



ARBORIST & TREE LOPPER LIABILITY

PUBLIC LIABILITY POLICY WORDING

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THE INSURERS

The insurers of this Policy:

- Certain Underwriters at Lloyd's

THE AGENT(S)

Tailored Underwriting (AFSL 260668 , ABN 61 106 769 886)

Tailored Underwriting is a division of Cerberos Brokers Pty Ltd ABN 61 106 769 886, AFSL 260668 (hereinafter Tailored Underwriting) are the appointed insurer intermediary. In arranging this insurance Tailored Underwriting are acting as agent for the Insurer and not as Your agent. Tailored Underwriting are not the Insurer for this contract and they are not liable for any loss or claim. The Insurers are clearly shown on the Schedule.

Phone: 1300 880306

Fax: (07) 3088 2079

Post: PO Box 1305, Spring Hill, Qld 4004

CLAIMS

For all claims contact:

Proclaim Management Solutions

Mail: Level 2, 134 Flinders Street, Melbourne, Vic 3000

Phone: Free call 1300 552 446

Fax: 1300 858 329

BROADFORM LIABILITY INSURANCE POLICY

The Underwriters in return for the payment of the premium by or on behalf of the Insured and subject to the terms, definitions, limits of liability, exclusions and conditions of this policy agree to provide the insurance as stated in this policy.

This policy the proposal the Schedule including any Schedule issued in addition or substitution and any endorsements or memoranda shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears.

IMPORTANT NOTICES

THIS POLICY

This Policy is an important document and should be kept in a safe place. Please read it carefully so that You understand the insurance provided.

YOUR 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.

MONEY BACK GUARANTEE

If for any reason You are not completely satisfied with this insurance contract, the Schedule may be returned to Us within fourteen (14) days of its receipt and subject to no claim having been made, We will cancel the Schedule and refund in full any premium paid.

GENERAL INSURANCE CODE OF PRACTICE

The Insurance Industry has developed the General Insurance Code of Practice. The Code aims to raise the standards of practice and service in the Insurance Industry and it includes the following:

When You lodge a Claim, We will tell You in plain language, what information We need and how You should go about making the claim.

We will respond promptly to any request made for assistance with the claim and each will be considered and assessed promptly.

A copy of the Code can be obtained from www.codeofpractice.com.au or from us upon request.

COMPLAINTS PROCEDURE/DISPUTE RESOLUTION

Any inquiry or complaint relating to this insurance should be referred to Tailored Underwriting in the first place.

We undertake to provide You with a response to any complaint made within fifteen (15) business days.

If Our response to Your complaint or to any dispute does not resolve the matter for You, the next step is for You to contact:

Lloyd's Underwriters' General Representative in Australia
Level 9
1 O'Connell Street
Sydney NSW 2000
Telephone: [02] 8298 0783
Fax: [02] 8298 0788
Email: idraustralia@lloyds.com

Lloyd's Underwriters' General Representative has the authority to review Your unresolved complaint and will provide You with a response within fifteen (15) business days of receiving notification of the dispute.

If You are still dissatisfied, the dispute may be referred, at no cost, to the Financial Ombudsman Service operated under the terms of the General Insurance Code of Practice.

PRIVACY

We handle your personal information with care and in accordance with the Privacy Act 1988 and the Australian Privacy Principles. We collect personal information about you to provide you with insurance and insurance related services. We may disclose your personal information to third parties for the purposes described in our Privacy Policy, including related entities, insurers, reinsurers, agents and service providers, some of whom may be located in the United Kingdom. By asking us to provide you with insurance and insurance related services, you consent to the collection, use and disclosure (including overseas disclosure) of your personal information for the purposes described in our Privacy Policy. Where you provide personal information about others, you represent to us that you have made them aware of that disclosure and of our Privacy Policy and that you have obtained their consent. If you do not consent to provide us with the personal information that we request, or withdraw your consent to the use and disclosure of your personal information at any stage, we may not be able to offer you the products or provide the services that you seek. For information about how to access and or correct the personal information we hold about you or if you have any concerns or complaints, ask us for a copy of our Privacy Policy.

AUSTRALIAN TERRORISM INSURANCE ACT

The Underwriters have treated this insurance (or part of it) as an insurance to which the *Australian Terrorism Insurance Act 2003* as amended [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 Policy 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 Policy 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, insurance coverage and Exclusions of this Policy including applicable limits and excesses 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".

INTERPRETATION

In this Policy:

- (i) Reference to a person includes any other entity recognised by law and vice versa.
- (ii) Words importing the singular number include the plural and vice versa

- (iii) Any reference to any of the parties to the Policy by their defined terms includes that party's executors, administrators or permitted assigns, or being a company, its successors or permitted assigns.
- (iv) Words importing one gender include every gender; and
- (v) Clause headings are for reference purposes only.

DEFINITIONS

These definitions are applicable to this policy wherever the words start with a capital letter, and are subject to the terms, conditions, limits and exclusions of the policy.

1. Advertising Liability

Means:

- a. libel, slander or defamation;
- b. infringement of copyright or of title or slogan;
- c. piracy or unfair competition or idea misappropriation under an implied contract;
- d. invasion of privacy

committed or alleged to have been committed during the Period of Insurance in any advertisement, publicity article, broadcast or telecast and arising out of the Insured's advertising activities or any advertising activities conducted on behalf of the Insured in the course of advertising the Insured's Products, goods or services.

2. Aircraft

Means any vessel, hovercraft, craft or thing designed to transport persons or property in or through the air or space.

3. Business

Means the business stated in the Schedule and shall include the activities of any canteen, social, sports, welfare, and/or child care organisation or first aid, medical, fire or ambulance services.

4. Excess

Means the first amount payable by the Insured in respect to each Occurrence and includes all Supplementary Payments.

5. Insured / You / Your

Means each of the following to the extent set forth below:

- a. the Named Insured stated in the Schedule;
- b. all subsidiary companies (now or hereafter constituted) of the Named Insured whose place of incorporation is within Australia and whose business falls within the definition of the Named Insured's Business;
- c. any director, executive officer, employee or partner of the Named Insured or of any company designated in paragraph b. above but only while acting within the scope of their duties in such capacity;
- d. any principal in respect of the liability of such principal arising out of the performance by the Named Insured or by any company designated in paragraph b. above of any contract or agreement for the performance of work for such principal, to the extent required by such contract or agreement;
- e. any incorporated or unincorporated association or organisation including their office bearers and members organised by the Insured (other than an Insured designated in paragraph d. above) or their employees with the consent of the Insured for the purpose of providing canteen, social, sports, welfare and/or child care organisations or first aid, medical, fire or ambulance services for such employees.

6. Insured's Products

Means anything, including any packaging or container thereof (after it has ceased to be in the possession or control of the Insured) manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied, resupplied or distributed by the Insured including all previously supplied products.

7. Medical Persons

Means medical doctors, medical nurses, dentists and first aid attendants.

8. Occurrence(s)

Means an event including continuous or repeated exposure to substantially the same general conditions, which causes Personal Injury, Property Damage or Advertising Liability which is not expected or intended from the standpoint of the Insured.

9. Period of Insurance

Means the duration of this policy as stated in the Schedule incorporated into the policy.

10. Personal Injury

Means:

- a. bodily injury, death, sickness, disease, disability, shock, fright, mental anguish or mental injury;
- b. false arrest, false imprisonment and malicious prosecution;
- c. libel, slander, defamation of character (other than Advertising Liability);
- d. wrongful entry or wrongful eviction or other invasion of the right of private occupancy;
- e. assault and battery not committed by or at the direction of the Insured unless committed for the purpose of preventing or eliminating danger to persons or property;

which occurs during the Period of Insurance.

11. Pollution Liability

Means Personal Injury or Property Damage arising from pollution or contamination of the atmosphere or of any water, land or other tangible property.

12. Products Liability

Means Personal Injury or Property Damage:

- a. caused by any defect, or the harmful nature of any of the Insured's Products;
- b. resulting from any defect or deficiency in any direction or advice given at any time, or intended to be given by the Insured concerning the use or storage of the Insured's Products.

13. Property Damage

Means:

- a. physical injury to or destruction or loss of tangible property which occurs during the Period of Insurance and any loss of use of that property resulting therefrom; or
- b. loss of use of tangible property which has not been physically injured or destroyed or lost which is caused by physical injury to or destruction or loss of other tangible property which occurs during the Period of Insurance.

14. Public Liability

Means liability covered by this policy other than Products Liability, Advertising Liability, or Pollution Liability.

15. Schedule

Means new policy schedule, renewal schedule or endorsement schedule issued by the Underwriters.

16. Territorial Limits

This policy applies in respect of Occurrences anywhere in the world but does not apply to or insure any liability or claims arising from or in respect of:

- a. the Business carried on by the Insured at or from any premises situated outside Australia; or
- b. any contract entered into by the Insured under the terms of which work is to be performed outside Australia, unless specifically noted in the Schedule.

17. Terrorism

Means an act of terrorism 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), 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.

18. Tool of Trade

Means any vehicle which has a tool or plant forming part of or attached to or used in connection with it while such tool or plant is engaged on or about or in close proximity to or travelling to and from a work site, but does not include vehicles whilst used for transport or haulage, excluding whilst at the worksite or about or in close proximity to the worksite.

19. Underwriters / We / Our / Us

Means the Underwriters specified in the Schedule incorporated into the policy.

20. Vehicle

Means any type of machine on wheels or on caterpillar tracks made or intended to be propelled other than by manual or animal power.

21. Watercraft

Means any powered vessel, craft or thing made or intended to float on or in or travel on or through water.

INSURING AGREEMENT

The Insured named in the Schedule having made to the Underwriters a written proposal which is deemed to be incorporated herein and having paid the premium stated in the Schedule then subject to the terms, conditions and exclusions contained in or endorsed on this policy the Underwriters will pay to or on behalf of the Insured all sums provided by the policy which the Insured shall become legally liable to pay as compensation for:

- a. Personal Injury; or
- b. Property Damage; or
- c. Advertising Liability

caused by an Occurrence within the Territorial Limits as stated herein in connection with the Insured's Business.

LIMIT OF LIABILITY

The limit of the Underwriters liability in respect of anyone Occurrence shall not exceed the Limit of Liability stated in the Schedule for Public Liability, Products Liability, Advertising Liability or Pollution Liability.

All Personal Injury and Property Damage arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one Occurrence.

The total aggregate limit of the Underwriters during anyone Period of Insurance for all claims arising out of the Insured's Products including Advertising Liability and Pollution Liability shall not exceed the Limit of Liability stated in the Schedule.

SUPPLEMENTARY PAYMENTS

The Underwriters will pay in addition to the applicable Limit of Liability all expenses incurred defending in the name of and on behalf of the Insured any claim or suit against the Insured to recover compensation in respect of and/or arising out of Occurrences covered hereby.

The Underwriters will also pay in addition to the Limit of Liability expressed in the Schedule:

- a. for immediate medical and/or surgical aid made necessary by any Occurrence covered hereby;
- b. all expenses incurred by or with permission of the Underwriters for investigation, negotiation and defence of claims and suits;
- c. all expenses incidental to the appeal from any judgement against the Insured, and all costs taxed against the Insured, in any suit for damages on account of any judgement in such suits;
- d. all expenses incurred by the Underwriters or the Insured for representation of the Insured at any coroner's inquest or court of criminal justice plus all expenses incidental to the appeal from any judgement.

UNITED STATES OF AMERICA OR CANADA SUPPLEMENTARY PAYMENTS

In respect of any claim judgement award payment or settlement pursuant to or made in any country or territory which operates under the laws of the United States of America or Canada or any order made anywhere in the world to enforce such judgement award or settlement either in whole or in part then all costs and expenses incurred in respect of any such claim judgement award payment or settlement including the investigation and defence of such claim shall be part of and not in addition to the Limit of Liability provided by this policy.

EXCLUSIONS

The Underwriters shall not be liable to indemnify the Insured in respect of:

1. Workers Compensation Law

- a. liability for Personal Injury to any person arising out of, or sustained in the course of, the employment of such person in the Insured's service, or through the breach of any duty owed to that person, where the Insured:
 - i. is indemnified or entitled to be indemnified (either in whole or In part) in respect for claims for damages under a policy of insurance (which expression includes arrangements made by the Insured to provide accident insurance for the Insured's workers under a licence to self insure) arranged (whether required by law or not) in accordance with any workers' compensation legislation or accident compensation legislation; or
 - ii. would have been indemnified or entitled to be indemnified had the Insured arranged a policy of insurance as required by such legislation;
- b. liability for Personal Injury to any person arising out of, or sustained in the course of, the employment of such person in the Insured's service;
- c. liability for mental anguish suffered by any person arising out of, or in the course of, that persons employment by or service to the Insured;
- d. liability for Personal Injury arising out of the harassment, libel, slander, defamation or humiliation of, or discrimination against, any person while in the Insured's service or while employed by the Insured;
- e. liability of a type in respect of which indemnity previously would have been provided under a policy of insurance arranged in accordance with any workers' compensation legislation or accident compensation legislation, but in respect of which indemnity has been withdrawn or reduced as a consequence of a change to the scope, terms, provisions or requirements of such legislation made after the commencement of the current Period of Insurance; and
- f. any other liability imposed by the provisions of any workers' compensation legislation or accident compensation legislation or industrial award, agreement or determination or unemployment compensation legislation and benefits law legislation.

2. Motor Vehicles

liability to pay compensation for Personal Injury or Property Damage arising out of the ownership, possession, operation, use or legal control by the Insured of any Vehicle:

- a. which is registered; or
- b. in respect of which insurance is required by virtue of any legislation relating to motor vehicles; or
- c. which is otherwise insured in respect of the same liability;

provided that this Exclusion does not apply to Vehicles whilst being operated or used by the Insured as a Tool of Trade solely on a contract site.

3. Aircraft and Watercraft

liability to pay compensation for Personal Injury or Property Damage arising from the ownership, maintenance, possession, operation, use or legal control by the Insured of:

- a. any Aircraft; or
- b. any Watercraft or vessel exceeding eight (8) metres in length.

4. Property in Physical or Legal Control

Property Damage to property owned by or leased or rented to the Insured, or property in the physical or legal control of the Insured. This exclusion does not apply to liability for Property Damage to:

- a. premises or part of premises (including landlords fixtures and fittings) which are leased, rented or loaned to the Insured for the purpose of the Business.
- b. premises or their contents not owned or leased by or rented to the Insured but temporarily occupied by the Insured for the purpose of carrying out work.
- c. any Vehicle not belonging or used by the Insured which is in the physical and legal control of the Insured where the Property Damage occurs in a car park or premises owned or operated by the Insured, unless operated as a commercial car park.
- d. property of employees.

- e. other property temporarily in the physical or legal control of the Insured provided no indemnity is granted for liability in respect of physical damage to or destruction of that part of any property upon which the Insured is or has been working and our limit under this clause does not exceed AUD 100,000 (unless amended and shown in the Schedule) for any one Occurrence(s) and in the aggregate for any one Period of Insurance.

provided that no indemnity is granted to the Insured under this policy in respect of any liability assumed by the Insured under any contract or agreement that requires the Insured to effect material damage insurance on premises, property or goods that the Insured does not own.

5. Faulty Workmanship

any liability for the cost of re-performing, completing, correcting or improving any work done or undertaken by the Insured.

6. Damage to Insured's Products

liability to pay compensation for:

- a. physical injury to or destruction or loss of the Insured's Products or any part of those Products arising out of them or any part of them;
- b. loss of use of any tangible property caused by physical injury to or destruction or loss of the Insured's Products or any part of those Products arising out of them or any part of them.

7. Product Recall and Repair

liability to pay compensation for damages claimed for the withdrawal, inspection, repair, replacement or loss of use of the Insured's Products.

8. Aircraft Products

any liability arising out of the selling, leasing, hiring or manufacture and/or supply of parts and/or products that are used with the Insured's knowledge in Aircraft or any aerial device.

9. Contractual Liability

liability to pay compensation for Personal Injury, Property Damage or Advertising Liability where the liability has been assumed solely under an agreement unless such liability:

- a. would have attached in the absence of such agreement; or
- b. is assumed by the Insured under a warranty of fitness or quality, or is implied by law, in respect of the Insured's Products; or
- c. is assumed under the contracts specifically designated in the Schedule or in any endorsement(s) to this policy.

10. Professional Liability

liability to pay compensation for the rendering of or failure to render professional advice or service by the Insured or error or omission connected therewith, but this Exclusion does not apply to:

- a. the rendering of or failure to render professional medical advice by Medical Persons employed by the Insured to provide first aid and other medical services on the Insured's premises; or
- b. advice given where no fee is involved or where advice is given in connection with the Insured's Products.

11. Libel and Slander

any liability to pay compensation arising out of the publication or utterance of a libel or slander:

- a. made prior to the policy commencing on the date stated in the Schedule; or
- b. made at the direction of the Insured with the knowledge of the falsity thereof.

12. Fines and Punitive Damages

any liability for fines, penalties, liquidated damages and punitive aggravated or exemplary or multiple damages.

13. Pollution

- a. liability to pay compensation for Personal Injury or Property Damage caused by or arising directly or indirectly out of the actual, alleged or threatened discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids/alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon any property, land, the atmosphere or any watercourse or body of water (including groundwater) but this exclusion does not apply if the actual discharge, dispersal, release or escape:
 - i. is neither reasonably expected nor intended by the Insured; and
 - ii. is the consequence of a sudden and instantaneous cause which takes place at a clearly identifiable point in time during the Period of Insurance;
- b. liability for any costs or expenses incurred in the preventing, removing, nullifying, or cleaning up any discharge, dispersal, release or escape as described in a. above, unless such costs or

expenses are consequent upon an unexpected, unintended sudden and instantaneous cause which takes place at a clearly identifiable point in time during the Period of Insurance and results in Personal Injury or Property Damage neither of which is otherwise excluded by this Policy;

provided that the total aggregate liability of the Underwriters during anyone Period of Insurance in respect of all claims arising out of such Personal Injury or Property Damage or such costs or expenses shall not exceed the Limit of Liability stated in the Schedule.

UNITED STATES OF AMERICA OR CANADA SEEPAGE POLLUTION AND/OR CONTAMINATION EXCLUSION

Notwithstanding the forgoing, however, in respect of any claim, judgement, award, payment or settlement made in any country or territory which operates under the laws of the United States of America or Canada or any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part then this policy does not cover any legal liability for:

- a. Personal Injury or Property Damage or loss of use of property directly or indirectly caused by seepage pollution or contamination;
- b. the cost of removing nullifying or cleaning up seeping polluting or contaminating substances;
- c. fines or penalties in connection therewith.

14. Asbestos

- a. liability to pay compensation for Personal Injury or Property Damage caused by or arising directly or indirectly caused by or alleged to be caused by or contributed to in whole or in part by or arising from the existence of or exposure to asbestos and/or any asbestos containing materials.
- b. any obligation to defend any claim or suit against the Insured alleging liability resulting from (a) above nor to Underwriters' liabilities for Defence Costs arising therefrom.

15. Nuclear

liability to pay compensation for Personal Injury or Property Damage of whatsoever nature directly or indirectly caused by or contributed to by 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
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

16. War

liability to pay compensation for Personal Injury or Property Damage of whatsoever nature directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

17. Advertising Liability

liability to pay compensation for Advertising Liability arising from:

- a. offences committed prior to the inception date of this Policy;
- b. offences made at the direction of the Insured with knowledge of the illegality or falsity thereof;
- c. breach of contract, other than misappropriation of advertising ideas under an implied contract;
- d. incorrect description of the price of the Insured's Products, goods or services;
- e. infringement of trade mark, service mark or trade name by use thereof as the trade mark, service mark or trade name of the Insured's Products, goods or services sold, offered for sale or advertised, but this exception does not apply to titles or slogans;
- f. failure of the Insured's Products, goods or services to conform with advertised performance, quality, fitness or durability;
- g. any Insured whose business is advertising, broadcasting, publishing or telecasting.

18. Cyber Liability

liability arising out of business conducted or transacted via the internet intranet extranet or via the Insured's own website intranet site web address or via transmission of electronic mail or documents by electronic means. Where the liability of the Insured would have attached in the absence of the fact

that the Business is conducted in the aforesaid manner it is understood and agreed that this Exclusion does not apply and that the onus of proof rests with the Insured and not the Underwriters in this regard.

19. Terrorism

liability for loss, injury, damage, cost or expense of whatsoever 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 also excludes any liability for loss, injury, damage, cost or expense of whatsoever 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.

If the Underwriters allege that by reason of this exclusion any liability for loss, injury, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

20. Electronic Data

- a. liability for loss, damage, destruction, distortion, erasure, corruption or alteration of ELECTRONIC DATA from any cause whatsoever (including but not limited to COMPUTER VIRUS) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.
- b. ELECTRONIC DATA means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.
- c. COMPUTER VIRUS means a set of corrupting, harmful or otherwise unauthorised instructions or code including a set of maliciously introduced unauthorised instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. COMPUTER VIRUS includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs'.

However, in the event that a peril listed below results from any of the matters described in paragraph a) above, this Policy, subject to all its terms, conditions and exclusions, will cover physical damage occurring during the Policy period to property insured by this Policy directly caused by such listed peril.

Listed Perils

- i. Fire
- ii. Explosion

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:-

Should electronic data processing media insured by this Policy suffer physical loss or damage insured by this Policy, then the basis of valuation shall be the cost of the blank media plus the costs of copying the ELECTRONIC DATA from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling such ELECTRONIC DATA. If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. However this Policy does not insure any amount pertaining to the value of such ELECTRONIC DATA to the Insured or any other party, even if such ELECTRONIC DATA cannot be recreated, gathered or assembled.

21. Date Change Exclusion

liability or damages for any loss, destruction or damage, any consequential loss, any liability or any legal or defence costs or expenses of whatsoever nature directly or indirectly caused by or contributed to by or arising from or in anyway connected with the failure or inability of any computer or computer equipment (whether owned or operated by the Insured or not) correctly to:

- a. recognise and/or respond to a date or time as its true correct or intended calendar date or time;
- b. capture save or retain and/or manipulate interpret instruct or process any data and/or information and/or command or instruction as a result of treating any date otherwise than its true or correct calendar date;
- c. capture save retain or process any data as a result of the operation of any command which has been programmed into any computer software being a command which causes the loss of or distortion of data or inability to save retain or correctly to process such data on or after any date.

For the purposes of this Exclusion:

1. the word failure shall include any unintended consequences of processing any date or time;
2. the word computer shall include:
 - i. any computer data processing or storing equipment;
 - ii. any electronic or mechanical equipment linked to a computer or similar device;
 - iii. any computer software source code or programme language;
 - iv. any central processing unit integrated circuit microcontroller or microchip;
 - v. anything which relies on anything in i. to v. above for any part of its operation.

22. Biological or Chemical Materials

liability for loss, injury, 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.

23. North American Companies

liability arising from or in connection with any company domiciled or registered in the United States of America or Canada or their territories or possessions.

24. The Excess

the amount of the Excess stated in the Schedule. The Excess applies inclusive of Supplementary Payments.

25. Bushfire

liability for loss, injury, damage, cost or expense of whatsoever nature directly or indirectly caused by or in connection with any fire started or created by the Insured or any person or company acting on the Insured's behalf.

CONDITIONS

1. Claims Control

It is a condition precedent to liability under this policy that notice in writing shall be given as soon as possible to the Underwriters of every Occurrence, claim, writ, summons, impending proceedings, impending prosecution and/or inquest in respect of which there may arise a liability under this Policy. No admission offer, promise payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Underwriters, and if the Underwriters so desire they shall be entitled to take over and conduct in the Insured's name the defence or settlement of any claim and the Underwriters may make such investigation, negotiation and settlement of any claim or suit as they deem expedient.

The Insured shall use best endeavours to preserve any property, products, appliances, plant or other things which might prove necessary or useful by way of evidence in connection with any claim and so far as may be reasonably practicable no alteration or repair shall be effected without the Underwriters' consent until the Underwriters shall have had the opportunity of inspection.

The Underwriters shall be entitled to prosecute in the Insured's name at the Underwriters own expense and for the Underwriters own benefit any claim for indemnity for damages or otherwise. The Underwriters shall have full discretion in the conduct of any proceedings in connection with any claim and the Insured shall give all information and assistance as the Underwriters may require in the prosecution, defence or settlement of any claim.

In the event of an Occurrence, the Insured shall promptly take at the Insured's expense all reasonable steps to prevent other Personal Injury or Property Damage arising out of the same or similar conditions, but such expense shall not be recoverable under this policy.

The Underwriters shall be entitled to attend any inquest in respect of which there may arise liability under this policy.

2. Discharge of Liabilities

The Underwriters may at any time pay to the Insured in respect of all claims against the Insured arising directly or indirectly from the one source or original cause the amount of the liability or such other amount specified in respect thereof (after deduction of any sum or sums already paid by the Underwriters which sum or sums would reduce the amount of the Underwriters' unfulfilled liability in respect thereof) or any lesser sum for which the claim or claims can be settled and upon such payment the Underwriters shall relinquish conduct or control of and be under no further liability under the policy in connection with such claim or claims except for costs charges or expenses in respect of the period prior to the date of such payment (whether or not pursuant to an order made subsequently) or incurred by the Underwriters or by the Insured with the Underwriters written consent prior to the date of such payments.

3. Reasonable Care

The Insured shall:

- a. Take all reasonable precautions to:
 - i. prevent Personal Injury and Property Damage;
 - ii. prevent the manufacture, sale or supply of defective products; and
 - iii. comply and ensure that the Insured's workers, servants and agents comply with all statutory obligations, by-laws or regulations by any public authority in respect thereof for the safety of persons and property;
- b. at the Insured's 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.

4. Cross Liabilities

Where more than one party comprises the Insured each of the parties shall be considered as a separate and distinct unit and the word Insured shall be considered as applying to each party in the same manner as if a separate policy had been issued to each of the said parties provided that nothing in this clause shall result in the increase of the Underwriters Limit of Liability in respect of any Occurrence or Period of Insurance.

5. Alteration of Risk

Any alteration in any material fact or otherwise regarding construction methods or procedures or any other information contained in or omitted from any underwriting information supplied to the Underwriters shall not prejudice this policy which shall be held covered subject to immediate notification to the Underwriters as soon as the alteration or omission becomes known to the Insured, and then subject to any variation in the terms and conditions which may be agreed between the Insured and the Underwriters.

6. Subrogation

In the event of payment under this policy to or on behalf of the Insured, the Underwriters shall be subrogated to all the Insured's rights of recovery against all persons and organisations and the Insured shall execute and deliver instruments and papers and do all that is necessary to assist in the exercise of such rights.

7. Other Insurance

If the Insured makes a claim under this policy in respect of an Occurrence recoverable under this policy which Occurrence is or may be covered in whole or in part by any other insurance, then the Insured must advise the Underwriters of the full details of such other insurance when making a claim under this policy.

Subject to the Insurance Contracts Act, 1984, the Underwriters reserve the right to seek contribution from the other underwriter(s).

8. Insurance Arranged by Principal

If the Insured enters into an agreement with any other party (who for the purpose of this clause is called the "Principal") pursuant to which the Principal has agreed to provide a policy of insurance

which is intended to indemnify the Insured for any loss or liability arising out of the performance of the said agreement then the Underwriters will (subject to the terms and conditions of this policy) only indemnify the Insured for loss or liability not covered by the policy of insurance provided by the Principal.

9. Cancellation

The Named Insured may cancel this policy by giving notice in writing to the Underwriters.

After cancellation by the Insured the premium for the period to cancellation shall be adjusted on a pro rata basis plus twenty five per cent (25%), but always subject to a minimum retained premium of twenty five per cent (25%) of the annual premium.

The Underwriters may cancel this policy in any of the circumstances set out in the Insurance Contracts Act, 1984.

When the premium is subject to adjustment, cancellation will not affect the Insured's obligation to supply such information as the Underwriters may require for the adjustment of the premium.

Cancellation will not affect the Insured's obligations to pay the amount of adjustment applicable up to the date of cancellation.

10. Australian Currency Clause

All limits of liability, premiums and other amounts as expressed in this policy are in Australian currency.

11. Sanctions

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable 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 that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

12. Australian Law

This Policy is governed by the laws of the Commonwealth of Australia and its States and Territories. Any dispute or action in connection with this Policy shall be conducted and determined in Australia

13. Goods And Services Tax (GST)

This policy has a GST provision in relation to premium and our payment to You for claims. It may have an impact on how you determine the amount of insurance you need.

Please read the following information carefully. Seek professional advice if You have any queries about GST and this insurance.

Where You are liable to pay an amount for GST in respect of an acquisition relevant to any claim and We agree to pay the claim, We will pay the GST amount.

If the Limit of Indemnity is not sufficient to cover a loss, We will only pay the GST amount that relates to Our settlement of the claim. We will reduce the GST amount We pay by any input tax credits to which can You are or would be entitled on a relevant acquisition.

We will reduce the GST amount We pay by the amount of any input tax credits to which You are or would be entitled.

If You register or are registered for GST, You are required to tell Us Your entitlement to an input tax credit on Your premium.

If You fail to disclose all or understate Your entitlement, You may be liable for GST on a claim We may pay and this Policy does not cover that GST liability or for any fine, penalty or charge for which You may become liable because of Your failure to disclose or to misstate Your entitlement to an input tax credit for the premium.

"GST", "input tax credit", "acquisition", "supply", "tax invoice" and "adjustment note" has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999*.