.2 Any ingredient or additive present in any articles, items or goods which contain or include tobacco.

4.22 **Vehicles**

- 4.22.1 Injury arising out of the ownership, possession or use by the Insured of any Vehicle in respect of which there is required at law to be in force a policy of compulsory liability insurance or statutory indemnity for bodily injury.

Provided however this Exclusion 4.22.1 shall not apply to liability for Injury arising out of an Occurrence which is partially or totally outside the indemnity afforded under such compulsory liability insurance or other legislation relating to vehicles.

- 4.22.2 Damage arising out of the ownership, possession or use by the Insured of any Vehicle in respect of which at the time of the Occurrence giving rise to any claim insurance is required by virtue of any law or legal requirement relating to the use of any Vehicle.

Provided however this Exclusion 4.22.2 shall not apply to liability for Damage:

- 4.22.2.1 Arising out of or in connection with the loading and unloading of any Vehicle and / or any delivery or collection to or from any Vehicle for which the Insured is legally liable;

- 4.22.2.2 Arising out of the use of any Vehicle as a Tool of Trade;

- 4.22.2.3 Arising from the use of any Vehicle (other than registered Vehicles owned or used by the Insured) in the physical or legal control of the Insured where such Damage occurs in a car park owned or operated by the Insured.

4.23 **War**

Any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, or expropriation including lawful seizure, resumption, confiscation, nationalisation, destruction or damage to property by or under the order of any Government or public or local authority.

4.24 **Watercraft**

Claims arising out of

- 4.24.1 the ownership, maintenance, operation or use by the Insured or on their behalf of any watercraft exceeding ten (10) metres in length, except where such watercraft are owned and operated by others and used by the Insured for business entertainment.

- 4.24.2 Products that are watercraft component parts.

4.25 **Cyber**

Electronic means including but not limited to failure or impairment of any computer or other electronic device, computer hacking or the introduction of any form of computer virus or corrupting or unauthorised instructions or code or the use of any electromagnetic weapon.

5. Conditions

5.1 Amendments

This Policy does not cover Injury or Damage directly or indirectly caused by or arising out of any change in the nature of the business which:

- 5.1.1 Occurred during the Period of Insurance; and
- 5.1.2 Was known by the Insured, or would have been known by a reasonable person in the circumstances, to be likely to increase the risk of Injury or Damage for which indemnity is provided by this Policy,

Unless the Insured shall give the Underwriter notice in writing of such change, and such change shall be allowed by the Underwriter by Endorsement and / or Certificate prior to the happening of any Occurrence caused by, contributed by or arising out of the said change.

For the purpose of this Condition, where the Insured is a corporate body, the knowledge of any officer of the Insured shall be deemed to be the knowledge of the Insured.

5.2 Cancellation

- 5.2.1 The Insured may cancel this Policy at any time by giving notice in writing to the Underwriter a pro-rata refund of premium for the unexpired of insurance. We will also charge an administration charge calculated at 23% of the pro-rata return premium.
- 5.2.2 The Underwriter may cancel this Policy at any time where
 - 5.2.2.1 It is entitled to do so pursuant to the Insurance Contracts Act 1984 or any amendments thereto;
 - 5.2.2.2 The Insured has failed to notify the Underwriter of any specific act or omission where such notification is required under the terms and conditions of this Policy.

Upon cancellation given by the Underwriter a pro rata refund of premium for the unexpired Period of Insurance will be allowed.

Any notice of cancellation given by the Underwriter shall take effect either at the time when another contract of insurance between the Insured and the Underwriter or some other insurer (being a contract that is intended by the Insured to replace this Policy) is entered into or at 4.00pm on the third business day after the date on which notice was given to the Insured by the Underwriter (whichever is earlier).

5.3 Claims

- 5.3.1 The Insured shall give written notice to Us as soon as possible after any Occurrence that may give rise to a claim under this Policy and shall give all such additional

information as the Underwriter may require. Every letter, claim, writ, summons or process shall be forwarded to the Underwriter immediately it is received.

- 5.3.2 If any claim, in whole or in part, is intentionally exaggerated by the Insured or if the Insured or anyone entitled to benefit under this Policy uses any fraudulent means or devices or if any liability is occasioned by the willful act or with the connivance of any party entitled to benefit under this Policy, all benefit in respect of such fraudulent or exaggerated claim shall be forfeited.
- 5.3.3 No admission, offer, promise, or payment shall be made or given by or on behalf of the Insured without the written consent of the Underwriter who shall be entitled to take over the conduct in the name of the Insured of the defence or settlement of any claim or to prosecute in the name of the Insured for their 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 and the Insured shall give all such information and assistance as the Underwriter shall require.

In the event of a claim arising under this Insurance IMMEDIATE NOTICE should be given to:

Proclaim Management Solutions Pty Ltd
Level 6
249 Pitt Street
Sydney NSW 2000
Phone: 1300 552 446
Email: proclaim@proclaim.com.au

5.4 Discharge of Liability

The Underwriter may at any time discharge its total liability to the Insured in respect of any one claim or series of claims arising from one Occurrence by paying to or on behalf of the Insured:

- 5.4.1 The total amount in respect of the said claim or claims to which the Insured is entitled to indemnity under this Policy, or
- 5.4.2 The total amount sought by the claimant(s) in the said claim or claims, or
- 5.4.3 The total amount for which the said claim or claims can be settled,

and in addition to such payment the Underwriter will pay defence costs incurred up to the date of the said payment in accordance with Clause 3.2 of this Policy.

Upon such payment, the Underwriter shall relinquish conduct or control of such claims and be under no further liability under this Policy in connection with such claim or claims.

5.5 Insurance Contracts Act 1984

Nothing contained in this Policy is to be construed to reduce or waive either the Insured's or the Underwriter's privileges, rights or remedies available under the Insurance Contracts Act 1984.

5.6 Jurisdiction

This Policy shall be interpreted in accordance with the laws of Australia and all claims for indemnity under this Policy shall be decided in accordance with those laws.

5.7 Notices

Where the Insured comprises more than one person or company, it is agreed that the Insured referred to in the Schedule shall be the agent of each of the other Insured persons or companies for the purposes of receiving any notice of cancellation, or any other notice, statement, document or information relating to this Policy. Where the Insured has an insurance broker, nothing in this paragraph shall restrict the Underwriter's right to notify the broker as agent of the Insured.

5.8 Premium Adjustment

Where the premium is provisionally based on the Insured's estimates, the Insured shall keep accurate records and after expiry of the Period of Insurance declare as soon as possible such details as the Underwriter requires and the premium shall be adjusted and any difference paid by or allowed to the Insured as the case may be subject to any minimum premium that may apply.

5.9 Prohibited by Law

Where this Policy provides any indemnity to the Insured which is prohibited by law, this Policy shall be varied by the operation of this Clause so that this Policy does not respond to the extent that the indemnity is prohibited by law.

5.10 Reasonable Care

The Insured must:

5.10.1 Exercise reasonable care that only competent employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition;

5.10.2 take all reasonable precautions to prevent Injury and Damage, and prevent the manufacture, sale or supply of defective Product, and comply with and ensure that employees, servants and agents comply with all statutory obligations, by-laws or regulations imposed by all relevant public authorities for the:

5.10.2.1 Safety of persons or property;

5.10.2.2 Disposal of waste products;

5.10.2.3 Handling, storage or use of flammable liquids or substances, gases or toxic chemicals;

5.10.2.4 At the Insured's own expense take reasonable action to trace, recall or modify any of the Insured's Product containing any defect or deficiency of which the Insured has knowledge or has reason to suspect, including (but not limited to) any Product subject to governmental or statutory ban.

6. Service of Suit

The Underwriters hereon agree that:

6.1 in the event of a dispute arising under this Policy, the Underwriters at the request of the Insured will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court.

6.2 Any summons, notice or process to be served upon the Underwriters may be served upon:

Lloyd's Australia Limited
Level 16, Suite 1603
1 Macquarie Place
Sydney
NSW 2000
Australia

T: +61 (0)2 8298 0700

F: +61 (0)2 8298 0788

E: ldraustralia@lloyds.com

who has authority to accept service and to enter an appearance on the Underwriters' behalf, and who is directed at the request of the Insured to give a written undertaking to the Insured that he will enter an appearance of the Underwriters' behalf.

6.3 If a suit is instituted against any one of the Underwriters, all Underwriters hereon will abide by the final decision of such Court or any competent Appellate Court.

The amount of Premium specified herein is the amount due to the Underwriters and any commission allowed by them is to be regarded as remuneration of the agent placing this Insurance.

