



**ASR** | Underwriting  
Agencies

## Policy Wording

# COMBINED LIABILITY

General & Products Liability Insurance

ASR Underwriting Agencies ABN 84 113 542 233 AFSL 291522





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## IMPORTANT INFORMATION

### Quick Overview

By way of quick overview only:

This insurance is designed to provide cover for Your liability to pay damages for and/or arising out of Personal Injury and/or Property Damage resulting from an Occurrence in connection with the Business occurring during the Period of Insurance within the Territorial Limits, and subject always to the terms, conditions, Indemnity Limits and exclusions of each Cover Section and the Policy as a whole.

You are only covered under the Cover Sections which are shown as being insured in the Schedule.

### Key things to understand

The following are some key things to understand.

#### ***Who is insuring you?***

This insurance is underwritten by certain Lloyd's Underwriters (referred to as We, Our, Us or Insurer). See Definitions section on page 14 for definition of "You".

Lloyd's and Lloyd's Underwriters have been involved in the insurance of Australian risks for over 150 years. Lloyd's Underwriters are authorised to carry on general insurance business under the Insurance Act 1973 (Cth). You can obtain further details of the syndicate numbers and the proportions of this insurance for which each of the Lloyd's Underwriters is liable by requesting them from Us. In the event of loss, each Lloyd's Underwriter (and their Executors and Administrators) is only liable for their own share of the loss. Refer to the Several Liability notice on page 12 for more information on the specified Lloyd's Underwriter's liability.

You should contact ASR Underwriting Agencies Pty Ltd in the first instance in relation to this insurance.

Lloyd's contact details are:

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

Telephone: 02 8298 0783

#### ***Who acts for the insurer?***

In some circumstances ASR Underwriting Agencies Pty Ltd ("ASR") will be acting under a binder authority given by the Insurers to issue, arrange, enter into, vary and dispose of the Policy on the Insurer's behalf. If ASR are acting under a binder authority it will be acting as an agent for the Insurers, not for You.

ASR will clearly inform You before or at the time they provide You with any financial service whether they act for the Insurer, and not for You, and the services they are authorised to provide on the Insurer's behalf.

ASR's contact details are:

25 Main St Beenleigh Qld 4207  
PO Box 491 Beenleigh Qld 4207

Ph 07 34423333 Fax 07 38076839

Email [enquiries@asruw.com.au](mailto:enquiries@asruw.com.au)

Website <http://www.asruw.com.au>

### ***There are words with special meanings***

See the Definitions section on pg 14.

### ***What you need to do when making any disclosures and answering questions***

The Insured must answer any questions We ask honestly and accurately and to the best of their knowledge.

When the Insured first buys the insurance, applies to make any changes to it and on renewal they have a legal Duty of Disclosure explained below.

If the Insured does not do the above We may be able to refuse to pay or reduce a claim You make and/or cancel the Policy, or treat it as if it never existed, subject to relevant law.

### ***Some important things to understand about the cover***

The standard cover We provide is set out in the Operative Clause and the relevant Cover Section(s) (subject to eligibility and acceptance by Us). We may apply additional terms that affect this cover if We agree this with the Insured or where permitted by law.

The cover and what We pay can be affected by things such as:

- exclusions which restrict the cover;
- compliance with any terms/conditions We apply which impose obligations on the Insured and others who may be covered (see the definition of You for details of who may be covered under the Policy);
- the Indemnity Limits We apply to the cover;
- the Excess(es) You have to pay in relation to a claim; and
- any recovery You or We may make in relation to the relevant loss.

You need to consider these things to see if the cover is right for You personally as we don't do this. You should seek advice to help You when needed.

### ***What important documents you need to read and how confirmation of cover is issued***

Where We agree enter into a Policy with the Insured, We confirm this by issuing a Schedule. The Schedule contains details such as what or who We insure, what covers are provided and the Insured's contact details.

This document, the Schedule and any endorsements We agree with the Insured will apply (which might change the standard terms of this document) form the Insured's agreement or contract with Us (the "Policy"). You need to read them together and keep them in a safe place for future reference. These are the terms on which We have agreed to provide insurance to You. Check they set out what You believe was agreed and that the information in them is accurate and up to date. If not, contact ASR immediately as this may adversely affect Your right to cover.

### ***The need to review suitability of cover, including on an ongoing basis***

The Insured should also review the appropriateness of the type of cover chosen and its terms, limits and Excess on a regular basis to ensure they remain appropriate (including on any renewal) for their personal needs and if not, contact ASR. If they are not, You may be underinsured and have to bear part of any loss You are not covered for yourself.

### ***Make sure You comply with Your obligations under the Policy once it is issued***

The Policy terms impose obligations on You that You need to meet such as:

- notifying Us if certain things affecting the risk, We have insured change. For example, if the nature of Your Business changes. See in particular "Notification of Alteration of Risk" on page 26.
- taking certain action when an event that gives rise or may give rise to a claim occurs. For example, notifying Us of this and taking reasonable care to mitigate any loss.
- seeking Our consent before taking certain action. For example, make sure You obtain Our prior consent before You incur any Defence Costs under the Policy.

### ***What happens if You don't meet Your obligations or an exclusion applies***

If You don't meet Your obligations under the Policy terms (including if an exclusion applies) We may refuse or reduce what We pay in relation to a claim and/or cancel the Policy, subject to relevant law.

See "When We can refuse to pay or reduce the amount We pay under a claim" on page 6 and "Cancellation" on page 26 for further information.

### ***Cancellation rights***

The Insured has cancellation rights that allow them to cancel the Policy for any reason.

We can cancel the Policy where permitted by law.

See "Cancellation" on page 26 for further information.

Make sure You understand the premium refund terms when the Policy is returned or cancelled as set out in these provisions.

### ***Making a claim***

If You need to make a claim, please contact ASR in the first instance using the contact details below.

ASR Underwriting Agencies Pty Ltd  
25 Main Street Beenleigh Queensland 4207  
PO Box 491 Beenleigh QLD 4207

Phone: 07 34423333

Email: [claims@asruw.com.au](mailto:claims@asruw.com.au)

ASR will then forward Your claim to Our nominated claims administrator for assessment.

If You are represented by someone (e.g. a broker) speak with them in the first instance to see what assistance they can provide.

Make sure You start by reading and complying with the "Claims Conditions" on pg 25 . If You don't, it may adversely affect Your rights to cover under the Policy and/or allow Us to cancel the Policy.

### ***Complaints and Disputes***

If You need to make a complaint or have a dispute in relation to the Policy see the "Complaints and Dispute Resolution Process" on pg 11 and the "Lloyd's Australian Alternative Disputes Resolution Clause" on page 29.

### ***Premium***

This is what the Insured needs to pay in return for Us issuing the Policy. We agree the premium with the Insured and how and when it must be paid before We issue insurance. See "Premium" on page 9 and "Premium Payment" on page 9 for more details.

### ***Impact of acts of other insureds***

If there is more than one Insured on the Policy, then anything that any of the other Insureds says, does or omits to advise applies to and affects the rights to all of the Insureds, unless We expressly state this is not the case in a term.

### ***This is not all You need to know***

This only provides some important information to be aware of. You must still need to read the Policy for details of what Your and Our rights and obligations are under the insurance.

### ***The Policy***

Where We agree to enter into a Policy with the Insured the Policy wording and Schedule and any other documents, We agree with the Insured will form part of the Policy that We issue form the Insured's contract with Us and together set out the cover provided, the Indemnity Limits and the terms, conditions and exclusions of the insurance. Please read these documents carefully and keep them in a safe place.

### ***The Duty of Disclosure***

Before the Insured enters into an insurance contract, they have a duty to tell Us every matter that they know, or could reasonably be expected to know, may affect Our decision to insure them and on what terms.

The Insured has this duty until We agree to insure them.

The Insured has the same duty before they renew, extend, vary or reinstate an insurance contract.

The Insured does not need to tell Us anything that:

- reduces the risk We insure them for;
- is of common knowledge;
- We know or should know as an insurer; or
- We waive their duty to tell Us about.

### ***If the Insured does not tell Us something***

If the Insured does not tell Us anything they are required to, We may cancel the contract or reduce the amount We will pay You if You make a claim, or both. If the failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

### **Misrepresentations**

Under the Insurance Contracts Act 1984 (Cth) if the Insured makes a misrepresentation to Us before the contract is entered into (this includes on renewal, extension, variation, replacement or reinstatement of an insurance contract), to the extent permitted by law, We may reject or not fully pay the claim. We may also, or as an alternative, cancel the insurance, or if the misrepresentation was fraudulent, treat it as if it never existed.

A misrepresentation includes a statement that is in any way false, misleading, dishonest or which does not fairly reflect the truth. For example, a statement of fact that is not true, a statement of opinion that is not the subject of an honestly held belief or a statement of intent that never existed at the time provided. We will not treat something as a misrepresentation merely because the Insured failed to answer a question or gave an obviously incomplete or irrelevant answer to a question.

### **Answering Our Questions**

Answers to our questions help Us decide whether to provide this insurance and if so, on what terms. When answering Our questions:

- take reasonable care to make sure the answers are true, honest, up to date and complete in all respects. The Insured may breach the duty of disclosure if the Insured answers without any care as to its truth or if they only guess or suspect the truth. If in doubt, pause the application and obtain the true facts before answering; and
- if another person is answering for the Insured, We will treat their answers as the Insured's. In such a case, the Insured should check the questions have been answered correctly on their behalf by the other persons.

### ***When We can refuse to pay or reduce the amount We pay under a claim***

We may refuse to pay or reduce the amount We pay under a claim to the extent permitted by law.

The situations in which We may refuse to pay or reduce the amount We pay under a claim under the Policy include (but are not limited to):

- when the Insured applies for cover (this includes new business, variations, extensions, reinstatements and renewals) and they do not comply with their obligations regarding pre contractual disclosures and representations to Us under the Insurance Contracts Act 1984 (Cth) (including where applicable the Duty of Disclosure – see The Duty of Disclosure above); or



- if You do not comply with or meet a term or condition (including where an exclusion applies or other limitation) of the Policy (All referred to as "terms" when used in this clause) – See "If You do not comply with or meet any Policy term" below for more detail;
- if You make a fraudulent claim – See "Fraudulent Claims" below;
- where You have not or are not acting in accordance with Your duty of utmost good faith under the Insurance Contracts Act 1984 (Cth) – See "Duty of Utmost Good Faith" below.

The amount of any claim entitlement can also be affected and/or reduced by any limits (including any time limits) or Excess(es) that apply and recoveries You or We might make relevant to a loss.

***If You do not comply with or meet any Policy term***

We will only rely on any rights We have regarding the operation of or breach of a term of the Policy to the extent permitted by law (including Our right to refuse or reduce a claim noted above). We provide some key examples below. You need to seek Your own advice regarding all relevant legal rights You may have.

***Terms allowing Us to refuse to pay or reduce a claim (in whole or part) by reason of an act by You or some other person that occurred after the Policy was entered into***

Subject to Our rights in relation to Fraudulent Claims explained below, by reason of section 54 of the Insurance Contracts Act 1984 (Cth), where the effect of the Policy (this includes all terms or conditions, including any exclusion or other limitation) is to allow Us to refuse to pay or reduce a claim (in whole or part) by reason of an act by You or some other person that occurred after the Policy was entered into, We will exercise Our rights under the Policy as explained below (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

Under section 54, an "act" by You or some other person includes an omission and inaction and an act or omission that has the effect of altering the state or condition of the subject-matter of the Policy or of allowing the state or condition of that subject-matter to alter.

***How We exercise Our rights where section 54 applies (unless there is a Fraudulent Claim)***

- Where:
  - the act was necessary to protect the safety of a person or to preserve property;
  - it was not reasonably possible for You or the other person not to do the act; or
  - You prove no part of the loss that gave rise to the claim was caused by the act,

We will not refuse to pay or reduce the claim by reason only of that act.

- Where the act:
  - could not reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy; or
  - could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy but You prove that some part of the loss that gave rise to the claim was not caused by the act, We may not refuse to pay the claim, so far as it concerns that part of the loss but,

We can reduce Our liability in respect of the claim by an amount that fairly represents the extent to which Our interests were prejudiced as a result of that act.

- Otherwise, where the act could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy, We may refuse to pay the claim.

***Terms allowing Us to refuse or reduce a claim because of pre-existing defects or imperfections existing before the Policy was entered into***

Only where section 46 of the Insurance Contracts Act 1984 (Cth) is applicable to the Policy:

- where a claim is made in respect of a loss that occurred as a result, in whole or in part, of a defect or imperfection in a thing; and

- at the time when the contract was entered into the Insured was not aware of, and a reasonable person in the circumstances could not be expected to have been aware of, the defect or imperfection,

We may not rely on any provision included in the Policy that has the effect of limiting or excluding Our liability under the contract by reference to the condition, at a time before the Policy was entered into, of the thing. This does not apply if the Policy is in an excluded class to which section 46 does not apply. (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

### ***Terms allowing Us to refuse or reduce a claim because of a pre-existing sickness or disability existing before the Policy was entered into***

Only where section 47 of the Insurance Contracts Act 1984 (Cth) is applicable to the Policy:

- where a claim under the Policy is made in respect of a loss that occurred as a result, in whole or in part, of a sickness or disability to which a person was subject or had at any time been subject; and
- where, at the time when the contract was entered into, the Insured was not aware of, and a reasonable person in the circumstances could not be expected to have been aware of, the sickness or disability,

We may not rely on a provision included in the Policy that has the effect of limiting or excluding our liability under the Policy by reference to the sickness or disability to which You were subject at a time before the Policy was entered into. (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

### ***Fraudulent Claims***

In all cases, where a claim is made fraudulently under:

- the Policy; or
- the Insurance Contracts Act against Us by a person who is not the Insured,

We may refuse payment of the claim to the extent permitted by law. Under section 56(2) of the Insurance Contracts Act 1984 (Cth) a court may, if only a minimal or insignificant part of the claim is made fraudulently and non-payment of the remainder of the claim would be harsh and unfair, order Us to pay, in relation to the claim, such amount (if any) as is just and equitable in the circumstances. (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

### ***Duty of Utmost Good Faith***

- Section 13 of the Insurance Contracts Act 1984 (Cth) requires each party to the Policy to act towards the other party, in respect of any matter arising under or in relation to it, with the utmost good faith.
- Section 14 of the Insurance Contracts Act 1984 (Cth) provides that if reliance by a party to the Policy on a provision of the Policy would be to fail to act with the utmost good faith, the party may not rely on the provision.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details).

### ***Terms apply to extent enforceable***

A term (or part of a term) of the Policy will be applied to the extent is not unenforceable under relevant law.

### ***Our contract with the Insured***

Where We agree to enter into a Policy with the Insured it is a contract of insurance between Us and the Insured.

If We issue the Insured with a Policy, they will be given a Schedule. The Schedule sets out certain additional terms applicable to the Policy and other matters specific to the Policy such as the cover issued and the Indemnity. Limits.

The Schedule must be read together with this document and any other documents We agree with the Insured will form part of the Policy that We issue. Any new or replacement Schedule We may send the Insured detailing changes to the Policy or the Period of Insurance, will become the current Schedule, which the Insured should carefully read and retain.

Where We agree, documents other than this document and the Schedule will form part of the Policy (often called endorsements), any such documents will be dated and will include a statement identifying them as part of the Policy.

Together they form the Insured's Policy/contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.



The Policy also extends cover to certain persons or entities who are not contracting parties but are entitled to access cover by reason of section 48 of the Insurance Contracts Act 1984 (Cth) as third party beneficiaries.

They are persons other than the "the Insured" set out in the definition of "You/Your" in the "Definitions" section.

No insurance is provided in relation to the interest of any persons not specified as being entitled to benefit under the Policy under the definition of "You/Your".

For details on the rights and obligations of such Third Party Beneficiaries see Third Party Beneficiaries on pg 12.

### **Premium**

The premium payable by the Insured for the Policy will be provided to the Insured before they agree to enter into a Policy with Us and will also be shown on the Schedule.

Premiums are subject to Commonwealth and state taxes and/or charges. These can include the Goods and Services Tax, emergency services levies and stamp duty. The amount of these taxes and/or charges will be shown on the Schedule.

The premiums for some Cover Sections of the Policy may be adjustable. The Insured will be required to pay a deposit premium based on estimated values provided at the commencement of the Policy. At the end of the Period of Insurance the Insured will be required to complete a declaration of the final actual values to enable Us to adjust the final premiums to apply. See the "Adjustment of Premiums" clause on page 27 for full details.

### **Premium Payment**

The Insured must pay the premium by the due date. If We do not receive the premium by this date or the payment is dishonoured, We may be entitled to cancel the Policy.

If the premium is paid by way of instalments and:

- the premium instalment remains unpaid for at least 14 days after the due date of the instalment, We may refuse to pay any claim under the Policy arising from an event occurring after the due date of the instalment;
- the premium instalment remains unpaid for at least one month after the due date of the instalment, We may cancel the Policy by providing the Insured with written notice of cancellation.

### **Excess**

If You make a claim under the Policy, You may be required to pay one or more Excesses. The descriptions of these Excesses and the circumstances in which they are applied are explained in this document, the Schedule and other documents forming the Policy.

### **Privacy Collection Statement**

ASR is bound by the obligations of the Privacy Act 1988 (Cth) (as amended) regarding the collection, use, disclosure and handling of personal information. We are committed to protecting Your privacy and Your personal information.

We collect personal information about You to enable Us to provide You with relevant products and services, to assess Your application for insurance and, if a contract is entered, to enable Us to provide, administer, and manage Your policy. We may disclose Your information to third parties (who may be located overseas), such as certain Underwriters at Lloyd's, lawyers, claims adjusters, and others appointed by ASR or by certain Underwriters at Lloyd's to assist Us and them in providing relevant products and services. We may disclose Your information to the providers of Our policy administration and underwriting systems which may be supported and maintained by various overseas organisations and Your information may be disclosed to these organisations, it should be noted that the Australian Privacy Act and Privacy Principles may not apply to these organisations. We may also disclose Your information to people listed as co-insured on Your policy and to Your agents. By providing Your personal information to Us, You consent to Us making these disclosures.

If You do not provide all or part of the information required, We may not be able to provide You with Our products and services, consider Your application for insurance, administer Your policy, and You may breach Your Duty of Disclosure.

When You provide Us with personal information about other individuals, We rely upon You to have made them aware of these disclosures and to obtain their consent to, the terms of the ASR Privacy Statement.

For a full copy of the ASR Privacy Policy Statement or to request access to Your personal information, You may contact Our Privacy Officer at ASR by email: [enquiries@asruw.com.au](mailto:enquiries@asruw.com.au) or by mail at the address shown on the second page of the policy.

### ***General Insurance Code of Practice***

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ("the Code"), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry.

Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code please visit [www.codeofpractice.com.au](http://www.codeofpractice.com.au)

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to <https://insurancecode.org.au>



## Complaints and Dispute Resolution Process

If You have any concerns or wish to make a complaint in relation to the Policy, Our services or Your insurance claim, please let Us know and We will attempt to resolve Your concerns in accordance with Our Internal Dispute Resolution procedure. Please contact ASR in the first instance:

Attention: John Flower  
ASR Underwriting Agencies Pty Ltd

Ph: 07 3442 3333 Fax: 07 3807 6839

Email: [john@asruw.com.au](mailto:john@asruw.com.au)

We will acknowledge receipt of Your complaint and do Our utmost to resolve the complaint to Your satisfaction within 10 business days.

If We cannot resolve Your complaint to Your satisfaction, We will escalate Your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are:

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

Email: [ldraustralia@lloyds.com](mailto:ldraustralia@lloyds.com)

Telephone: (02) 8298 0783

A final decision will be provided to You within 30 calendar days of the date on which You first made the complaint unless certain exceptions apply.

You may refer Your complaint to the Australian Financial Complaints Authority (AFCA), if Your complaint is not resolved to Your satisfaction within 30 calendar days of the date on which You first made the complaint or at any time.

AFCA can be contacted as follows:

Telephone: 1800 931 678

Email: [info@afca.org.au](mailto:info@afca.org.au)

Post: GPO Box 3, Melbourne, VIC 3001

Website: [www.afca.org.au](http://www.afca.org.au)

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If Your complaint is not eligible for consideration by AFCA, You may be referred to the Financial Ombudsman Service (UK) or You can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to You.

The Insurers accepting this insurance agree that:

- if a dispute arises under this insurance, the Policy will be subject to Australian law and practice and the Insurers will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- any summons notice or process to be served upon the Insurers may be served upon:

Lloyd's Underwriters' General Representative in Australia  
Suite 1603, Level 16  
1 Macquarie Place  
Sydney NSW 2000

who has authority to accept service on the Insurer's behalf;

- if a suit is instituted against any of the Insurers, all Insurers participating in this insurance will abide by the final decision of such Court or any competent Appellate Court.



In the event of a claim arising under this insurance immediate notice should be given to:

ASR Underwriting Agencies Pty Ltd  
25 Main St Beenleigh Qld 4207  
PO Box 491 Beenleigh Qld 4207

Ph 07 3442 3333 Fax 07 3807 6839

ASR will then forward Your claim to Our nominated claims administrator for assessment.

Please note that without prejudice to the above or any other right or entitlement You or We may have, You or We may choose to apply the Lloyd's Australian Alternative Disputes Resolution Clause on page 29 of the Policy in relation to the resolution of any dispute.

### **Several Liability**

The liability of an Insurer under this contract is several and not joint with other Insurers party to the Policy. An Insurer is liable only for the proportion of liability it has underwritten.

An Insurer is not jointly liable for the proportion of liability underwritten by any other Insurer. Nor is an Insurer otherwise responsible for any liability of any other Insurer that may underwrite the Policy.

The proportion of liability under the Policy underwritten by an Insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the Lloyd's Underwriters of the syndicate taken together) is shown in the Schedule.

In the case of a Lloyd's syndicate, each Lloyd's Underwriter of the syndicate (rather than the syndicate itself) is an Insurer.

Each Lloyd's Underwriter has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the Lloyd's Underwriters of the syndicate taken together). The liability of each Lloyd's Underwriter of the syndicate is several and not joint with any other Lloyd's Underwriter.

A Lloyd's Underwriter is liable only for that Lloyd's Underwriter's proportion.

A Lloyd's Underwriter is not jointly liable for any other Lloyd's Underwriter's proportion. Nor is any Lloyd's Underwriter otherwise responsible for any liability of any other Insurer that may underwrite this contract. The business address of each Lloyd's Underwriter is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each Lloyd's Underwriter of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various parts in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

The Insurers bind themselves each and for their own part and not one for another. Each Insurer's liability under the Policy shall not exceed that percentage or amount of the risk shown against that Insurer's name.

### **Third Party Beneficiaries**

We and the Insured are the only parties to the Policy. No insurance is provided in relation to the interest of any persons not specified as being entitled to benefit under the Policy.

The benefit of the cover under the Policy is extended automatically to a relevant person who is not the Insured and falls within the definition of "You/Your" in the "Definitions" section of the Policy by reason of the operation of section 48 of the Insurance Contracts Act 1984 (Cth). They are not contracting parties.

Other persons who are not contracting parties to the Policy may be entitled to cover as third party beneficiaries, but only if specified as so entitled and limited only to the extent and interest specified.

The Insured must inform Us of the interests of all such third parties (e.g. financiers, lessors) that they want to be covered by this insurance and if We agree, We will specify them and the interest to be covered in the Schedule.

Nothing in the Policy is intended to give any such persons (including a relevant person who falls within the definition of "Insured") any right to enforce any term of the Policy which that person would not have had but for the Insurance Contracts Act 1984 (Cth).

Any person entitled to any benefit under the Policy that is not the Insured:

- has, in relation to their claim, the same obligations to Us as they would have if they were the Insured; and
- may discharge the Insured's obligations in relation to the loss.

We also have the same defences to an action by such persons as We would have in an action by the Insured including, but not limited to, defences relating to the Insured's conduct (whether the conduct occurred before or after the contract was entered into).

Such persons have no right to cancel or vary the Policy or its cover – only the Insured (as the contracting party) and We can do this. If We cancel or vary the Policy or its cover, We do not need to obtain such persons' consent to do so.

We also do not provide any notices in relation to this insurance to such persons as they are not a contracting party to the Policy. We only send notices to the Insured as the only entity We have contractual obligations to under the Policy.

Neither We nor the Insured hold anything on trust for, or for the benefit or on behalf of, any such persons under this insurance arrangement.

The Insured:

- does not act on Our behalf in relation to the insurance;
- is not authorised to provide any financial product advice, recommendations or opinions about the insurance; or
- does not receive any remuneration or other benefits from Us.

Any such person needs to read this document and other documents forming the Policy carefully to properly understand the benefits they have access to as non-contracting parties. The insurance cover is subject to the terms, conditions, limitations and exclusions of the Policy.

Any person who may be entitled to a benefit under the Policy should consider obtaining advice as to whether the benefits are appropriate or useful for their personal needs from a person who is licensed to give such advice. No advice is provided by Us or ASR that the benefits are appropriate or useful for any person's needs. Nothing prevents such persons from entering into other arrangements regarding insurance.



# Public & Products Liability Insurance

## 1. Operative Clause

Where We agree to enter into a Policy with the Insured We will indemnify You for Your liability to pay damages (including claimants' costs, fees and expenses) in accordance with the law of any applicable country, but not in respect of any judgment, award, payment or settlement made within countries which operate under the laws of the United States of America or Canada (or to any order made anywhere in the world to enforce such judgment, award, payment or settlement either in whole or in part).

This indemnity applies only to such liability as covered by each insured Cover Section of the Policy arising out of an Occurrence in connection with the conduct of the Business, and subject always to the terms, conditions, Indemnity Limits and exclusions of each Cover Section and the Policy as a whole.

You are only covered under the Cover Sections which are shown as being insured in the Schedule.

## 2. Definitions

The following key words and terms used in the Policy when the word starts with a capital letter in this document (other than in headings) have a special meaning that appears below. Other words may be specially defined to have a meaning when used in relation to a Policy section, term or condition.

**"Business"** means business (or businesses) or profession (or professions) shown in the Schedule.

**"Defence Costs"** means reasonable costs, fees and expenses incurred by You with Our prior written consent in the investigation, defence or settlement of any claim made or which might be made against You under the Policy, including:

- the investigation of any circumstances of which You become aware that might reasonably be expected to give rise to a claim being made against You; or
- representation at any inquest, inquiry or other proceedings in respect of matters which have a direct relevance to such claim, provided that such claims arise from an Occurrence which is indemnifiable under the Policy.

**"Excess"** means the amount advised to the Insured at or before the time the Policy is entered into and specified in the Schedule, which We will not pay and You must first bear on each and every claim inclusive of Defence Costs. Where a claim involves more than one Occurrence the Excess shall apply to each and every Occurrence.

**"GST"** or **"input tax"** shall mean those words as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth) (or succeeding, amendment, replacement or equivalent legislation to that Act or any other similar legislation).

**"Indemnity Limit(s)"** means maximum amount We will pay under a Section of the Policy as stated in the Schedule.

**"Insured"** means the person(s), companies, organisations or other entities shown as the insured on the Schedule. They are the contracting insured(s).

**"Lloyd's"** means the society of that name incorporated by the Act of the United Kingdom known as Lloyd's Act 1871.

**"Lloyd's Underwriter"** means an underwriting member of Lloyd's.

**"Occurrence"** means an event, including continuous or repeated exposures to substantially the same general conditions, which occurs during the Period of Insurance and results in Personal Injury and/or Property Damage neither expected nor intended from Your standpoint. All events of a series consequent upon or attributable to one source or original cause shall be deemed one Occurrence. If any Product from one prepared or acquired batch causes Property Damage to property of, or Personal Injury to, more than one person, the Property Damage to property of all persons and all Personal Injury resulting from that batch shall be considered as arising out of one Occurrence.

**"Period of Insurance"** means the period shown in the Schedule unless the Policy ends earlier in accordance with its terms or law, in which case the period of insurance ends at that earlier time. Each renewal results in a new contract and new Period of Insurance.

**"Personal Injury"** means:

- death, bodily injury, illness, disease, disability, shock, fright, mental anguish or mental injury;



- false arrest, false imprisonment, wrongful eviction, wrongful entry or other invasion of the right of private occupancy, wrongful detention and humiliation; or
- assault and battery not committed by You or at Your direction unless committed for the purpose of preventing or eliminating danger to persons or property.

**"Policy"** means this document (except to the extent part of it is expressly excluded), the Schedule and any other documents We agree with the Insured will form part of the Policy that We issue. Together they form the Insured's contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.

**"Pollution"** means pollution or contamination of the atmosphere or of any water, land or other tangible property.

**"Principal"** means a person or entity that You are engaged to preform work for in relation to the Business as an independent contractor (and not as an employee) under a written contract or agreement.

**"Product"** means any property after it has left the custody or control of You which is or is deemed to have been designed, specified, formulated, manufactured, grown, extracted, produced, processed, treated, assembled, erected, constructed, installed, altered, serviced, repaired, sold, supplied or distributed by or on behalf of You (including any packaging or container thereof other than a Vehicle), but shall not include food or drink supplied by You or on Your behalf primarily to Your employees as a staff benefit.

**"Property Damage"** means:

- loss of, physical damage to or destruction of tangible property including the loss of use thereof at anytime resulting therefrom. All such loss of use shall be deemed to happen at the time of the physical damage that caused it; or
- loss of use of tangible property which has not been physically damaged or destroyed provided such loss of use is caused by physical damage or destruction of other tangible property which first happened during the Period of Insurance. All such loss of use shall be deemed to first happen at the time of the physical damage that caused it.

**"Schedule"** means the numbered policy schedule , renewal schedule or endorsement schedule issued by Us in connection with the Policy for the applicable Period of Insurance.

**"Situation"** means the land, including any building or premises on it, at the address(es) shown on the Schedule where You operate Your Business from.

**"Territorial Limits"** means the territorial limits specified in the Schedule.

**"Terrorism"** means an act, including but not limited to the use of force or violence and/or 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 governments(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

**"Vehicle"** means any type of machine designed to travel on wheels or on self-laid tracks (including any trailer or other attachment drawn by any such machine) made or intended to be propelled other than by manual or animal power.

**"Worker"** means any person who is a contractor, subcontractor, or engaged from a labour hire company or agency, who is:

- not an employee of Yours, or deemed to be a worker of Yours under any applicable workers' compensation law; and
- engaged by You to work at the Situation.

**"Worker to Worker Excess"** means \$20,000 or such other amount specified in the Schedule for any one Occurrence the You must contribute as the first payment for each and every claim arising directly or indirectly out of Worker to Worker Liability.

**"Worker to Worker Liability"** means Your legal liability arising directly or indirectly out of Personal Injury to any Worker whilst acting in that capacity and only while undertaking work at the Situation.

**"We/Us/Our/Insurer"** means certain Lloyd's Underwriters, including when acting through their agent ASR or any other agent appointed by us from time to time.

**"You/Your"** means:

- the Insured;
- any subsidiary and related bodies corporate (as defined in the Corporations Act 2001) now existing or hereafter constituted;
- any party (other than a Principal unless We agree otherwise and this is shown in the Schedule) who enters into an agreement with the Insured for any purpose of the Business, but only to the extent required by such agreement to grant such indemnity and subject always to Clauses 7.3.3, and 12.6;
- officials of the Insured in their business capacity for their liability arising out of the performance of the Business and/or in their private capacity arising out of their temporary engagement of the Insured's employees;
- the officers, committee and members of the Insured's canteen, social, sports, medical, firefighting and welfare organisations in their respective capacity as such;
- the personal representatives of the estate of any person indemnified above in respect of liability incurred by such persons.

### **3. Cross Liabilities**

Each person or party specified as You is separately indemnified in respect of claims made against any of them by any other person or party specified as You, subject to Our total liability not exceeding the stated Indemnity Limits.

### **4. Defence Costs**

We will pay Defence Costs incurred by You with Our prior written consent.

We will not pay Defence Costs in respect of any Occurrence, actions or claims arising in the United States of America or Canada.

Payment of Defence Costs is subject to the terms, conditions, exclusions and Indemnity Limits of the Policy.

### **5. Indemnity Limits**

Our liability to indemnify You (including claimants' costs, fees and expenses) shall not exceed the Indemnity Limit stated in the Schedule:

- under Section A in respect of any one Occurrence or series of Occurrences arising from one originating cause; or
- under Section B or Section C in total in respect of all Occurrences or series of Occurrences arising from one originating cause,

during the Period of Insurance.

Defence Costs will be payable in addition to the Indemnity Limits unless We agree otherwise and this is stated in the Schedule.

Should liability arising from the same Occurrence or series of Occurrences entitle You to claim under more than one covered Section of the Policy, each Section shall be subject to its own Indemnity Limit, provided always that Our total liability shall not exceed the highest applicable Indemnity Limit available under any one of the Sections providing indemnity.

## SECTION A – Public Liability

### 6. SECTION A-INDEMNITY

Where this Cover Section is shown as being insured in the Schedule You are indemnified by this Cover Section in accordance with the Operative Clause for liability to pay damages for Personal Injury and/or Property Damage resulting from an Occurrence in connection with the Business occurring during the Period of Insurance within the Territorial Limits, but not against liability arising out of:

- 6.1. Pollution;
- 6.2. or in connection with any Product.

### 7. SECTION A – EXCLUSIONS

In addition to the General Exclusions Applicable to All Sections of the Policy this Cover Section does not cover liability:

- 7.1. arising out of the ownership, possession or use of any Vehicle which is registered or which is required under any legislation to be registered or in respect of which compulsory liability insurance or statutory indemnity is required by virtue of any legislation (whether or not that insurance is effected), other than liability:
  - 7.1.1. where such compulsory liability insurance or statutory indemnity does not provide indemnity and the reason for not providing indemnity does not involve a breach of legislation relating to a Vehicle;
  - 7.1.2. for Property Damage caused by or arising from the operation or use of any tool or plant forming part of or attached to or used in connection with any Vehicle;
  - 7.1.3. for Property Damage arising out of the loading or unloading of goods to or from any Vehicle;
  - 7.1.4. for Property Damage to any bridge, weighbridge, road or anything beneath them caused by the weight of any Vehicle or load thereon;
  - 7.1.5. for Property Damage arising out of any Vehicle temporarily in Your custody or control for the purpose of parking; or
  - 7.1.6. for Property Damage caused by or arising from the operation or use of any Vehicle which is designed primarily for lifting, lowering, loading or unloading, whilst being operated or used within the confines of Your premises;
- 7.2. arising out of the ownership, possession or use by You or on Your behalf of any aircraft, watercraft or hovercraft (other than watercraft not exceeding five metres in length and then only whilst on inland waterways);
- 7.3. for Property Damage to property owned, leased, hired by, under hire purchase or on loan to You or otherwise in Your care, custody or control other than:
  - 7.3.1. premises (or the contents thereof) temporarily occupied by You for work therein (but no indemnity is granted for Property Damage to that part of the property on which You are working and which arises out of such work);
  - 7.3.2. clothing and personal effects belonging to directors, officers, employees or visitors of You; or
  - 7.3.3. premises tenanted by You to the extent that You would be held liable in the absence of any specific agreement; or
  - 7.3.4. Vehicles, including spare parts, accessories and contents while they are in or on such Vehicle (other than Vehicles owned or used by You or on Your behalf), in Your care custody or control but only while such Vehicles are in a car park owned or operated by You other than for income or reward as a car park operator,

provided that Our maximum liability arising out of the cover afforded by clauses 7.3.1 to 7.3.4 shall be limited to \$250,000 each and every Occurrence, or the amount otherwise stated in the Schedule and this clause shall in no way operate to increase the Indemnity Limits stated in the Schedule; or



- 7.4. arising out of the ownership, possession of, or use of any premises or situations owned or tenanted by You unless those located at an insured Situation specified on the Schedule. arising out of the ownership, possession of, or use of any premises or situations owned or tenanted by You unless located at an insured Situation specified on the Schedule.



## SECTION B – Pollution Liability

### 8. SECTION B – INDEMNITY

Where this Cover Section is shown as being insured in the Schedule You are indemnified by this Cover Section in accordance with the Operative Clause for liability to pay damages for and/or arising out of Personal Injury and/or Property Damage resulting from an Pollution in connection with the Business occurring during the Period of Insurance within the Territorial Limits , but only to the extent that You can reasonably demonstrate to Us that such Pollution:

- 8.1. was the direct result of a sudden, accidental, unintended and unexpected specific and identifiable event from Your standpoint occurring during the Period of Insurance;
- 8.2. was not the direct result of You failing to take reasonable precautions to prevent such Pollution.

### 9. SECTION B – EXCLUSIONS

In addition to the General Exclusions Applicable to All Sections of the Policy this Cover Section does not cover liability for and/or arising out of:

- 9.1. Property Damage to premises presently, or at any time previously, owned, leased, or tenanted by You;
- 9.2. anything that is also excluded under Cover Sections A or C.



## SECTION C – Products Liability

### 10. SECTION C – INDEMNITY

Where this Cover Section is shown as being insured in the Schedule You are indemnified by this Cover Section in accordance with the Operative Clause for liability to pay damaged for and/or arising out of Personal Injury and/or Property Damage occurring during the Period of Insurance within the Territorial Limits but only against liability arising out of or in connection with any Product in connection with the Business and not against liability arising out of Pollution.

### 11. SECTION C – EXCLUSIONS

In addition to the General Exclusions Applicable to All Sections of the Policy this Cover Section does not cover liability:

11.1. arising out of Property Damage to any Product or part thereof;

11.2. for costs incurred in the repair, reconditioning, modification or replacement of any Product or part thereof and/or financial loss consequent upon the necessity for such repair, reconditioning, modification or replacement.



## General Exclusions Applicable to All Sections of the Policy

**12.** The Policy does not cover liability:

- 12.1. in respect of any judgment, award, payment or settlement made within countries which operate under the laws of the United States of America or Canada (or in respect of any order made anywhere in the world to enforce such judgment, award, payment or settlement either in whole or in part);
- 12.2. in respect of any Occurrence which You are, or would be but for the existence of the Policy, entitled to indemnity under any other policy of insurance to the extent provided in General Condition 16.8 – "Other Insurances";
- 12.3. arising out of the deliberate, conscious or intentional disregard by Your technical or administrative management of the need to take all reasonable steps to prevent Personal Injury, Property Damage or Pollution;
- 12.4. for and/or arising out of Personal Injury imposed:
  - 12.4.1. by any workers compensation law;
  - 12.4.2. by the provision of any industrial award, agreement or determination or any contract of employment or workplace agreement;
  - 12.4.3. for or in respect of 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,  
  
provided that if You are:
    - 12.4.4. required by law to insure or otherwise fund, whether through self-insurance, statutory fund or other statutory scheme, all or part of any common law liability (whether limited or not) for such Personal Injury, or
    - 12.4.5. not required to so insure or otherwise fund such liability by reason only that the Personal Injury is to a person who is not a worker or employee for the purposes of the relevant workers' compensation law or the Personal Injury is not an injury which is subject to such law,  
  
then the Policy will respond to the extent that Your liability would not be covered under any such fund, scheme, policy of insurance or self insurance arrangement had You complied with Your obligations pursuant to such law;
- 12.5. in relation to any fines, penalties, aggravated, punitive or exemplary damages or other non- compensatory damages, including but not limited to multiplications of compensatory awards or damages;
- 12.6. based on or arising out of liquidated damages clauses, penalty clauses or performance warranties unless proven that liability would have attached in the absence of such clauses or warranties;
- 12.7. arising out of or as a consequence of professional advice given by You for a fee;
- 12.8. for pure financial loss not consequent upon Personal Injury and/or Property Damage;
- 12.9. directly or indirectly occasioned by, happening through, or in consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power or confiscation, nationalisation, requisition, destruction of, or damage to property by or under the order of any government or public or local authority;
- 12.10. of whatsoever nature, or loss or destruction of, or damage to, any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss directly or indirectly caused by or contributed to by or arising from:
  - 12.10.1. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
  - 12.10.2. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;



12.11. for the amount of the Excess stated in the Schedule or Worker to Worker Excess (as applicable) which You must bear in respect of each every claim inclusive of Defence Costs. Where a claim involves more than one Occurrence the Excess or Worker to Worker Excess (as applicable) shall apply to each and every Occurrence.

12.12. directly or indirectly caused by or alleged to be caused by or contributed to in whole or in part or arising from the existence of or exposure to asbestos and /or any asbestos containing materials;

12.13. for loss of use of tangible property which has not been physically damaged or destroyed resulting from:

12.13.1. a delay in or lack of performance by or on behalf of You in respect of any contract or agreement, or

12.13.2. the failure of Your Product to meet the level of performance, quality, fitness or durability warranted or represented by You,

but this exclusion does not apply to loss of use of other tangible property resulting from physical damage to or destruction of Your Product after such Product has been put to use by any person or organisation other than You.

12.14. directly or indirectly caused by or alleged to be caused by or contributed to in whole or in part or arising from the existence of or exposure to mould, fungus/fungi, spore(s), mildew(s), mushroom(s), yeast(s), or biocontaminant(s) or any by-product therefrom;

12.15. claim or any benefit to the extent that the provision of cover, payment of claim or provision of benefit would expose Us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America;

12.16. directly or indirectly arising out of any alleged or actual abuse, sexual assault, sexual harassment, sexual molestation, racial discrimination, rape or the consequences thereof;

12.17. in respect of Property Damage to any land of fixed property arising directly or indirectly from the removal or weakening of or interference with support to land, building or any other property;

12.18. in respect of claims caused by or arising out of arc or flame cutting, flame heating, arc or gas welding or similar operation in which welding is used, unless such activity is conducted in strict compliance with the applicable Australian Standard issued by Standards Australia Limited;

12.19. directly or indirectly arising out of, caused by, contributed to or resulting from any:

12.19.1. functioning, non-functioning, improperly functioning, availability or unavailability of:

(a) the internet or similar facility;

(b) any intranet or private network or similar facility; or

(c) any website, bulletin board, chat room, search engine, portal or similar third party application service;

12.19.2. alteration, corruption, destruction, distortion, erasure, theft or other loss of or loss of use or damage to Data, software, information repository, microchip, integrated system or similar device in any computer equipment of non-computer equipment or any kind of programming or instructions set; or

12.19.3. loss of use or functionality, whether partial or entire, cost, expense of Data, coding, program, software, any computer or computer system or other device dependent upon any microchip or embedded logic and any ensuing inability or failure of You to conduct Your Business.

Clauses 12.19.1, 12.19.2 and 12.19.3 apply regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purposes of this exclusion the following definition applies:

**"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.

12.20. of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:

12.20.1. Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident; or

12.20.2. loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any Data, including any amount pertaining to the value of such Data;

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

For the purposes of this exclusion the following definitions apply:

**"Computer System"** means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by You or any other party.

**"Cyber Act"** means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

**"Cyber Incident"** means:

- (a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or
- (b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

**"Data"** means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

12.21. of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:

12.21.1. imposed by or arising from any nuclear liability act;

12.21.2. Personal Injury or Property Damage resulting directly or indirectly from a Nuclear Energy Hazard arising from:

- (a) the ownership, maintenance, operation or use of a Nuclear Facility by or on behalf of You;
- (b) the furnishing by You of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any Nuclear Facility; or
- (c) the possession, consumption, use, handling, disposal or transportation of Fissionable Substances, or of other Radioactive Material (except radioactive isotopes, away from a Nuclear Facility, which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by You.

For the purposes of this exclusion the following definitions apply:

**"Nuclear Energy Hazard"** means the radioactive, toxic, explosive, or other hazardous properties of Radioactive Material.

**"Radioactive Material"** means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by or pursuant to any law, act or statute, or law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;

**"Nuclear Facility"** means:

- (a) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;
- (b) any equipment or device designed or used for:
  - (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them,

- (ii) processing or utilising spent fuel, or
- (iii) handling, processing or packaging waste;
- (c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste Radioactive Material;

and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

**"Fissionable Substance"** means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.

12.22. directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with:

12.22.1. a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease; or

12.22.2. any cost to clean-up, detoxify, remove, monitor or test for a Communicable Disease.

For the purposes of this exclusion:

**"Communicable Disease"** means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

- (a) the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not;
- (b) the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms; and
- (c) the disease, substance or agent can cause or threaten bodily injury, illness, emotional distress, damage to human health, human welfare or property damage.

12.23. for Personal Injury and/or Property Damage 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 General Exclusion also excludes Personal Injury and/or Property Damage 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.

12.24. 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 silica dust and/or any silica containing materials or any obligation to defend any claim or suit against You alleging such liability and for Defence Costs arising from such claim or suit.

## **NOTICE RELATING TO TERRORISM**

### **TERRORISM INSURANCE ACT 2003 (CTH) NOTICE**

We have treated the Policy (or part of it) as an insurance to which the Terrorism Insurance Act 2003 (Cth) ("TIA") applies.

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

Any coverage established by the TIA is only in respect of any "eligible terrorism loss" resulting from a "terrorist act" which is a "declared terrorist incident" as defined in TIA (or succeeding, amendment, replacement or equivalent legislation to that Act or any other similar legislation). The Terrorism exclusion to which this insurance is subject applies in full force and effect to any other loss and any act or event that is not a "declared terrorist incident".

## Conditions Applicable to all Sections of the Policy

### 13. PRINCIPALS CLAUSE

Where We agree by endorsement to the Schedule to indemnify any Principal of Yours, We will only do so to the extent that such liability arises solely out of the work performed for the Principal by or on behalf of You under a written contract or agreement with that Principal.

Such Principal shall be subject to and comply with the terms and conditions of the Policy and this clause shall in no way operate to increase the Indemnity Limits stated in the Schedule.

### 14. OBSERVANCE OF TERMS

You must observe and comply with the terms and conditions of the Policy. If You don't meet Your obligations under the Policy terms (including if an exclusion applies) We may refuse or reduce what We pay in relation to a claim and/or cancel the Policy, subject to relevant law.

See "When We can refuse to pay or reduce the amount We pay under a claim" on page 6 and "Cancellation" on page 26 for further information.

### 15. CLAIMS CONDITIONS

15.1. You must notify ASR in writing as soon as reasonably possible of any Occurrence which may give rise to a claim under the Policy.

ASR Underwriting Agencies Pty Ltd  
25 Main St Beenleigh Qld 4207

PO Box 491 Beenleigh Qld 4207

Phone: 07 3442 3333

Email: [claims@asruw.com.au](mailto:claims@asruw.com.au)

ASR will then forward Your claim to Our nominated claims administrator for assessment.

15.2. You shall not admit liability for or negotiate the settlement of any claim, or incur any Defence Costs, without Our written consent (such consent not to be unreasonably withheld). You shall not do anything which may prejudice Our rights, including but not limited to preserving all possible defences, and rights of contribution or indemnity, in respect of a claim.

15.3. You must, at Your own expense unless We agree otherwise, provide Us with all assistance and co-operation reasonably required by Us to enable Us to determine Your entitlement to indemnity under the Policy, and in the investigation, settlement and/or defence of any claim.

15.4. We reserve the right, but do not have an obligation, to take control of and conduct in Your name the investigation, settlement or defence of any claim. We shall be entitled to prosecute for Our own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any such claim and You shall give all such information and assistance as We may reasonably require.

15.5. A claim against You will only be defended by Us if in Our reasonable opinion there is a reasonable prospect of success that it is more probable than not that at a determination at a final hearing You will be successful in obtaining the outcome in respect of the claim that You are seeking, and after taking account of the commercial considerations and economics of defending such claim. If We consider at any stage that the claim no longer has reasonable prospects of success, We will give You an explanation of that decision in writing. After such notification has been provided to You We will not provide any further cover for the claim beyond the amount that which We would have otherwise been liable at the date of the notification.



## 16. GENERAL CONDITIONS

### 16.1. REASONABLE PRECAUTIONS

You shall at Your own expense :

- 16.1.1. take all reasonable precautions to prevent Personal Injury or Property Damage and cease any activity which may give rise to liability under the Policy;
- 16.1.2. exercise care in the selection and supervision of employees;
- 16.1.3. as soon as possible after discovery cause any defect or danger to be made good or remedied and, in the meantime, take such additional precautions to be taken as the circumstances require;
- 16.1.4. comply with all statutory requirements and other safety regulations imposed by any relevant authority.

### 16.2. NOTIFICATION OF ALTERATION OF RISK

You must advise Us as soon as reasonably practicable if circumstances occur, or if changes or alterations are intended or made which change the risk of loss, damage or liability covered under the Policy. Some matters You need to notify Us of are expressly specified in the Policy.

Examples of things that may affect the risk You need to notify Us of include but are not limited to:

- 16.2.1. a change to Your primary Business address;
- 16.2.2. if You enter into a contract with a third party where You are required to waive Our rights of subrogation against that third party;
- 16.2.3. a change in Your employment structure from predominantly an employee model to using more than 50% labour hire staff;
- 16.2.4. if You acquire or incorporate a new company or business operations during the Period of Insurance, including as a result of consolidation, merger or purchase;
- 16.2.5. if You enter into a contract with a third party where the total contract value exceeds \$500,000.

Except to the extent the Policy expressly provides otherwise, where the change:

- 16.2.6. reduces the risk We insure You for We may (if applicable) provide You with a refund of a portion of the premium where the change affects the premium payable; or
- 16.2.7. increases the risk We insure You for,

We may either:

- 16.2.8. refuse to accept the change;
- 16.2.9. agree to the change in writing subject to terms acceptable to Us, provided that You pay or agree to pay Us any additional premium We may require;
- 16.2.10. cancel the Policy; or
- 16.2.11. choose not to renew the Policy.

### 16.3. CANCELLATION

#### **Cancellation by the Insured**

The Insured may cancel the Policy at any time by contacting Us and giving Us notice of cancellation. Cancellation will take effect from the date the notice is received by Us or any other date if mutually agreed.

#### **Cancellation by Us**

We may cancel the Policy pursuant to any right at law and as set out in the Insurance Contracts Act 1984 (Cth) by giving the Insured written notice to that effect. This includes where:

- the Insured has:

- failed to comply with the duty of utmost good faith;
- failed to comply with the Duty of Disclosure at the time when the Policy was entered into;
- made a misrepresentation to Us during the negotiations for the Policy before We entered into the Policy;
- failed to comply with a provision of the Policy, including a provision with respect to payment of the premium;
- made a fraudulent claim under the Policy or any other policy of insurance (whether with Us or some other insurer) that provided insurance cover during any part of the period during which the Policy provides insurance cover; or
- failed to notify Us of any specific act or omission or failure that has occurred after the Policy is entered into where notification is required under the terms of the Policy.

• the effect of the Policy is to authorise Us to refuse to pay a claim, either in whole or in part, by reason of an act or omission or failure of the Insured or of some other person and, after the Policy was entered into, such an act or omission or failure has occurred.

When We cancel the policy, it will have effect from whichever of the following times is the earliest (unless We tell You otherwise):

- the time when another policy of insurance replacing the Policy is entered into; or
- 4 o'clock in the afternoon of the third (3rd) business day after the day on which notice was given to the Insured unless the Policy is in force because of section 58 of the Insurance Contracts Act 1984 (Cth), in which case the cancellation will have effect from 4 o'clock of the fourteenth (14th) business day after the day on which notice was given to the Insured.

#### **Effect of cancellation**

The Policy with Us ends from the time of cancellation. You will not have cover for events occurring after that time.

However, cancellation of this insurance by Us or the Insured does not affect the treatment of any claim for an event that happened before cancellation.

#### **Premium refund**

If We or the Insured cancel the Policy We may deduct:

- a pro rata proportion of the premium for any time for which You have been covered. For example, if the Period of Insurance is 12 months and You have been covered for six (6) months, the deduction for the time You have been covered will be half the annual premium; and
- any government taxes or duties paid by Us in relation to Your Policy We cannot recover.

However, in the event that You have made a claim under the Policy and We have agreed to the claim no return of premium will be made.

#### **16.4. DISCHARGE OF LIABILITY**

We may at any time pay to You in connection with any claim under the Policy to which an Indemnity Limit applies the amount of such limit (after deduction of any sums already paid) or any lesser amount for which such claim can reasonably be settled and upon such payment being made We shall relinquish the conduct and control of, and be under no further liability in connection with, such claim.

#### **16.5. PROPORTIONMENT OF DEFENCE COSTS**

Except where the Indemnity Limit is inclusive of Defence Costs if a payment exceeding the Indemnity Limit has to be made to dispose of a claim Our liability to pay all Defence Costs in connection therewith shall be limited to such proportion of the said Defence Costs as the Indemnity Limit bears to the amount required to be paid to dispose of such claim.

#### **16.6. ADJUSTMENT OF PREMIUM**

If the premium has been calculated on estimates given by the Insured the Insured shall keep an accurate record containing all relevant particulars which shall be available to Us for inspection.

Within one month of the expiry of each Period of Insurance the Insured shall supply to Us an accurate statement in the form required so that the premium for that Period of Insurance can be calculated and the

difference paid by or allowed to the Insured as the case may be subject to any minimum premium specified in the Schedule .

#### 16.7. GOODS AND SERVICES TAX

The premium includes an amount for GST. We shall only be liable to bear GST to the extent that GST is irrecoverable by You. For the avoidance of doubt, any amount of GST which We are obliged to pay shall be included within, and not in addition to, the Indemnity Limits.

Our liability to You in respect of a claim or loss under the Policy is calculated less any input tax credit to which You are entitled for any acquisition which is relevant to the claim or loss, or to which You would have been entitled had You made a relevant acquisition. You must inform Us of the extent to which You are entitled to an input tax credit, and any GST liability arising from Your provision of incorrect advice is payable by You.

#### 16.8. OTHER INSURANCES AND CONTRIBUTION

16.8.1. To the extent permitted by s45 of the Insurance Contracts Act 1984 (Cth) (or succeeding, amendment, replacement or equivalent legislation to that Act or any other similar legislation), the Policy will only cover a claim, liability or Defence Costs to the extent that such amount is in excess of any indemnity or cover available to You in respect of that claim, liability or Defence Costs under any other policy entered into by You that is specified in the Schedule.

16.8.2. To the extent permitted by s45 of the Insurance Contracts Act 1984 (Cth) (or succeeding, amendment, replacement or equivalent legislation to that Act or any other similar legislation), the Policy will only cover a claim, liability or Defence Costs to the extent that such amount is in excess of any indemnity or cover available to You in respect of that claim, liability or Defence Costs under any other policy under which You are a third party beneficiary as defined in s11 of the Insurance Contracts Act 1984 (Cth) (or succeeding, amendment, replacement or equivalent legislation to that Act or any other similar legislation) (but not a policy to which Clause 16.8.1 applies).

16.8.3. Neither clause 16.8.1 nor 16.8.2 applies to such other insurance that is written only as specific excess insurance over the Indemnity Limit provided in the Policy.

#### 16.9. GOVERNING LAW AND JURISDICTION

The Policy will be governed in accordance with the laws of the Commonwealth of Australia. Any disputes arising out of the Policy will be subject to determination by any Court of competent jurisdiction within the Australian State or Territory in which the Policy was issued and according to the laws applicable to the jurisdiction.

#### 16.10. SUBROGATION

We shall be subrogated to Your rights of recovery in relation to any claim paid or payable under the Policy. You shall co-operate fully with Us in connection with any action which may be reasonably necessary to enforce any rights, remedies, relief or indemnity from other parties arising from Our rights of subrogation.

#### 16.11. ASSIGNMENT

16.11.1. The Insured shall not be entitled to assign the benefit of the Policy without Our prior written consent (such consent not to be unreasonably withheld).

16.11.2. The Policy shall be for the exclusive benefit of You and in no event shall anyone other than You have any right of action under the Policy, unless We agree otherwise, and this is shown in the Schedule.

#### 16.12. POLICY INTERPRETATION

16.12.1. headings are for convenience only and do not affect interpretation; and unless the context indicates a contrary intention:

16.12.2. a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;

16.12.3. a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

16.12.4. "includes" in any form is not a word of limitations; and

16.12.5. a reference to "\$" or "dollar" is to Australian currency.

## Lloyd's Privacy Policy Statement Underwriters at Lloyd's

The Certain Underwriters at Lloyd's, want You to know how We protect the confidentiality of Your non-public personal information. We want You to know how and why we use and disclose the information that we have about You. The following describes Our policies and practices for securing the privacy of Our current and former customers.

### INFORMATION WE COLLECT

The non-public personal information that we collect about You includes, but is not limited to:

- Information contained in applications or other forms that You submit to us, such as name, address, and social security number
- Information about Your transactions with Our affiliates or other third-parties, such as balances and payment history
- Information We receive from a consumer-reporting agency, such as credit-worthiness or credit history

### INFORMATION WE DISCLOSE

We disclose the information that We have when it is necessary to provide Our products and services. We may also disclose information when the law requires or permits us to do so.

### CONFIDENTIALITY AND SECURITY

Only Our employees and others who need the information to service Your account have access to Your personal information. We have measures in place to secure Our paper files and computer systems.

### RIGHT TO ACCESS OR CORRECT YOUR PERSONAL INFORMATION

You have a right to request access to or correction of Your personal information that is in Our possession.

### CONTACTING US

If You have any questions about this privacy notice or would like to learn more about how We protect Your privacy, please contact the agent or broker who handled this insurance. We can provide a more detailed statement of Our privacy practices upon request.

LSW 1135B

## Lloyd's Australian Alternative Disputes Resolution Clause

In the event that a dispute arises between the Insurers and You out of or otherwise in relation to this agreement, then:

- a. Any party to the dispute shall, without prejudice to any other right or entitlement they may have, give written notice to the other party (the "Dispute Notice") requiring them within 7 days of this notice to negotiate (whether in a face to face meeting or by teleconference) in good faith as to how the dispute can be resolved;
- b. If a dispute is not resolved within 10 days of the Dispute Notice, either party can request the other party within a further 10 days to agree on either:
  - (i) a process for resolving the dispute through means other than litigation or arbitration, such as further negotiation, mediation, or any other alternative dispute resolution technique. The rules governing any such technique shall be agreed as between the parties and where no such agreement as to the process and/or guidelines is reached within 10 days, then it shall be by mediation by a mediator selected by the Chairperson for the time being of Lawyers Engaged in Alternative Dispute Resolution (LEADR) (or other appropriate professional body as agreed by the parties); or
  - (ii) referral of the matters in dispute to an independent expert for an expert determination. The parties agree that they will not be bound by the determination of the expert. The expert:



- a) will be a person agreed between the parties within 10 days of the dispute being referred to expert determination or failing this, the expert will be a person appointed by the Australian Insurance Law Institute (or other appropriate professional body as agreed by the parties);
- b) will act as an expert and not as an arbitrator;
- c) will proceed in such a manner as he or she thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
- d) will take into consideration all documents, information and other written and oral material that the parties place before him or her including documents, information and material relating to the facts in dispute and to arguments and submissions upon the matters in dispute; and
- e) will act with expedition to provide the parties with a determination in writing within 35 days of the referral to him or her of the matters in dispute.

Both parties must use their best endeavours to achieve resolution by the selected process and further agree that neither party will initiate litigation (as set out in clause (c) below) without first pursuing such informal resolution techniques in good faith;

In the event that the dispute is not resolved by such informal process within 35 days of the Dispute Notice (or such other period as agreed in writing between the parties) the dispute shall be referred to litigation.

- c. Following either a mediation or an expert determination pursuant to clause (b) of this provision, either party may then initiate proceedings in any competent Court in the Commonwealth of Australia in relation to the matters in dispute.

Such proceedings may only be commenced on 14 days written notice to the other party and shall be determined in accordance with the law and practice applicable in such Court.

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

Lloyd's Underwriters' General Representative in Australia  
Suite 1603, Level 16  
1 Macquarie Place Sydney NSW 2000

who has authority to accept service and to appear on the Insurer's' behalf?

If proceedings are instituted against any one of the Insurers, all Insurers participating in this insurance will abide by the final decision of such Court or any competent Appellate Court.

Except where the dispute renders it impossible to do so, the parties will continue performing their respective obligations under the Policy while the dispute is being resolved, unless and until such obligations are terminated or expire in accordance with this agreement.

Each party must use its reasonable endeavours to ensure that where a dispute is reasonably foreseeable, it is dealt with at a sufficiently early stage to ensure that there is a minimal effect on the ability of either party to perform its obligations under the Policy.

Notwithstanding anything in this schedule, either party may at any time commence Court proceedings in relation to any dispute or claim arising under, or in connection with the Policy where the party seeks urgent interlocutory relief.

LMA 5547



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