

# General Liability Insurance

Policy Wording

Insured Name:

## Important Information

### About Canopus

The insurers of this Policy are the underwriters of Canopus Syndicate 4444 at Lloyd's ("Underwriters", "We", "Us" or "Our").

Canopus Asia Pte Ltd t/as Canopus Australia & Pacific ABN: 16 782 552 577, AFS License No. 520341 has been authorised by the insurers to act on their behalf to deal in and provide general advice and handle and settle Claims in relation to this insurance. Canopus Asia Pte Ltd t/as Canopus Australia & Pacific is an Australian Financial Services Licensee authorised to deal in and provide general advice on general insurance products.

Canopus Asia Pte Ltd t/as Canopus Australia & Pacific has a binding authority which means it can enter into, vary or cancel this insurance and handle and settle Claims without reference to Us provided it acts within the binding authority. When providing these services, Canopus Asia Pte Ltd t/as Canopus Australia & Pacific acts for Us and does not act on Your behalf.

### About Lloyd's

Lloyd's is the world's specialist insurance and reinsurance market. With expertise earned over centuries, Lloyd's is the foundation of the insurance industry and the future of it. Led by expert underwriters and brokers who cover more than 200 territories, the Lloyd's market develops the essential, complex and critical insurance needed to underwrite human progress. Backed by diverse global capital and excellent financial ratings, Lloyd's works with a global network to grow the insured world - building resilience for businesses and local communities and strengthening economic growth around the world.

### About the Policy

Where Underwriters agree to enter into a Policy, it is a contract between Underwriters and the Insured (see the definition of "Insured" for details of who is covered by this term). The Policy is entered into subject to the payment to Underwriters of the premium by the Insured, including government taxes and charges, and the Policy terms and conditions (including Limits of Indemnity and the Deductibles).

We will provide insurance in accordance with the terms of this Policy. This Policy is made up of this Policy wording which sets out Our standard terms, and Schedule (which We issue to confirm the issue of the contract and which contain additional information specific to the Insured and the Policy), and any agreed endorsements. Please read them carefully to ensure that this Policy meets Your requirements. These are all important documents and should be carefully read together and kept in a safe place for future reference.

To be valid, this Policy must have attached to it a Schedule signed by an authorised officer of Canopus Asia Pte Ltd t/as Canopus Australia & Pacific.

### Notices

We will send all notices in relation to the Policy to:

- the Insured's nominated insurance intermediary, until Underwriters receive written notice to the contrary from the Insured named in the Schedule;
- if there is no nominated intermediary, the Insured specified in the Schedule, acting on behalf of all the Insureds.

## General Insurance Code of Conduct

Lloyd's Australia subscribes to the Insurance Council of Australia's General Insurance Code of Practice with the exception of any claims adjusted outside of Australia. Canopius Asia Pte Ltd t/as Canopius Australia & Pacific and Certain Underwriters at Lloyd's proudly support the General Insurance Code of Practice. The purpose of Code is to raise standards of practice and service in the general insurance industry.

The objectives of the Code are:

- to commit Us to high standards in Our product and service offerings;
- to promote better, more informed and transparent relations between Us and Our customers;
- to maintain and promote trust, integrity and confidence in the general insurance industry;
- to provide fair and effective mechanisms for the resolution of complaints and disputes between Us and the Insured; and
- to promote proactive and continuous improvement of the general insurance industry through education and training.

A copy of the code is available from the Code's dedicated website [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

## Privacy


Canopius Asia Pte Ltd t/as Canopius Australia & Pacific is committed to protecting the privacy of the personal information You provide Us. Canopius Asia Pte Ltd t/as Canopius Australia & Pacific collects, uses and retains Your personal information in accordance with the National Privacy Principles. For full details on how We use Your information, please refer to our Privacy Notice available on Our website [www.canopius.com/privacy](http://www.canopius.com/privacy).

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

We may disclose the personal information We collect:

- To Our relevant employees and related entities involved in delivering our services;
- If Your insurance broker collects this form from You, to that broker;
- To facilitators such as legal firms, professional experts such as accountants, actuaries, engineers and technology experts;
- To Our appointed third party administrators (TPAs) for claims assessment and administration services;
- To Our service providers based within Australia or overseas such as the United Kingdom, who assist us in delivering our services;
- To the insurance companies with whom We transact business;
- To the Lloyd's Syndicates We represent (which are located in the United Kingdom);
- To insurance reference bureau or credit reference bureau;
- To reinsurers or reinsurance brokers (which may include reinsurers located outside of Australia).

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



You may request access to Your personal information and where necessary, correct any errors in this information (some restrictions and costs may apply). If You would like to access a copy of Your personal information or You wish to correct or update Your personal information, please contact Us by email at [privacy@canopius.com](mailto:privacy@canopius.com) or call Us on +61 (0)2 8537 3500.

By completing and returning a proposal form or providing Us with any additional information in connection with Your application, You agree to us using and disclosing Your information as set out above. This consent to the use and disclosure of Your personal information remains valid unless You alter or revoke it by giving Us written notice. When You give Us personal information about other individuals, we rely on You to have made or make the individual aware that You will or may provide their personal information to us and the types of other parties and service providers We may provide it to, the relevant purposes We and the other parties and service providers will use it for, and how they can access it. If You have not done or will not do either of these things, You must tell us before You provide the relevant personal information to Us.

### **How to Contact Us**

Enquiries of a general nature should be addressed to Canopius Asia & Pacific and should be sent to:

Canopius Asia Pte Ltd t/as Canopius Australia & Pacific  
Suite 25.04  
Level 25, 52 Martin Place,  
Sydney NSW 2000,  
T: +61 (0)2 8537 3500  
E: [info@Canopius.com](mailto:info@Canopius.com)

**CLAIMS:** All enquiries specific to making a claim and or notice of an event which is likely to give rise to a claim, please refer to the section below, How to Make a Claim.

**COMPLAINTS:** Any complaint relating to this Policy, please contact Your broker contact in the first instance and refer to the section below, How to Make a Complaint.

### **How to Make a Claim**

You or any person entitled to claim under this Policy must give Us or Our authorised agent written notice of any event which is likely to give rise to a claim, within thirty (30) days, or as soon as is reasonably practicable.

Please send the notice to:  
DWF Group  
Level 29, 85 Castlereagh Street,  
Sydney, NSW  
2000

Once notified of Your claim, DWF Group will provide You with all the necessary claim forms. You must complete these forms in full and return to DWF Group along with all other information and documentation that is relevant to Your claim in order to ensure a quick and efficient claims assessment. These may include and are not limited to any invoices, medical certificates, Medical Practitioner reports, and employer reports. A failure to provide relevant information could delay processing of Your claim.

Any payments will be made in Australian Dollars (AUD) unless otherwise shown in the Policy Schedule.

## How to Make a Complaint

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

If You have any concerns or wish to make a complaint in relation to this 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 Us in the first instance:

Attention: Complaints Office

Canopus Asia Pte Ltd t/as Canopus Australia & Pacific  
Suite 25.04  
Level 25, 52 Martin Place,  
Sydney NSW 2000,  
T: +61 (0)2 8537 3500  
E: Complaintsinbox@canopus.com

We will acknowledge receipt of Your complaint within 1 business day via phone or email 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 review Your complaint within 10 business days. You will be kept informed of the review of Your complaint every 10 business days.

Lloyd's contact details are:

Lloyd's Australia Limited  
Telephone: +61 (0)2 8298 0783  
Email: idraustralia@lloyds.com  
Post: Suite 1603 Level 16,  
1 Macquarie Place  
SYDNEY NSW 2000

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  
Post: GPO Box 3 MELBOURNE VIC 3001  
Website: www.afca.org.au

AFCA is an independent body that operates nationally in Australia and aims to resolve disputes between You and Your insurer. AFCA provides fair and independent financial services complaint resolution that is free of charge to consumers. Determinations made by AFCA are binding upon Us.

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 may seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to You.

The Underwriters accepting this Insurance agree that:

- if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- any summons notice or process to be served upon the 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 on the Underwriters' behalf;

- if a suit is instituted against any of the Underwriters, all Underwriters 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:

DWF Group  
Level 29, 85 Castlereagh Street,  
Sydney, NSW  
2000

### **Service of Suit**

The Insurers accepting this insurance agree that:

- if a dispute arises under this insurance, this insurance 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 will be served upon:

Lloyd's Australia  
Suite 1603  
Level 16  
1 Macquarie Place  
SYDNEY NSW 2000  
Telephone. 02 8298 0700

- 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 Appellate Court.


### **Several Liability**

The subscribing Insurers obligations under the contracts of insurance to which they subscribe are several and not joint and are limited solely to their individual subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations.

### **Your Duty of Disclosure**

This Policy is subject to the Insurance Contracts Act 1984 (Act). Under that Act You have a Duty of Disclosure. Before You take out insurance with Us, You have a duty to tell Us of everything that You know, or could reasonably be expected to know, may affect Our decision to insure You and on what terms. If You are not sure whether something is relevant You should inform Us anyway.

You have the same duty to inform Us of those matters before You renew, extend, vary, or reinstate



Your contract of insurance. The duty applies until the Policy is entered into, or where relevant, renewed, extended, varied or reinstated (Relevant Time). If anything changes between when the answers are provided to Us or disclosures are made and the Relevant Time, You need to tell Us.

Your duty however does not require disclosure of matters that:

- reduce the risk;
- are common knowledge;
- We know or, in the ordinary course of Our business, ought to know; or
- We have indicated We do not want to know.

If You do not comply with Your duty of disclosure, We may be entitled to:

- reduce Our liability for any claim;
- cancel the contract;
- refuse to pay the claim; or
- avoid the contract from its beginning, if Your non-disclosure was fraudulent.

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# Policy Wording

## 1 Operative Clause

The Underwriters will indemnify the Insured against their legal liability to pay compensation (including claimants' fees, costs and expenses) in accordance with the law of any country stated in the Schedule as a third party jurisdiction covered by the Policy.

This indemnity applies only to such legal liability as defined by each insured Section of this Policy arising out of the Business, subject always to the terms, conditions and exclusions of such Section and of the Policy as a whole.

## 2 Definitions

For the purpose of this Policy:

2.1 Advertising Liability means:

2.1.1 infringement of copyright of, or passing off a title or slogan;

2.1.2 unfair competition, piracy or idea misappropriation contrary to an implied contract;

2.1.3 invasion of privacy; or

2.1.4 defamation, libel, slander,

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

2.2 Business means the business stated in the Schedule conducted at or from premises of the Insured and shall include:

2.2.1 the ownership, repair and maintenance of the Insured's own property

2.2.2 provision and management of canteen, social, sports and welfare organisations for the benefit of any Person Employed and medical, firefighting and security services

2.2.3 private work undertaken by any Person Employed for any director or partner of the Insured with the prior consent of the Insured

2.3 Computer Virus means an executable program or computer code that is self-replicating, requires a host program or executable segment in which it can be contained, and which destroys or alters the host, program or other computer code or data, causing undesired program, application or computer system operation.

2.4 Damage means loss of possession of or physical damage to tangible property

2.5 Deductible means the first amount of each Occurrence which is payable by the Insured as stated in the Schedule. The Deductible applies to all amounts payable under this Policy including the indemnity provided under 3. Indemnity to Others

2.6 Defence Costs means costs, fees and expenses incurred by the Insured with the written consent of the Underwriters in the defence or settlement of any claim, suit or

proceedings which are or would, if successful, be covered under this Policy, including legal expenses arising out of representation at any inquest or inquiry or arising out of the defence of any proceedings in a Court of Summary Jurisdiction in respect of matters which may form the subject of indemnity by this Policy

- 2.7 Injury means bodily injury, death, illness or disease of or to any person
- 2.8 Insured means:
- 2.8.1 the person, persons or corporate body named in the Schedule
- 2.8.2 subsidiary companies of the Insured notified to and accepted in writing by the Underwriters
- 2.9 Internet Operations means:
- 2.9.1 transfer of computer data or programmes by use of electronic mail systems by the Insured or the Insured's employees, including for the purpose of this definition only, part-time and temporary staff, contractors and others within the Insured's organisation whether or not such data or programmes contain any malicious or damaging code, including but not limited to Computer Virus;
- 2.9.2 access through the Insured's network to the world wide web or a public internet site by the Insured or the Insured's employees, including for the purpose of this definition only, part-time and temporary staff, contractors and others within the Insured's organisation;
- 2.9.3 access to the Insured's intranet, services or products which is made available through the world wide web for the Insured's customers or others outside the Insured's organisation; and
- 2.9.4 the operation and maintenance of the Insured's web site.
- 2.10 Occurrence means:
- 2.10.1 an event, including continuous or repeated exposure to substantially the same general conditions; or
- 2.10.2 any event or any series of events consequent upon or attributable to one source or original cause shall be deemed to be one Occurrence; which in either case results in Injury, Damage or Advertising Liability neither expected or intended from the standpoint of the Insured.
- For the purposes of this Clause 2.10.2, Advertising Liability arising out of or in connection with the same injurious material or act regardless of the frequency or repetition thereof, the number and kind of media used or the number of claimants shall be deemed to be one Occurrence.
- 2.11 Period of Insurance means the Period of Insurance stated in the Schedule
- 2.12 Person Employed means any:
- 2.12.1 employee being a person under a contract or service or apprenticeship with the Insured
- 2.12.2 labour master and persons supplied by them
- 2.12.3 person employed by labour only sub-contractors
- 2.12.4 self employed person under the control of the Insured

- 2.12.5 person hired to or borrowed by the Insured
- 2.12.6 person undertaking study or work experience or youth training scheme with the Insured working for the Insured in connection with the Business
- 2.13 Policy means the Canopus General Liability Insurance Policy v1.0
- 2.14 Pollution means pollution or contamination of the atmosphere or of any water, land, buildings or other tangible property.
- 2.15 Product means any tangible property after it has left the custody or control of the Insured which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured
- 2.16 Schedule means the Schedule attaching to and forming part of this Policy, including any Schedule substituted for the original Schedule
- 2.17 Terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), 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
- 2.18 Underwriters means Canopus Asia Pte Ltd t/as Canopus Australia & Pacific. In this Policy, references to We, Us and Our means Canopus Australia & Pacific

### 3 Indemnity to Others

The indemnity granted extends to:

- 3.1 managerial or supervisory Persons Employed in their business capacity for legal liabilities arising out of the performance of the business and any director or partner of the Insured in respect of private work undertaken by any Person Employed for such director or partner with the prior consent of the Insured
- 3.2 the officers, committees and members of the Insured's canteen, social, sports, medical, fire fighting, security services and welfare organisations for legal liabilities incurred in their respective capacity as such
- 3.3 any person or firm for legal liabilities arising out of the performance of a contract with the Insured constituting the provision of labour only
- 3.4 any principal for legal liabilities arising out of work carried out by the Insured under a contract or agreement in respect of which the Insured would have been entitled to indemnity under this Policy if the claim had been made against the Insured
- 3.5 the personal representatives of any person or party indemnified by reason of this Clause 3 in respect of legal liability incurred by such person or party

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

## 4 Cross Liabilities

Each person or party specified as the Insured in the Schedule is separately indemnified in respect of claims made against any of them by any other such person or party subject to the Underwriters' total liability not exceeding the stated Limits of Indemnity

## 5 Limits of Indemnity

SECTIONS 1, 2 and 3 - The Underwriters' total liability to pay damages (including claimants' costs, fees and expenses) shall not exceed the sum stated in the Schedule in respect of any one occurrence or series of occurrences arising from one originating cause. Each Section shall be subject to its own Limit of Indemnity, provided always that should the same originating cause or occurrence give rise to indemnity under more than one Section, the total amount of Underwriters' liability for all claims arising out of one originating cause or occurrence under all Sections combined shall not exceed the single greatest Limit of Indemnity available under the Sections providing indemnity

SECTIONS 2 AND 3 separately – The Underwriters' total liability to pay damages (including claimants' costs, fees and expenses) shall not exceed the sum stated in the Schedule against each Section in respect of all occurrences combined during the Period of Insurance.

## 6 Defence Costs

The Underwriters' will also pay Defence Costs provided that the Underwriters' shall not be liable for any fines or penalties imposed as a consequence of any claim, suit or proceedings. Defence Costs will be payable in addition to or inclusive of the Limits of Indemnity as stated in the Schedule. Where Defence Costs are payable in addition to the Limit of Indemnity, if the amount required in settlement of the third party claim is greater than the Limit of Indemnity available under this policy in respect of such claim, then the Underwriters' will not pay more than their corresponding proportional share of the associated Defence Costs.

## Section 1 – Public Liability

# 7 Section 1 – Indemnity

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of accidental Injury, Damage or Advertising Liability occurring during the Period of Insurance.

# 8 Section 1 – Exclusions

This Section does not apply to or include legal liability:

- 8.1 arising out of Pollution or arising out of any Product
- 8.2 arising out of the ownership, possession or use by or on behalf of the Insured or any person or party entitled to indemnity of any vehicle or trailer which is either registered or is required to be registered under law other than legal liability:
  - 8.2.1 arising out of the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer
  - 8.2.2 arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any motor vehicle or trailer
  - 8.2.3 arising out of any motor vehicle or trailer temporarily in the Insured's custody or control for the purpose of parking

Provided always that no indemnity is granted against liability for which compulsory insurance or security is required by legislation or for which the government or other authority has accepted responsibility

- 8.3 arising out of the ownership, possession or use by or on behalf of the Insured of any aircraft, spacecraft, hovercraft, offshore installation, rig, platform or watercraft (other than watercraft not exceeding 10 metres in length whilst on inland waterways)
- 8.4 for Damage to property owned, leased to, hired by, under hire purchase, on loan to, held in trust by or otherwise in the Insured's care, custody or control other than:
  - 8.4.1 clothing and personal effects of Persons Employed and visitors
  - 8.4.2 premises (including contents therein) temporarily occupied by the Insured for work therein or thereon but no indemnity shall be granted for Damage to that part of the property on which the Insured is or has been working and which arises out of such work
  - 8.4.3 premises tenanted by the Insured but always excluding liability for Damage
    - 8.4.3.1 arising out of any perils which the tenancy agreement requires the Insured to insure against or;
    - 8.4.3.2 to any property which the tenancy agreement requires the Insured to insure or;

- 8.4.3.3 to any property which the tenancy agreement requires the Insured to be responsible for
  - except if such Damage is the proven consequence of the Insured's own negligence
- 8.4.4 motor vehicles in a car park, unless the car park is owned or operated by the Insured for reward
- 8.4.5 other property in the Insured's care, custody or control (except while undergoing any process or being worked upon) for which the Insured has not assumed any responsibility to obtain insurance, subject to a sub limit of \$250,000 for any one Occurrence and in the aggregate during the Period of Insurance
- 8.5 arising out of breach of professional duty or wrongful or inadequate advice given separately for a fee

## Section 2 – Products Liability

# 9 Section 2 – Indemnity

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of accidental Injury, Damage or Advertising Liability occurring during the Period of Insurance and arising out of or in connection with any Product.

# 10 Section 2 – Exclusions

This Section does not apply to or include legal liability:

- 10.1 arising out of Pollution
- 10.2 for costs incurred in the repair, reconditioning or replacement of any Product or part thereof which is or alleged to be defective
- 10.3 arising out of the recall of any Product or part thereof
- 10.4 arising out of any Product which with the Insured's knowledge is intended for incorporation into the structure, machinery or controls of any aircraft, other aerial device, hovercraft or waterborne craft
- 10.5 arising by virtue of a contract or agreement other than a warranty of fitness or quality of the Insured's Products established or implied by virtue of the Sale of Goods Act or equivalent legislation or a warranty that work done will be performed in a workmanlike manner

## Section 3 – Pollution Liability

### 11 Section 3 – Indemnity

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of accidental Injury, Damage or Advertising Liability occurring during the Period of Insurance and arising out of Pollution which was the direct result of a sudden, identifiable, unintended and unexpected event occurring in its entirety at a specific time and place during the Period of Insurance.

### 12 Section 3 – Exclusions

This Section is subject to the Exclusions of Sections 1 and 2 other than 8.1 (as regards Pollution) and 10.1 and also does not apply to or include legal liability for:

- 12.1 Damage to premises presently or at any time previously owned or tenanted by the Insured
- 12.2 Damage to land or water within the boundaries of or below any land or premises presently or at any time previously owned or leased by the Insured
- 12.3 Damage caused or contributed to by the Insured's failure to take reasonable precautions to prevent Pollution

## General Exclusions

### 13 Exclusions applicable to all Sections of the Policy

This Policy does not apply to or include legal liability:

- 13.1 for Advertising Liability caused by or arising out of:
  - 13.1.1 statements made at the Insured's discretion with the knowledge such statements are false;
  - 13.1.2 failure of performance of contract, however this Exclusion does not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract;
  - 13.1.3 any incorrect description of the Insured's Products or services
  - 13.1.4 any error in the advertised price of the Insured's Products or services
  - 13.1.5 failure of the Insured's Products or services to conform with advertised performance, quality, fitness or durability;

- 13.2 for or arising out of the deliberate, conscious or intentional disregard by the Insured's technical or administrative and/or executive management of the need to take all reasonable steps to prevent Injury or Damage
- 13.3 for or arising out Injury to a Person Employed where such Injury arises out of and in the course of employment by the Insured or any liability arising out of the Workers' Compensation Act or any similar legislation anywhere in the world
- 13.4 for or arising out of liquidated damages clauses, penalty clauses or performance warranties unless it is proven that liability would have attached in the absence of such clauses or warranties
- 13.5 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
- 13.6 directly or indirectly caused by or contributed to by or arising out of:
- 13.6.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- 13.6.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
- 13.7 for any award of punitive or exemplary damages whether as fines, penalties, multiplication of compensatory awards or damages, or in any other form whatsoever
- 13.8 for the Deductible stated in the Schedule in respect of the first amount of each occurrence
- 13.9 arising from circumstances known to the Insured or which the Insured ought reasonably to have known prior to the inception date of this Policy.
- 13.10 for any loss directly or indirectly caused by, in connection with or contributed to by or arising from asbestos or asbestos products or asbestos contained in any Products.
- 13.11 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 applies to 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 loss, injury, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured
- In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect
- This exclusion shall take precedence over any other term of the Policy, including any endorsement added at any time, which does not expressly override it
- 13.12 for any amount in respect of loss of use of tangible property which has not been damaged, lost or destroyed as a result of:



13.12.1 a delay in or lack of performance by or on behalf of an Insured in respect of any contract or agreement; or

13.12.2 the failure of the Products to meet the level of performance, quality, fitness or durability expressly or implied warranted or represented by an Insured

However, Exclusion 13.12.2 does not apply to loss of use of other tangible property resulting from the sudden and accidental damage to or destruction of the Products after such Products have been put to use by any person or organisation other than the Insured.

13.14 for any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from:

13.14.1 the Insured's Internet Operations; or

13.14.2 Damage to computer data or programs and their storage media arising directly or indirectly out of or caused by, through or in connection with:

(a) the use of any computer hardware or software;

(b) the provision of computer or telecommunication services by the insured or on the insured's behalf; or

(c) the use of computer hardware or software belonging to any third party, whether authorised or unauthorised including damage caused by any computer virus.

However, this Exclusion does not apply to:

(i) Injury, Damage or Advertising liability arising out of any material which is already in print by the manufacturer in support of any of its products, including but not limited to product use and safety instructions or warnings, and which is also reproduced on its site; or

(ii) liability which arises irrespective of the involvement of the insured's internet operations.

## General Conditions

14 General Conditions applicable to all Sections of the Policy

14.1 The Insured shall as soon as practicable after becoming aware give notice in writing to the Underwriters of any occurrence that may give rise to a claim under this Policy and shall give all such additional information as the Underwriters may require. Every claim, writ, summons, notice of adjudication, referral notice or process and all documents relating thereto shall be forwarded to the Underwriters as soon as practicable after being received.

14.2 No admission, offer, promise or payment shall be made or given by or on behalf of the Insured without written consent of the Underwriters, who shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured for their own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any


proceedings and in the settlement of any claim and the Insured shall give all such information and assistance as the Underwriters may reasonably require.

- 14.3 The Underwriters may at any time pay to the Insured in connection with any claim or series of claims under this Policy to which a Limit of Indemnity applies the amount of such Limit (after deduction of any sums already paid) or any lesser amount for which such claims can be settled and upon such payment being made the Underwriters shall relinquish the conduct and control of and be under no further liability in connection with such claims except for payment of Defence Costs incurred prior to the date of such payment.

This clause does not apply where and to the extent Defence Costs are inclusive within the Limit of Indemnity.

Provided that if the Underwriters exercise the above option and the amount required to dispose of any claim or series of claims exceeds the Limit of Indemnity and such Deductible amount insured either in whole or in part, with Defence Costs payable in addition to the Limit of Indemnity under this Policy then the Underwriters will also contribute their proportion of subsequent Defence Costs incurred with their prior written consent as the Limit of Indemnity bears to the amount paid to dispose of a claim.

- 14.4 The Insured shall as soon as practicable after becoming aware give notice in writing to the Underwriters of any alteration or circumstance which materially affects the risks insured under this Policy and until the Underwriters are advised of such alteration or circumstance and shall have expressly agreed in writing to accept liability for such altered risk and the Insured has paid or agreed to pay any reasonable additional premium required, having regard to the nature of the risk being assumed, the Underwriters shall not be liable in respect of any claim or claims due wholly or partially to any such alteration or circumstance.
- 14.5 Where the premium is provisionally based on the Insured's estimates, the Insured shall keep accurate records and within 90 days of expiry of the Period of Insurance declare such particulars as the Underwriters require. The premium shall then be adjusted and any difference paid or allowed to the Insured as the case may be subject to any minimum premium that may apply. Failure to declare such particulars to the Underwriters shall entitle the Underwriters to estimate if they so wish such particulars and to assess the further premium payment due calculated on such estimated particulars.
- 14.6 Any written proposal and/or declaration made by the Insured shall form the basis of this contract of insurance and is deemed to be incorporated herein.
- 14.7 If any claim under this Policy is in any respect fraudulent all benefit in respect of such claim shall be forfeited.
- 14.8 The Insured may cancel this Policy by giving the Underwriter notice in writing to that effect provided that such cancellation will take effect from the date the Insured's notice is received by the Underwriter or any other date that is mutually agreed between the Insurer and Underwriter;
- 14.9 The Underwriter may cancel this Policy under any circumstances set out in the Insurance Contracts Act 1984 (Cth) or subsequent amendments to this legislation;
- 14.10 After cancellation by the Insured, the Underwriter will refund to the Insured a proportionate part of the premium applicable to the unexpired Period of Insurance subject to any minimum premium imposed at binding;

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- 14.11 After cancellation by the Underwriter, a refund of premium will be allowed pro rata to the unexpired Period of Insurance;
  - 14.12 When the premium is subject to adjustment, cancellation will not affect the Insured's obligation to supply the Underwriter such information which is necessary to permit the premium adjustment to be calculated and pay the amount of the adjustment applicable up to the date of cancellation.
  - 14.13 This Policy and Schedule will be interpreted in accordance with the law of Australia. The Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the Schedule shall bear such specific meaning wherever it may appear.
  - 14.14 All disputes concerning interpretation of this Policy are understood and agreed by both the Insured and the Underwriters to be subject to Australian Law. Each party agrees to submit to the jurisdiction of any court of competent jurisdiction within Australia and to comply with all requirements necessary to give such court jurisdiction. All matters arising hereunder shall be determined in accordance with the law and practice of such court.
  - 14.15 The Insured shall advise the Underwriters at the time of any claim under this Policy of the details of all other liability insurance from which the Insured may benefit, regardless of whether such claim is in the Insured's opinion recoverable from such other insurance, in order for the Underwriters to establish rights of contribution which they may have.