

public and
products
liability

FOCUS
underwriting

**POLICY
WORDING**



Important Information

Introduction

Focus Underwriting is a trading division of IBL Limited AFS
Licence number: 231203

You can contact us at enquiries@focusuw.com.au or on 1800 234 338 or at Level 21, 41 Exhibition Street Melbourne 3000.

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Important information

About this insurance policy

If **we** issue **you** with an insurance policy, **you** will be given a **policy schedule**. The **policy schedule** sets out the specific terms applicable to **your** cover and should be read together with the **policy** terms and conditions.

The **policy** terms and conditions, the **policy schedule** and any **endorsements** form **your** legal contract with **us**.

Please keep these documents for future reference. **You** must read this entire document to understand the full terms and conditions of **your policy**.

Agent of the insurer

Please note that in arranging the contract of insurance, we are acting under an authority given to us by the **insurer**, and we will be effecting the contract of insurance as agent of the **insurer**, and not as **your** agent.

Duty of disclosure

Before **you** enter into an insurance contract, **you** have a duty to tell **us** anything that **you** know, or could reasonably be expected to know, may affect **our** decision to insure **you** and on what terms.

You have this duty until **we** agree to insure **you**.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure **you** for; or
- is common knowledge; or
- **we** know or should know as an **insurer**; or
- **we** waive your duty to tell **us** about.

If you do not tell us something

If **you** do not tell **us** anything you are required to, we may cancel your contract or reduce the amount we will pay **you** if you make a claim, or both.

If **your** failure to tell **us** is fraudulent, **we** may refuse to pay a claim and treat the contract as if it never existed.

General Insurance Code of Practice

This insurance complies with the Insurance Council of Australia's General Insurance Code of Practice, apart from any claims adjusted outside Australia. Underwriters at Lloyd's proudly support the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry.

Privacy

IBL Limited, trading as Focus Underwriting (Focus), is committed to protecting **your** privacy in accordance with the Privacy Act 1998 (Cth) and the Australian Privacy Principles. Our Privacy Policy describes our current policies and practices in relation to the collection, handling, use and disclosure of personal information. It also deals with how **you** can complain about a breach of the privacy laws and how you can access the personal information we hold and how to have that information corrected.

Our contact details for all privacy enquiries are:

Focus Underwriting
Level 21 41 Exhibition Street Melbourne 3000
Phone: 1800 234 338
Email: enquiries@focusuw.com.au
Web: www.focusuw.com.au

Our full Privacy Policy is contained on our website and we encourage you check regularly for any updates.

What information do we collect and how do we use it?

We collect from **you** all information we need to assess **your** application for insurance and to administer **your** insurance policy and any claims **you** may make. We provide any information that the **insurer** who provide our capacity require to enable them to decide whether to insure **you** and on what terms. This **insurer** may in turn pass on this information to their reinsurers. Some of these companies are located outside Australia.

When **you** make a claim under your policy, we assist you by collecting information about your claim. Sometimes we also need to collect information about **you** from others. We provide this information to **your insurer** (or anyone **your insurer** has appointed to assist it to consider your claim, e.g. loss adjusters or legal advisers etc) to enable it to consider your claim. Again this information may be passed on to reinsurers.

Important Information

What if you don't provide some information to us?

We can only fully consider your risk if we have all relevant information. The insurance laws also require **you** to provide **your insurers** with all the information they need in order to be able to decide whether to insure **you** and on what terms. **You** have a duty to disclose the information which relevant to the **insurer's** decision to insure **you**. If **you** provide inaccurate or incomplete information we may not be able to provide you with our products or services.

Your consent

By asking us to assist with your insurance needs, you consent to the collection and use of the information you have provided to us for the purposes described above.

General Terms and Conditions

General policy conditions

The following general conditions apply to this **policy**.

1.1 Acquisition of properties or companies

The cover granted by this **policy** extends to properties, assets, companies, firms, entities or other bodies:

- a. formed or acquired by **you** or for which **you** assume management responsibility during the **period of insurance**;
- b. which undertake activities consistent with the description of the **business** in the **policy schedule** subject to disclosure to **us** prior to any new acquisition which represents more than 15% of the current group turnover, in which event **we** may seek revised terms including but not limited to payment of additional premium. **You** are not obliged to accept such terms, but if **you** do not, that new acquisition will not be covered by this **policy**.

Provided that no indemnity shall be granted in respect of claims for **personal injury**, **property damage** or **advertising liability** which first happened prior to the date of such acquisition, formation or assumption of management responsibility.

1.2 Adjustment of premium

Where the **policy schedule** shows premium for the **policy** has wholly or partly been calculated on estimates **you** must, within 30 days after the expiry of each **period of insurance**, provide to **us** such matters, particulars and information relevant to the **policy** as **we** may reasonably require. The premium for the **period of insurance** will then be adjusted and any difference paid by or allowed to **you**, as the case may be, provided that the adjusted premium will not be less than any minimum premium specified in the **policy schedule**.

You must keep a record of all matters, particulars and information requested by **us** and must on reasonable notice allow **us** or **our** nominee to inspect and make copies of those records.

1.3 Cancelling your policy

How you may cancel

You may cancel the **policy** at any time by telling **us** in writing that **you** want to cancel it. Where **you** involves more than one person, **we** will only cancel the **policy** when written instructions to cancel the **policy** is received from all persons named as the **insured**.

How we may cancel

We may only cancel a **policy** when the law says **we** can. Such cancellation shall take effect at the earlier of the following times:

- a. the time when another policy of insurance between **you** and **us** or some other insurer, being a policy that is

intended by **you** to replace this policy, is entered into;
or

- b. at 4.00 pm on the thirtieth (30th) business day after the day on which notification was given to **you**.

We will cancel **your policy** by telling **you** so in writing, either in person or by post to **your** last known address.

Return Premium

We will retain the pro-rata premium for the time the policy has been in place subject to any minimum premium.

We will return the premium that **you** have paid for the rest of the **period of insurance** (along with GST and any relevant charges where this is allowed).

When the premium is subject to adjustment, cancellation will not affect **your** obligation to supply to **us** such information as is necessary to permit the premium adjustment to be calculated and to pay the amount of the adjustment applicable up to the date of cancellation.

You are not entitled to receive a refund of any underwriting levy charged.

Premium funders

If the premium has been funded by a premium funding company which holds a legal right over the **policy** by virtue of a notice of assignment and irrevocable power of attorney, the return of premium calculated on the basis set out above shall be made to the premium funding company.

1.4 Changes to information previously advised

You must tell **us** as soon as possible if circumstances occur, or if changes or alterations are intended or made which increase the risk of **personal injury**, **property damage** or **advertising liability**.

You must tell **us** immediately in writing of every change that comes to **your** knowledge which materially varies any of the facts or circumstances existing at the commencement of this **policy**. **We** may at **our** discretion, for what **we** consider to be an increase of risk:

- a. charge additional premium;
- b. amend or impose additional terms or conditions;
- c. cancel the **policy**.

1.5 Changes to the policy

If **you** want to make a change to this **policy**, the change becomes effective when **we**:

- a. agree to it; and
- b. give **you** a new **policy schedule** and/or an **endorsement** schedule detailing the change.

General Terms and Conditions

1.6 Complaints resolution

Any enquiry or complaint relating to this Insurance should be referred to Focus Underwriting in the first instance. If this does not resolve the matter or **you** are not satisfied with the way a complaint has been dealt with, **you** should contact:

Lloyd's Underwriters' General Representative in Australia
Level 9, 1 O'Connell Street
Sydney NSW 2000
Telephone Number: (02) 8298 0783

Who will refer your dispute to Policyholder & Market Assistance at Lloyd's.

Complaints that cannot be resolved by Policyholder & Market Assistance may be referred to the Financial Ombudsman Service (UK). Further details will be provided at the appropriate stage of the complaints process.

1.7 Cooling off period

You have the right to cancel this **policy** or part of it and receive a full refund of the premium paid if **you** advise **us** in writing within 21 days of the date the **policy** was incepted. This right does not apply if **you** have made or are entitled to make a claim. To understand **your** rights to cancel the **policy** at other times please refer to Clause 1.3 Cancelling Your Policy.

1.8 Cross liability

Where more than one party comprises the **insured** each of the parties will be considered as a separate and be considered as applying to each party in the same distinct unit and the words '**you**', '**your**' or '**insured**' will manner as if a separate **policy** had been issued to each of them. Provided that nothing in this General Condition 1.8 will result in an increase of **our limit of liability** in respect of any **occurrence** or **period of insurance**.

1.9 Discharge of liabilities

At any time **we** can pay to **you** or on **your** behalf, all claims made against **you** for any one **occurrence**:

- a. the **limit of liability**, after deducting any amounts already paid;
- b. any lower sum for which the claim may be settled.

If **we** do so:

- a. the conduct of any outstanding claim(s) will become **your** responsibility, and
- b. **we** will not be liable to pay any further amounts in relation to that **occurrence** other than costs, charges, or expenses that **we** agreed to pay before or when **we** made the payment referred to in this General Condition.

1.10 Governing law

The **policy** will be governed in accordance with the laws of Australia. Any disputes relating to interpretation will be submitted to the exclusive jurisdiction of the courts of Australia.

1.11 How Goods and Services Tax (GST) affects any payments we make

In addition to the premium, **we** will charge **you** an amount on account of GST.

You must inform **us** of the extent to which **you** are entitled to an input tax credit for that GST amount each time that **you** make a claim under this **policy**. No payment will be made to **you** for any GST liability that **you** may have on the settlement of a claim if **you** do not inform **us** of **your** entitlement or correct entitlement to an input tax credit.

Despite the other provisions of this insurance (including provisions in the **policy** wording, the **policy schedule** and any **endorsement**), **our** liability to **you** will be calculated taking into account any input tax credit to which **you** are entitled for any acquisition which is relevant to **your** claim, or which **you** would have been entitled were **you** to have made a relevant acquisition

'GST', 'input tax credit', 'acquisition' and 'supply' have the meaning given in A New Tax System (Goods and Services Tax) Act 1999.

1.12 Inspection of property

- a. **We** will be permitted but not obligated to inspect **your** property and operations at any time;
- b. Neither **our** right to inspect nor **our** failure to inspect nor the making of any inspection nor any report of an inspection may be used by **you** or others in any action or proceeding involving **us**;
- c. **We** may examine and audit **your** books and records at any time during the **period of insurance** and within three years thereafter but that examination and audit will be restricted to matters which in **our** opinion are relevant to the **policy**.

1.13 Insurers several liability

The subscribing insurers' obligations under this policy to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

1.14 Jurisdiction

All disputes arising out of or under this **policy** will be subject to determination by any Court of competent jurisdiction within Australia.

1.15 Notices

Any notice given by **us** to the first named **insured** within the **policy schedule** will be treated as notice to all parties comprising '**you**', '**your**' '**insured**', and it will be effective:

General Terms and Conditions

- a. immediately if it is delivered to **you** personally;
- b. if it is posted to **your** address last known to **us**, three business days after having been posted by **us**;
- c. immediately if it is sent by electronic communication

1.16 Other interests

- a. **You** cannot transfer any interests in this **policy** without **our** written consent;
- b. Any person whose interests **you** have told **us** about and **we** have noted on **your policy schedule** is bound by the terms of this **policy**.

1.17 Premium

We charge **you** a premium for the cover **we** provide **you** under this **policy**. The total premium **we** charge **you** will include any government charges such as stamp duty and GST. **We** may charge an underwriting levy which will also be included in **your** total premium. **Your** total premium and the breakdown of government and other charges is shown in **your policy schedule**.

Your insurance intermediary may also charge **you** a service or administration fee. This fee is not included in **your** premium shown in your **policy schedule**.

Factors that affect the premiums charged include:

- **Your** risk profile including **your** claims history
- The limits of indemnity selected by **you**
- Costs of reinsurance
- Any minimum premiums that apply
- Government taxes and duties

When **you** apply for this insurance **we** will tell you the total premium payable. **We** will also tell you when and how this premium is to be paid. If **you** fail to pay the premium or if your payment is dishonored the **policy** will not operate and there will be no cover.

1.18 Preventing our right of recovery

If **you** have agreed not to seek compensation from another person who is liable to compensate **you** for any loss, damage or liability which is covered by this **policy**, **we** will not cover **you** under this **policy** for that loss, damage or liability.

1.19 Reasonable care

You must:

- a. exercise reasonable care that only competent **employees** are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition;
- b. take all reasonable precautions to prevent personal injury, property damage or advertising liability, and prevent the manufacture, sale or supply of defective product, and comply with and ensure that your employees, contractors, employees of labour hire organisations utilised by **you**, servants and agents

comply with all statutory obligations, by-laws or regulations imposed by all relevant public authorities for the:

- i. safety of persons or property;
 - ii. disposal of waste products;
 - iii. handling, storage or use of flammable liquids or substances, gases or toxic chemicals;
- c. at **your** own expense take reasonable action to trace, recall or modify any of **your products**
 - d. containing any defect or deficiency of which **you** have knowledge or have reason to suspect, including (but not limited to) any of **your products** subject to governmental or statutory ban.

1.20 Service of suit

The **insurers** hereon agree that:

- a. in the event of a dispute arising under this Insurance, the **insurers** 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.
- b. any summons notice or process to be served upon the **insurers** may be served upon:

Lloyd's Underwriters' General Representative in Australia
Level 9, 1 O'Connell Street
Sydney NSW 2000
Telephone Number: (02) 8298 0700

 who has authority to accept service and to enter an appearance on the **insurers'** 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 on the **insurers'** behalf.
- c. if a suit is instituted against any one of the **insures**, all **insurers** hereon will abide by the final decision of such Court or any competent Appellate Court.

1.21 Subrogation

We may prosecute in your **name** for damages or otherwise. **We** may do this before or after we have paid **your** claim and whether or not **you** have been fully compensated for **your** actual loss. **You** must execute and deliver instruments and papers and do everything that is necessary to assist **us** in the exercise of those rights.

General claims conditions

To enable **us** to process a claim under this **policy** the following conditions apply.

General Terms and Conditions

1.22 Admitting liability

You must not

- a. admit liability for any loss, damage or injury;
- b. make an admission, offer, promise or payment;
- c. settle or attempt to settle or defend any claim;

without **our** written consent.

This applies to **you** or any person making a claim under this **policy**.

1.23 Claim refusal or reduction

We may refuse to pay a claim if **you** are in breach of **your** Duty of Disclosure or any of the conditions of this **policy**, including any **endorsements** noted on or attached to the **policy schedule**.

We pay only once for loss or damage from the same event covered by this **policy**. **We** may be entitled to refuse to pay or to reduce the amount of a claim if:

- a. it is in any way fraudulent;
- b. any fraudulent means or devices are used by **you** or anyone acting on **your** behalf to obtain any benefits under this **policy**.

1.24 Conduct of claims

- a. **We** may appoint legal or other representatives to assist in the conduct of a claim;
- b. **We** shall have the right and full discretion to conduct claims; and,
- c. **We** reserve the right to negotiate and settle any claim on terms we consider appropriate.

1.25 Cooperation

You must co-operate with **us** fully in any investigation, negotiation, defence or settlement of any claim or any recovery action **we** may pursue.

This may include attending court to give evidence.

You must also immediately send **us** any legal document or other communication **you** receive about the event and supply **us** with all information **we** require to settle the claim.

1.26 Making a claim

Contact your broker immediately to notify them of a potential claim.

1.27 Minimise loss

You must take all reasonable precautions to minimise or prevent further loss or damage.

1.28 Notify claim

You must notify **us** in writing immediately of every occurrence claim, writ, summons, proceeding, impending prosecution, and/or inquest and give **us** all the known details of the event even if **you** believe any claim amount may fall below **your deductible**.

1.29 Paying your deductible

You must pay the deductible that applies to each occurrence within 14 days of receiving the request to pay. **We** will tell **you** how to pay your deductible and who to pay it to.

Cover provided under this **policy** will not be available until the deductible has been paid.

1.30 Retain and preserve all property

You must use **your** best endeavours to preserve all property, products, plant and all other things that may assist **us** in investigating or defending a claim against **you**, including assisting in determining if there are rights of recovery against another entity or person.

You must not without **our** written consent carry out any alteration or repair until we have had an opportunity to inspect such property, products or plant;

1.31 Rights of recovery

We have the right to take action or institute legal proceedings, in your name, for the recovery of payments made and expenses incurred in relation to any claim insured by this **policy**, against any person, company or entity legally liable to **you** in respect of that claim.

You must provide **us** with full information and all reasonable assistance in the recovery of those payments or expenses.

You must not enter into any agreement or make any admissions that have the effect of limiting or excluding **your** rights and **our** rights to recover payments and expenses without first obtaining our approval in writing to do so.

General Definitions

General Definitions

These meanings apply to the following words or terms used in this **policy**.

2.1 Act of Terrorism

an act, including but not limited to the use of force or violence and/or the threat of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government which from its nature or context is done for, or in connection with political, religious, ideological, ethnic or similar purposes including the intention to influence any government and/or to put the public, or any section of the public in fear.

2.2 Advertising Liability or Advertisement

liability arising out of one or more of the following:

- a. defamation;
- b. infringement of copyright, title or slogan;
- c. unfair competition, misappropriation of advertising ideas or style of doing business;
- d. invasion of privacy committed or alleged to have been committed in any **advertisement** and arising out of any advertising activities conducted by **you** or on **your** behalf, in the course of carrying out **your business**.

For the purposes of this Definition, **advertisement** means any manner of communication given to the public including by way of any form of print media, publication, telecommunication, radio or television broadcast, electronic mail, internet, world wide web or exhibit.

2.3 Aircraft

any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.

2.4 Business

The **business(es)** shown and described on the **policy schedule** including the provision and management of canteens, social, sports and welfare organisations for the benefit of **your employees**, first aid, fire and ambulance services (formed with **your** consent) and the maintenance of **your** premises.

2.5 Compensation

monies paid or agreed to be paid by judgment, award or settlement for

personal injury, property damage and/or advertising liability.

Provided that **compensation** is only payable in respect of an **occurrence** to which this **policy** applies.

2.6 Deductible

the amount **you** first bear in relation to each **occurrence**. The **deductible** applies to all amounts payable under this **policy** including the indemnity provided under clause 3.3 'Defence of Claims'.

2.7 Electronic Data

facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instruction for such equipment.

2.8 Endorsement/s

Documentary evidence of an alteration to the **policy** which forms part of the **policy**.

2.9 Employee/ Employees

any person or persons engaged by **you** under a contract of service or apprenticeship, but does not include any person employed under such contract who is excluded from the definition of worker under any workers' compensation legislation.

2.10 Employment Practices

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 **you**.

2.11 Hovercraft

any vessel, craft or thing made or intended to transport persons or property over land or water supported on a cushion of air.

2.12 Incidental Contracts

- a. any written rental agreement or lease of real or personal property not requiring an obligation to insure such property or be strictly liable regardless of fault;
- b. any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services,

General Definitions

2.12 Incidental Contracts cont	<p>except those contracts in connection with work done for such authorities or entities;</p> <p>c. any written contract with any railway authority for the loading, unloading and/or transport of products, including contracts relating to the operation of railway sidings.</p>		<p>d. the effects of the publication or utterance of defamatory or disparaging material;</p> <p>e. the effects of assault and battery not committed by you or at your direction unless reasonably committed for the purpose of preventing or eliminating danger to persons or property.</p>
2.13 Limit of Liability	the applicable limit of liability specified in the policy schedule	2.18 Policy	this booklet, your policy schedule and any endorsement attached or intended to be attached to it.
2.14 Medical Persons	qualified medical practitioners, nurses, dentists and first aid attendants.	2.19 Policy Schedule	The record of the particulars of your insurance which forms part of this policy . The policy schedule is issued when we have accepted your insurance. At each renewal of your policy , the renewal schedule becomes your current policy schedule .
2.15 Occurrence	<p>an event which results in personal injury or property damage or advertising liability, neither expected nor intended from your standpoint. All personal injury or property damage or advertising liability arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one occurrence.</p> <p>With regards to advertising liability, all liability arising out of the same injurious material or act regardless of the number or kind of media used, the frequency or repetition thereof and number of claimants shall be deemed to be one occurrence.</p>	2.20 Pollutants	any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.
2.16 Period of Insurance	the period shown in the policy schedule at your principal place of business .	2.21 Products	any goods, products and property (after they have ceased to be in your possession or under your control), which are or is deemed to have been manufactured, grown, extracted, produced, processed, constructed, assembled, erected, installed, repaired, serviced, treated, sold, supplied or distributed by you (including any container thereof other than a vehicle).
2.17 Personal Injury	<p>a. bodily injury (and this expression includes death and illness), disability, shock, fright, mental anguish, mental injury. In the event of any claims, for Personal Injury arising from latent injury, latent disease or latent sickness, each claim shall be deemed to have first happened on the day such injury, disease or sickness was first medically diagnosed provided that such diagnosis first occurred during the period of insurance;</p> <p>b. the effects of false arrest, wrongful detention, false imprisonment or malicious prosecution;</p> <p>c. the effects of wrongful entry or eviction;</p>	2.22 Property Damage	<p>a. physical damage to or physical loss or physical destruction of tangible property including any resulting loss of use of that property;</p> <p>b. loss of use of tangible property which has not been physically damaged, lost or destroyed provided such loss of use is caused by an occurrence.</p>
		2.23 Subsidiary	<p>a. any entity which by virtue of any applicable legislation or law is deemed to be your subsidiary (where you are a company);</p> <p>b. any entity over which you (where you are a company) are in a position to exercise effective direction or control.</p>

General Definitions

2.24 Territorial limits	anywhere in the world subject to the Territorial Limits Exclusion		
2.25 Tool of Trade	a vehicle which has a tool or plant forming part of, attached to, or used in connection with it while such tool or plant is engaged on a work site. Tool of trade does not include any vehicle whilst travelling to or from a work site, or vehicles that are used to carry goods to or from any premises.		i. where you assume active control of, or are required to arrange insurance for the partnership, joint venture, co venture or joint lease;
2.26 Vehicle	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 made or intended to be drawn by any such machine.		ii. with respect to liability incurred as the partnership, joint venture, co-venture or joint lease;
2.27 Watercraft	any vessel, craft or thing made or intended to float on or in or travel on or through or under water.		f. every office bearer or member of social and sporting clubs, canteen and welfare organisations and first aid, fire and ambulance services formed with your consent (other than the parties shown in this Definition 2.29 d) or e) in respect of claims arising from their duties connected with the activities of any such club, organisation or service;
2.28 We, Our, Us, Insurer/s	certain underwriters at Lloyd's via Focus Underwriting		g. any director or senior executive of the parties shown in this Definition 2.29 a) and b) in respect of private work undertaken by your employees for such director or senior executive;
2.29 You, Your, Yours, Insured	<ul style="list-style-type: none"> a. the person(s), companies or firm(s) named on the policy schedule as the insured; b. all the Subsidiary companies (now, previously or subsequently constituted) of the insured named on the policy schedule, provided their places of incorporation are within Australia or any Territory of Australia; c. every director, executive officer, employee, volunteer, work experience student, partner or shareholder of the parties shown in this Definition 2.29 a) and b), but only while acting within the scope of their duties in such capacity; d. every principal, in respect of that principal's vicarious liability for the acts or omissions of the parties shown in this Definition 2.29 a) and b) in the performance by them of work for that principal, but subject always to the extent of coverage and the limit of liability provided by this policy; e. each partner, joint venture partner, co venturer or joint leasee of the parties shown in this Definition 2.29 a) and b) but only: 		<p>'You, Your, Insured' does not include the interest of any other person other than as described in this Definition.</p>

Policy Coverage

Your insurance under this policy

3.1 What we cover

We will cover **your** legal liability to pay:

- a. all sums by way of **compensation**, and
- b. all costs awarded against **you**

in respect of:

- a. **Personal injury**
- b. **Property damage**
- c. **Advertising liability**

first happening during the **period of insurance** and caused by an **occurrence** within the **territorial limits** in connection with **your business**.

What we pay

3.2 Limit of liability

Our maximum liability in respect of any claim or any series of claims for **personal injury, property damage** or **advertising liability** caused by or arising out of one **occurrence** will not exceed the **limit of liability** shown on **your policy schedule**.

Our total aggregate liability during any one **period of insurance** for all claims arising out of **your products** will not exceed the **limit of liability** shown on **your policy schedule**.

3.3 Defence of claims

If **we** agree to cover **you we** will:

- a. defend in **your** name and on **your** behalf any claim or legal action against **you** seeking damages for **personal injury, property damage** or **advertising liability** even if the action is groundless, false or fraudulent, and **we** will investigate, negotiate and settle any claim or legal action as **we** see fit;
- b. pay all legal costs and expenses incurred by **us** and all interest accruing after entry of judgement until **we** have paid, tendered or deposited in court such part of the judgement as does not exceed the **limit of liability**;
- c. reimburse **you** for all reasonable expenses, other than loss of earnings, incurred by **you** with **our** consent in connection with the defence of a claim or legal action;
- d. pay reasonable expenses incurred by **you** for first aid to others at the time of a **personal injury** caused by an **occurrence** (other than medical expenses prohibited by Law).
- e. pay up to \$25,000 in respect of each claim or series of claims arising out of any one **occurrence** and in the aggregate during the **period of insurance** for reasonable professional fees and such other expenses incurred by **you** for the preparation of a claim under the **policy** with **our** prior written agreement.

We will do this, provided that:

We will not be obliged to pay any claim or judgment or to defend any claim or legal action after the **limit of liability** has been exhausted by payment of judgments or settlements.

If a payment exceeding the **limit of liability** has to be made to dispose of a claim, **our** liability to pay any costs, expenses and interest under this Clause 3.2 'Defence of Claims' a) to d) will be limited to that proportion of those costs, expenses and interest as the **limit of liability** bears to the amount paid to dispose of the claim.

Any amount **we** pay, other than payments in settlement of claims, suits and all costs awarded against **you**, are payable over and above the **limit of liability** set out in the **policy schedule**.

Deductible

The **deductible** that applies to any claim made on this **policy** is shown on **your policy schedule**.

If more than one **deductible** is payable for any claim, or series of claims arising from the one **occurrence you**:

- a. must pay the highest **deductible**, but
- b. pay only one **deductible**.

General Exclusions

General Exclusions

These exclusions apply to this **policy**.

This **policy** does not cover liability in respect of:

4.1 Advertising liability

Advertising liability

- a. resulting from statements made at **your** direction with knowledge that such statements are false;
- b. resulting from failure of performance of contract. Provided that this Exclusion 4.1 b) shall not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract;
- c. resulting from any incorrect description of **products** or services;
- d. resulting from any mistake in advertised price of **products** or services;
- e. failure of **your products** or services to conform with advertised performance, quality, fitness or durability;
- f. liability incurred by **you** if **your business** is **advertising**, broadcasting, publishing or telecasting.

4.2 Aircraft, aircraft products, watercraft and hovercraft

Claims arising out of:

- a. the ownership, maintenance, operation or use by **you** or on **your** behalf of any **aircraft**;
- b. the ownership, operation or use by **you** or on **your** behalf of:
 - i. any **watercraft** exceeding 10 metres in length, except where such **watercraft** are owned and operated by others and used by **you** for **business** entertainment;
 - ii. **hovercraft**.
- c. **your products** that are **aircraft** or **aircraft** component parts used for maintaining an **aircraft** in flight or moving upon the ground or used in the construction of an **aircraft** hull or machinery which to **your** knowledge are incorporated in an **aircraft**.

4.3 Asbestos

Claims directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by asbestos in whatever form or quantity.

4.4 Assault and battery

Personal injury or **property damage** caused by or arising from assault and battery committed by **you** or at **your** direction.

Provided that this Exclusion 4.4 does not apply to the '**you, your, insured**' Definition 2.29 a), b) and f) where reasonably necessary for the protection of persons or property.

4.5 Contractual liability

Any obligation assumed by **you** under any contract or agreement that requires **you** to:

- a. effect insurance over property, either real or personal;
- b. assume liability for, **personal injury, property damage** or **advertising liability** regardless of fault.

Provided that this Exclusion 4.5 shall not apply with regard to;

- a. liabilities which would have been implied by law in the absence of such contract or agreement;
- b. liabilities assumed under **incidental contracts**;
- c. terms regarding merchantability, quality, fitness or care of **your products** which are implied by law or statute;
- d. the obligation is assumed under those agreements specified in the **policy schedule**.

4.6 Defamation

For defamation:

- a. made prior to the commencement of the **period of insurance**,
- b. made by **you** or at **your** direction with knowledge of its falsity,
- c. if **your business** is **advertising**, broadcasting, publishing or telecasting.

4.7 Electronic data

- a. communication, display, distribution or publication of **electronic data**, provided that this Exclusion 4.7 a) does not apply to **personal injury** or **advertising liability** resulting therefrom;
- b. total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation, or misappropriation of **electronic data**;
- c. error in creating, amending, entering, deleting or using **electronic data**;
- d. total or partial inability or failure to receive, send, access or use **electronic data** for any time or at all;

from any cause whatsoever, regardless of any other contributing cause or event whenever it may occur.

4.8 Employment liability

- a. **Personal injury** to any of **your employees** arising out of, or in the course of their employment in **your business**;
- b. **Personal injury** to any person who is deemed to be **your employee** pursuant to any legislation relating to workers' compensation;

General Exclusion

- c. which **you** are entitled to seek indemnity under any policy of insurance required to be taken out pursuant to any legislation relating to workers' compensation, whether or not **you** are a party to such policy of insurance;
- d. the provisions of any workers' compensation legislation or any industrial award or agreement or determination;
- e. Employment practices.

4.9 Faulty workmanship

The cost of performing, correcting, improving or replacing any work undertaken by **you** or on **your** behalf.

4.10 Fines, penalties, punitive, exemplary or aggravated damages

Fines, penalties punitive, exemplary or aggravated damages and any additional damages resulting from the multiplication of compensatory damages.

4.11 Liquidated damages

Liquidated damages clauses, penalty clauses or performance warranties except to the extent that such liability would have attached in the absence of such clauses or warranties.

4.12 Loss of use

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

- a. a delay in or lack of performance by or on **your** behalf of any agreement;
- b. the failure of **your products** to meet the level of performance, quality, fitness or durability expressed or implied, or warranted or represented by **you**. Provided that this Exclusion 4.12 b) does not apply to the loss of use of other tangible property resulting from the sudden unintended and unexpected physical damage to or loss or destruction of **your products** after they have been put to use by any person or organisation other than **you** as specified within Definition 2.29 a) and b) of '**you**', '**your**' or '**insured**'.

4.13 Participation

Personal injury to any person caused by or arising out of the participation of such person in any game, match, race, practice, trial, training, competition, warm ups, warm downs and other preliminary activities unless such **personal injury** is as a result of **your** negligence in regard to the facility provided.

4.14 Pollution

- a. **personal injury** or **property damage** directly or indirectly 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. Provided that this Exclusion 4.14 a) 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 and which occurs outside of the United States of America or Canada;
- b. any costs and expenses incurred in the prevention, removing, nullifying or clean-up of such contamination or pollution. Provided that this Exclusion 4.14 b) 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 personal injury and/or property damage and which occurs outside of the United States of America or Canada
- c. the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of pollutants caused by your product that has been discarded, dumped, abandoned or thrown away by you or on your behalf.
- d. **Our** liability under this Exclusion 4.14 a) and b) in respect of any one discharge, dispersal, release, seepage, migration or escape and for all discharges, dispersals, releases, and escape of pollutants during any one period of insurance will not exceed the **limit of liability**.

4.15 Product defect

Property damage to **your** products if the damage is resultant from any defect in them or to their harmful nature or unsuitability.

4.16 Product recall

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

4.17 Professional liability

The rendering of or failure to render professional advice or service by **you** or any related error or omission, provided that this Exclusion 4.17 shall not apply to:

- a. **personal injury** and/or **property damage** arising from such rendering of or failure to render professional advice or service, providing such professional advice or service is not given for a fee;
- b. medical advice by **medical persons** employed by **you** to provide first aid and other medical services on **your** premises providing **your business** is not involved in the provision of medical services.

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4.18 Property in custody or control

Property damage to:

- a. property owned by or leased or rented to **you**;
- b. property in **your** physical or legal control.

Provided that this Exclusion 4.18 does not apply to liability for **property damage** to:

- a. premises (including landlord's fixtures and fittings) which are leased or rented to **you**;
- b. premises (or their contents) not owned, leased or rented by **you** but temporarily occupied by **you** for work therein;
- c. **vehicles** (not belonging to or used by **you**) in **your** physical or legal control where the **property damage** occurs while the **vehicles** are in a car park owned or operated by **you**, unless **you** own or operate the car park for reward;
- d. the property of an **employee**, or of the parties shown in Definition 2.29 a) and b) '**you**', '**your**' or '**insured**';
- e. other property temporarily in **your** physical or legal control provided no indemnity is granted for liability in respect of physical damage to or destruction of that part of any property upon which **you** are or have been working on and our limit under this Exclusion e) does not exceed \$250,000 for any one **occurrence**.

Provided that there will be no cover under this Exclusion 4.18 in respect of liability assumed by **you** under any contract or agreement which requires **you** to effect material damage insurance on premises, property or goods which **you** do not own.

4.19 Radioactivity

Liability directly or indirectly caused by, contributing to or arising from:

- a. ionising radiations or contamination by radioactivity 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;
- b. the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof.

4.20 Sanctions

Any claim or provide any benefit and there is no provision of coverage, 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 Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

4.21 Territorial limits

- a. claims made or actions instituted within any Country, State or Territory (outside Australia) where the laws of that Country, State or Territory require insurance to be effected or secured with an insurer or organisation licensed in that Country, State or Territory to grant such insurance;
- b. 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;
- c. claims and actions to which the laws of the United States of America or Canada apply.

Provided that Exclusion 4.21 b) and c) do not apply to:

- a. claims and actions arising from the presence outside Australia of any of **your employees** and/or directors or partners who are normally resident in Australia and who are not undertaking manual work or supervision work of any kind while in the United States of America or Canada;
- b. claims for **personal injury, property damage** or **advertising liability** caused by or arising out of **your products** not knowingly exported by **you** or on **your** behalf to the United States of America or Canada.

The **limit of liability** in respect of coverage provided under Exclusion 4.21 a) and b) is inclusive of all costs, expenses and interest as set out in Clause 3.3 'Defence of claims' of this **policy**.

4.22 Terrorism

Loss, damage, liability, cost or expense of any nature directly or indirectly caused by, resulting from or in connection with any **act of terrorism**, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This Exclusion 4.23 also excludes loss, damage, liability, cost or expense of any nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any **act of terrorism**.

4.23 Tobacco

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

- a. tobacco or tobacco smoke;
- b. any ingredient or additive present in any articles, items or goods which contain or include tobacco.

General Exclusion

4.25 Vehicles

Personal injury or property damage arising out of the ownership, possession, operation, or use by **you** or on **your** behalf of any **vehicle**:

- a. which is registered or which is required under any legislation to be registered;
- b. in respect of which compulsory liability insurance or statutory indemnity is required by virtue of any legislation (whether or not that insurance is effected).

Exclusion 4.25 a) and b) do not apply to:

- a. **personal injury** where that compulsory liability insurance or statutory indemnity does not provide indemnity and the reason or reasons why that compulsory liability insurance or statutory indemnity does not provide indemnity does not involve a breach by **you** of legislation relating to **vehicles**;
- b. **property damage** arising out of and during the loading or unloading of goods to or from any **vehicle**; **property damage** caused by or arising from the operation or use of any **vehicle** which is designed primarily for lifting, lowering, loading, unloading, while being operated or used by **you** or on **your** behalf within the confines of **your** premises;
- c. **property damage** caused by or arising out of the use of:
 - i. any **vehicle** whilst being used as a tool of trade;
 - ii. plant forming part of **your vehicle** being used as a tool operating at any worksite; but excluding **property damage** caused by or arising whilst the **vehicle** is transporting or carting goods

4.26 War

Invasion, acts of foreign enemies, hostilities or war-like 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, confiscation or nationalisation or requisition or destruction or damage to property by or under the order of any government or public or local authority.