



UNDERWRITING AGENCY

Construction Public and Products Liability

Annual
Policy Wording

Version Number 010108

providing first class insurance solutions ...

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1. Important Information

1.1 This Policy wording is an important document and should be kept in a safe place. You should read this wording and any attachments We provide to You, so that You understand the insurance provided by this Policy.

1.2 Duty of Disclosure

When We provide Insurance terms for You, whether for a new Policy, renewal of a Policy or changes to or reinstatement of Your Policy, We rely on the information You provide to Us. You must tell Us anything that You know, or should know, that could affect

- Our decision to insure You
- the amount of the Premium We charge You or
- whether We should impose special conditions to this cover.

You do not need to tell Us about anything which:

- Reduces the likelihood of a claim
- Is of common knowledge
- We know, or as an insurer should know
- We indicate that We do not want to know

If You are unsure, it is better to tell Us. If You does not tell Us something which You know, or should know, is relevant, We might reduce Your claim, refuse to pay a claim, cancel the Policy or, if fraud is involved, We can treat this Policy as if it had never existed.

1.3 Preventing Our Right of Recovery

Our liability to You for a loss under this Policy may be excluded or limited if You enter into an agreement that excludes or limits Your or Our rights to recover monies from any other person in respect of that loss. This applies to an agreement before or after You enter into this Policy and before or after the loss.

1.4 Other Party's Interests

You must tell Us about all parties (eg. financiers, lessors) to be covered by this Policy. We will protect their interests only if You have told Us about them and We have noted them on the Schedule.

1.5 This Policy shall be invalid unless:

- 1.5.1 the Certificate of Insurance is signed by a person authorised by Us; and
- 1.5.2 any alteration is signed by a person authorised by Us.

1.6 Goods and Services Tax

The amount payable by You for this Policy includes an amount for GST.

The Sum Insured and other limits of insurance cover shown in the Policy documentation are GST inclusive.

When We pay a claim, Your GST status will determine the amount We pay.

If You are

- Not registered for GST, the amount We pays is the Sum Insured or the other Policy limits being inclusive of GST
- Registered for GST, the amount We pays is the Sum Insured or the other Policy Limits less any Input Tax Credit (ITC) to which You are entitled or would be entitled if You made a relevant acquisition. This ITC may be claimable within Your BAS.

You must advise Us of Your ABN Number and Taxable Percentage. Any GST liability arising from Your incorrect advice is payable by You.

Where the settlement of a claim is less than the Sum Insured or the other Policy limits, We will only pay the GST (less Your ITC credit) applicable to settlement. This means that if these amounts are not sufficient to cover Your loss, We will only pay the GST relating to Our settlement of the claim.

We will pay the claim by reference to the GST exclusive amount of any supply made by any business of Yours which is relevant to the claim.

GST, ITC, Business Activity Statement (BAS) and Acquisition have the same meaning as given to those words in a New Tax System (Goods and Services Tax) Act 1999 and related legislation and amendments.

Taxable Percentage is Your entitlement to an Input Tax Credit on the amount payable as a percentage of the total GST on that amount.

1.7 Privacy

We handle Your personal information with care. We collect this information about You so that We can provide You with insurance products and a claims service. We only provide Your personal information to other Insurers, an Insurance Reference service, Assessors or as required or permitted by law. Should a claim arise, We may provide information to and / or collect further information about You from legal advisers or investigators. You may elect not to supply Us with Personal Information, however We may then not be able to process Your requests. You can access or update this Information by contacting Us.

1.8 If You have a dispute

If You are in dispute, with a decision that We make, a claim settlement, Our service, or the service of others We appoint to discuss insurance matters with You, We have an Internal Dispute resolution process to assist You. Contact Our office and ask for the Internal Dispute Resolution Officer. They will advise You on the procedure for You to follow to tell Us about the dispute.

They have the appropriate authority of management to discuss Your concerns and provide assistance to You.

If You are not satisfied with Our response, and wish to proceed with the dispute or complaint, You may contact;

Lloyd's Australia Ltd
Suite 2, Level 21
Angel Place
123 Pitt Street
Sydney NSW 2000
Telephone 02 9223 1433
Facsimile 02 9223 1466

Lloyd's Australia Ltd offer a no cost to you service and are totally independent and impartial. They will advise You on how to proceed with them in this matter. If they are unable to assist You, they will promptly advise You.

1.9 Need further Information

Your Insurance Broker has arranged this insurance for You, on Your behalf. If You have any questions or need further information concerning these insurances, You should contact them to assist with the enquiry.

1.10 Contacting Us

You are represented by an Insurance Broker who deals directly with Us. You should direct all of Your correspondence to Us through this Broker, as he is the Agent for this insurance. When We are dealing directly with You, for example with a claim, You may contact Us as shown on the claim form or on the back page of this Policy wording.

1.11 Lloyd's Notice – Australian Terrorism Insurance Act 2003

The Underwriters have treated this Insurance (or part of it) as an Insurance to which the Australian Terrorism Insurance Act 2003 (ATIA) applies.

ATIA and the supporting regulations made under the Act deem cover into certain policies and provide that the Terrorism exclusion to which this Insurance is subject shall not apply to any "eligible terrorism loss" as defined in ATIA.

Any coverage established by ATIA is only in respect of any "eligible terrorism loss" resulting from a "terrorist act" which is a "declared terrorist incident" as defined in ATIA. The Terrorism exclusion to which this Insurance is subject applies in full force and effect to any other loss and any act or event that is not a "declared terrorist incident".

All other terms, conditions, insured coverage and exclusions of this insurance including applicable limits and deductibles remain unchanged.

If any or all of the Underwriters have reinsured this Insurance with the Australian Reinsurance Pool Corporation, then any such Underwriters will not be liable for any amounts for which they are not responsible under the terms of ATIA due to the application of a "reduction percentage" as defined in ATIA which results in a cap on the Underwriter's liability for payment for "eligible terrorism losses".

2. GENERAL OPERATIVE CLAUSE

- 2.1 We will pay to or on behalf of You all sums which You shall become legally liable to pay by way of compensation including claimants' costs and expenses (but excluding fines, penalties, punitive, exemplary, and/or aggravated damages). This indemnity only applies to such liability arising out of the Insured's Business ("The Business") and as defined by each insured Section of this Policy, subject to the terms, conditions and exclusions of such Section and of this Policy as a whole.
- 2.2 For the purpose of determining the indemnity granted:
- 2.2.1 "Injury" means death, bodily injury, sickness or disease to any person. 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, which diagnosis must first occur during the Period of Insurance.
- 2.2.2 "Product" means any commodity, article or thing (after it has ceased to be in the possession or under the control of You) which is or is deemed (whether by law or otherwise) to have been manufactured, constructed, grown, extracted, produced, processed, assembled, erected, installed, treated, altered, serviced, repaired, sold, handled, supplied or distributed by You or by others trading under the name of You, including any container thereof but does not mean a motor vehicle.
- 2.2.3 "Damage" means
- 2.2.3.1 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.
- 2.2.3.2 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 that caused it.
- 2.2.4 "We / Our / Us / Insurers" means those syndicates in Lloyd's of London participating in this contract of insurance.
- 2.2.5 "Business" is as described in the Description of Operations as shown in the Schedule.
- 2.2.6 "Period of Insurance" is the period shown in the Schedule.
- 2.2.7 "You / Your" wherever used in this Policy means the Insured named in the Schedule and,
- 2.2.7.1 any subsidiary company (including subsidiaries thereof) of You so named, and
- 2.2.7.2 any other entity controlled by it and over which it assumes active management.
- 2.2.8 "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 You. All events of a series consequent on or attributable to one source or original cause shall be deemed one Occurrence.
- 2.2.9 "Worker" means any person employed by You or deemed to be employed by You whether pursuant to any Workers' Compensation Law or otherwise.
- 2.2.10 "Workers' Compensation Law" means any law relating to compensation for Injury to Workers or employees.
- 2.2.11 "Employment Practices" means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination (sexual or otherwise) in respect of employment by You.
- 2.2.12 "Computer Equipment" includes but is not limited to data or parts of data, computer hardware, operating system, computer network, equipment, web site, server, extranet, software, applications software, computer chip including microprocessor chip and coded instructions as well as any new technology, product or service replacing existing computer equipment or any combination or part of data, computer hardware, operating system, application, software, and computer chip including microprocessor chip or embedded control logic, and irrespective of by whom it is owned or operated.

2.2.13 "Year 2000 Conformity" means the standard which requires that neither performance nor functionality is affected by dates prior to, during or after the Year 2000 and, in particular but without limitation, that:

2.2.13.1 no value for current date will cause any interruption in operation;

2.2.13.2 date based functionality must behave consistently for dates prior to, during and after Year 2000;

2.2.13.3 in all interfaces and data storage, the century in any date must be specified either explicitly or by unambiguous algorithms or inferencing rules;

2.2.13.4 Year 2000 must be recognised as a leap year in terms of handling both 29 February and day 366; and

2.2.13.5 9 September 1999 must be recognised as that date.

The above definition of "Year 2000 Conformity" is based on a definition contained in a document published by Standards Australia and Standards New Zealand under reference no. SAA/SNZ MP77:1998 and shall be interpreted in accordance with that document.

3. INDEMNITY TO OTHERS

The indemnity granted extends to:

- 3.1 any principal in respect of the liability of such principal arising out of the performance by You of any contract or agreement for the performance of work for such principal only to the extent required by such contract or agreement. But subject always to the terms, conditions, exclusions and Limit of Indemnity provided in this Policy.
- 3.2 any director, executive officer, Worker or partner of You but only while acting within the scope of their duties in such capacity.
- 3.3 the officers, committee and members of the Insured's canteen, social, sports, first aid/medical, fire fighting and employee welfare organisations in their respective capacity as such.
- 3.4 the legal personal representative of any person entitled to indemnity under this Clause 2 in circumstances giving rise to indemnity under this Policy.

Provided always that all such persons or parties shall observe, fulfil and be subject to the terms, conditions and exclusions of this Policy (insofar as they can apply) as though they were You.

4. CROSS LIABILITIES

Subject at all times to the terms, conditions, exclusions and other provisions of this Policy, each person or party indemnified is separately indemnified in respect of claims made by any of them against any other of them provided that Our total liability shall not exceed the stated Limit of Indemnity.

5. LIMITS OF INDEMNITY

Our liability to pay compensation shall not exceed the sum stated in the Schedule against each Section in respect of any one claim or series of claims arising from one Occurrence.

The total aggregate liability of Our's for any one Period of Insurance for all claims under Section 2 shall not exceed the sum stated in the Schedule.

If both Sections of this Policy respond to one Occurrence, the total aggregate liability of Our's for all claims relating to that Occurrence under Section 1 or Section 2 or both shall not exceed in total the highest single Limit of Indemnity under any one Section.

6. DEFENCE COSTS

In addition to the stated Limit of Indemnity, We will pay all reasonable costs and expenses incurred with Our prior written consent in:

- 6.1 the defence or settlement of any third party claim under this Policy;

6.2 the defence or settlement of any third party claim under this Policy which arises from rendering first aid for injuries to others;

6.3 incurred in connection with any claim or potential claim which falls to be dealt with under this Policy.

Provided that We shall not be liable for costs or other expenses for or in respect of representation at any formal legal inquiry involving an accident resulting in the death or Injury of a person or at any Coroner's Inquiry or defending any proceedings in a Court of summary jurisdiction.

Provided that We shall not be obliged to pay any costs or expenses in respect of any Occurrence after Our liability to pay compensation up to the Limits of Indemnity has been exhausted by payment of judgments or settlements or otherwise.

Provided further that the costs or other expenses incurred in connection with claims made and/or actions instituted within the United States of America, the Dominion of Canada and their respective territories and protectorates or any other territory coming within the jurisdiction of the courts of these countries, shall form part of the stated Limit of Indemnity and will not be payable by Us in addition to the Limit of Indemnity.

7. SECTION 1 – PUBLIC LIABILITY INDEMNITY

You are indemnified by this Section in accordance with the General Operative Clause in respect of Injury and/or Damage during the Period of Insurance as a result of an Occurrence but not against claims arising out of or in connection with any Product.

8. SECTION 1 - EXCLUSIONS

This Section does not cover liability:

8.1 for or in respect of any Injury directly or indirectly arising out of the ownership, maintenance, operation, possession, use, loading or unloading of a motor vehicle or trailer, where at the time of Injury the liability for such Injury was required by law to be insured or in relation to which there existed a statutory scheme providing compensation for such Injury.

8.2 directly or indirectly arising out of the ownership, maintenance, operation, possession, use, loading or unloading by or on behalf of You of any motor vehicle or trailer which is required by legislation to be registered or in respect of which there is required by legislation to be in force a policy of compulsory liability insurance, but this exclusion does not apply to:

8.2.1 Injury or Damage for which no indemnity is or would be available to You under the said policy of compulsory liability insurance.

8.2.2 Injury or Damage caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer.

8.2.3 Damage to any bridge, weighbridge, road, or anything beneath caused by the weight of any motor vehicle or trailer or of the load carried thereon.

8.2.4 Damage to any motor vehicle or trailer temporarily in Your custody or control for the purpose of parking and directly arising out of such parking.

8.3 arising out of Damage to property owned, leased, hired by, under hire purchase, on loan or rented to You or otherwise in Your care, custody or control other than:

8.3.1 premises temporarily occupied by You for the purpose of carrying out works thereto or thereon (or to contents thereof) but no indemnity is granted for Damage to that part of any premises on which You are or have been working if the Damage arises from such work.

8.3.2 premises tenanted by You to the extent that You would be held legally liable in the absence of any specific agreement, but no coverage is afforded if You have assumed responsibility to insure such premises.

8.3.3 employees' and visitors' clothing and personal effects.

8.4 8.4.1 assumed under a contract or agreement unless You would have been held legally liable in the absence of such contract or agreement;

8.4.2 to pay any sum which You may have been able to recover from another party(ies) but for an agreement between You and such party(ies) where You have waived any right of recourse or recovery against such other party(ies).

This exclusion 8.4 shall not apply to those written contracts or agreements specified in the Schedule of Insurance.

- 8.5 Physical loss of or damage to existing underground cables or pipes of any kind unless such loss or damage occurs during the Construction Period and You, prior to the commencement of the work have requested and obtained from any relevant public authority or the owner of such underground system the exact position of all cables and pipes and have traced their existence and indicated their location in situ.

9. SECTION 2 – PRODUCT LIABILITY INDEMNITY

You are indemnified by this Section in accordance with the General Operative Clause against claims arising out of or in connection with any Product in respect of Injury and/or Damage during the Period of Insurance as a result of an Occurrence.

10. SECTION 2 - EXCLUSIONS

This Section does not cover liability:

- 10.1 arising out of costs incurred in or in connection with the repair, reconditioning, replacement, removal or recalling of any Product or component part and / or any financial loss consequent upon the necessity for such repair, reconditioning, replacement or removal.
- 10.2 arising from product guarantee given by or on behalf of You but this exclusion shall not apply to the requirements of any Federal or State legislation with respect to Product safety and information.
- 10.3 10.3.1 assumed under a contract or agreement unless You would have been liable in the absence of such contract or agreement;
- 10.3.2 to pay any sum which You may have been able to recover from another party(ies) but for an agreement between You and such party(ies) where You have waived any right of recourse or recovery against such other party(ies).
- 10.4 arising out of any Product which is incorporated into the structure, machinery or controls of any aircraft, aerial device, watercraft or hovercraft.
- 10.5 arising out of any Product or component part that does not meet or exceed any applicable standard recommended by Standards Australia and/or the International Standards Organisation.

11. GENERAL EXCLUSIONS APPLICABLE TO BOTH SECTIONS OF THIS POLICY

Sections 1 and 2 do not cover liability:

- 11.1 Employment Liability
- 11.1.1 for personal Injury to any Employee arising directly or indirectly out of or in the course of their employment in the Your Business, providing this exclusion does not apply in respect of liability for Injuries which are not compensated under the workers' compensation legislation;
- 11.1.2 for any claim or claims arising out of the provisions of any workers' compensation legislation or any industrial award or agreement or determination;
- 11.1.3 for which You are, or would have been, entitled to seek indemnity under any policy of insurance required to be taken out pursuant to any legislation relating to worker's or workmen's compensation including any legislation of any state or territory (whether insurance is effected or not).

For the purposes of this exclusion "Employee" shall mean any person engaged under a contract of service or apprenticeship with You and does not include any person employed under such a contract who is excluded from the definition of worker under any worker's compensation legislation.

- 11.2 for loss of use of tangible property which has not been physically damaged or destroyed resulting from:
- 11.2.1 a delay in or lack of performance by or on behalf of You of any contract or agreement, or
- 11.2.2 the failure of any Product to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by You, but this exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical damage to or destruction of the Product after such Product have been put to use by any person or organisation other than You.

11.3 for Injury or Damage directly or indirectly caused by or arising out of any change in the nature of the Business which:

11.3.1 occurred during the currency of this Policy; and

11.3.2 was known by You, 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 You shall give Us notice in writing of such change, and such change shall be allowed by Us 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 purposes of this exclusion, where You are a corporate body, the knowledge of any officer of Yours shall be deemed to be the knowledge of You.

11.4 caused by or arising out of:

11.4.1 the rendering of or failure to render professional advice or service by You or any error or omission connected therewith.

11.4.2 advice, design, formula or specification given for a fee.

Provided that this exclusion does not apply to the rendering of first aid on Your premises by a legally qualified registered nurse or first aid attendant employed by You.

11.5 directly or indirectly arising out of or caused by or relating to:

11.5.1 the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants, provided always that this paragraph 11.5.1 shall not apply to liability which is caused by a sudden, accidental, instantaneous, unintended, identifiable and unexpected happening which takes place in its entirety at a specific time and place.

11.5.2 any expenses for the prevention of the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants.

11.5.3 testing, monitoring, clean up, removal, containment, treatment, detoxifying or neutralising of Pollutants or their effect.

11.5.4 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 word "Pollutants" wherever used in this exclusion means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Furthermore, the total aggregate liability of Ours during any one Period of Insurance for all claims in respect of coverage afforded by the proviso within 11.5.1 shall not exceed the sum within the Limits of Indemnity shown in the Schedule.

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

11.6.1 tobacco or tobacco smoke.

11.6.2 any ingredient or additive present in any articles, items or goods which contain or include tobacco.

11.7 arising out of liquidated damages or penalty clauses or performance warranties.

11.8 directly or indirectly caused by or arising out of or in connection with circumstances which were known to You prior to the commencement of the Period of Insurance. For the purpose of this exclusion, circumstances refer to any matters likely to give rise to an Occurrence or otherwise to a claim for compensation against You.

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

11.9.1 ionising radiations or contamination from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this exclusion only, combustion shall include any self sustaining process of nuclear fission or fusion.

11.9.2 nuclear weapons material.

- 11.9.3 The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- 11.10 for Injury, Damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;
 - 11.10.1 war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power;
 - 11.10.2 any act of terrorism;
 - 11.10.3 any action taken in controlling, preventing, suppressing or in any way relating to 11.10.1 or 11.10.2

For the purposes of exclusion 11.10.2 an act of 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 organization(s) or governments(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and / or to put the public, or any section of the public in fear.

If We allege that by reason of this exclusion 11.10 any Injury, Damage, loss, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon You. In the event that any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

- 11.11 for the excess stated in the Schedule being the first amount of all claims (including any costs and expenses) arising out of any one Occurrence. If any Product from one prepared or acquired batch causes Damage or Injury to more than one person, all Damage or Injury to all persons resulting from that common cause shall be considered as arising out of one Occurrence.
- 11.12 in respect of which You are entitled to indemnity pursuant to a separate policy of insurance more specifically providing cover in respect of such liability except to the extent that Your liability for any claim exceeds the amount of cover payable under such other policy.
- 11.13 arising out of the ownership, maintenance, operation, possession or use by or on behalf of the Insured of any aircraft, aerial device, watercraft or hovercraft.
- 11.14 directly or indirectly out of or resulting from or in consequence of, or in any way involving:
 - 11.14.1 asbestos, or any materials containing asbestos in whatever form or quantity; or
 - 11.14.2 the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, moulds, spores or mycotoxins of any kind; or
 - 11.14.3 any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release, or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins; or
 - 11.14.4 any government or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release, or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins.

- 11.15 for claims made and actions:
 - 11.15.1 instituted within the United States of America, the Dominion of Canada, their respective territories and protectorates and any other territory coming within the jurisdiction of the courts of the United States of America or the Dominion of Canada,
 - 11.15.2 to which the laws of the United States of America, the Dominion of Canada and their respective territories and protectorates apply or to any order made anywhere in the world to enforce any judgement, award, payment or settlement either in whole or in part.

Provided that this exclusion 11.15 does not apply to claims and actions arising from the presence outside Australia of any travelling executives or salesmen who are normally resident in Australia.

- 11.16 arising directly or indirectly from, or is in any way connected with, the fact that the performance or functionality of any Computer Equipment has been or may be affected because that Computer Equipment does not meet Year 2000 Conformity.

- 11.17 total or partial destruction, distortion, erasure, corruption, alteration, misuse, misinterpretation, misappropriation or other use of Computer Equipment or
 - 11.17.1 error in creating, amending, entering, directing, deleting or using Computer Equipment
 - 11.17.2 total or partial inability or failure to receive, send, access or use Computer Equipment for any time or at all.
- 11.18 arising from 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.

12. GENERAL CONDITIONS APPLICABLE TO BOTH SECTION OF THIS POLICY

- 12.1 You 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 We may require. Every letter, claim, writ, summons or process shall be forwarded to Us immediately it is received.
- 12.2 If any claim, in whole or in part, is intentionally exaggerated by You or if You or anyone entitled to benefit under this Policy uses any fraudulent means or devices or if any liability is occasioned by the wilful 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.
- 12.3 No admission, offer, promise, or payment shall be made or given by or on behalf of You without the written consent of Us who shall be entitled to take over the conduct in the name of You of the defence or settlement of any claim or to prosecute in the name of You 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 You shall give all such information and assistance as We shall require.
- 12.4 This Policy, the Schedule and any endorsements attached to this Policy shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy, Schedule or the endorsement shall bear such specific meaning wherever it may appear.
- 12.5 We may at any time discharge Our total liability to You in respect of any one claim or series of claims arising from one Occurrence by paying to or on behalf of You:
 - 12.5.1 the total amount in respect of the said claim or claims to which You are entitled to indemnity under this Policy, or
 - 12.5.2 the total amount sought by the claimant(s) in the said claim or claims, or
 - 12.5.3 the total amount for which the said claim or claims can be settled,and in addition to such payment We will pay Defence Costs incurred up to the date of the said payment.
Upon such payment, We shall relinquish conduct or control of such claims and be under no further liability under this Policy in connection with such claim or claims.
- 12.6 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.
- 12.7 You must:
 - 12.7.1 exercise reasonable care that only competent Workers and/or employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition;
 - 12.7.2 take all reasonable precautions to:
 - 12.7.2.1 prevent Injury and Damage,
 - 12.7.2.2 prevent the manufacture, sale or supply of defective Products,
 - 12.7.2.3 comply, and ensure that its Workers, servants and agents comply with all statutory obligations, by-laws or regulations imposed by any public authority for the safety of persons or property;
 - 12.7.3 at its own expense take reasonable action to trace, recall or modify any Products containing any defect or deficiency which defect or deficiency the Insured has knowledge of or has reason to suspect.

The amount of any benefit under this Policy for any liability arising from Injury and/or Damage caused or contributed to, or by the lack of such precautions, measures and compliances shall be reduced by the amount that fairly represents the extent to which Our interests have been prejudiced thereby.

- 12.8 Where the premium is provisionally based on Your estimates, You shall keep accurate records and after expiry of the Period of Insurance declare as soon as possible such details as We require and the premium shall be adjusted and any difference paid by or allowed to You as the case may be subject to any minimum premium that may apply.

12.9 Cancellation

- 12.9.1 You may cancel this Policy at any time by giving notice in writing to Us.

- 12.9.1.1 Upon cancellation at the request of You, a percentage refund of premium for the current Period of Insurance will be allowed on the following basis:

When cancellation is effective	Return Premium
Within 60 days of inception of this Policy or renewal thereof	50% of annual premium
Between 61 and 120 days From inception or Renewal	30% of annual premium
Between 121 days and 180 days from inception or renewal	15% of annual premium
After 180 days from inception or renewal	No return premium.

- 12.9.2 We may cancel this Policy at any time where:

- 12.9.2.1 it is entitled to do so pursuant to the Insurance Contracts Act 1984 or any amendments thereto.
- 12.9.2.2 You have failed to notify Us of any specific act or omission where such notification is required under the terms or conditions of this Policy.
- 12.9.2.3 You have acted in contravention of or omitted to act in compliance with any term or condition contained in this Policy which empowers Us to refuse to pay a claim in the event of such contravention or omission.

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

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

Where You comprises more than one person or company, it is agreed that the named 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 pursuant to this clause, or any other notice, statement, document or information relating to this insurance Policy. Where You have an insurance broker, nothing in this paragraph shall restrict Our right to notify the broker as agent of Yours.

- 12.10 Where this Policy provides any indemnity to You which is prohibited by Law, this Policy shall be varied by operation of this clause so that this Policy does not respond to the extent that the indemnity is prohibited by law.