STERLING
INSURANCE

Public & Products Liability Policy Wording

Form V2026-K (Standard)



Sterling Insurance Pty Ltd
ABN 12 084 296 168 | AFSL 237880
Head Office: Level 16/68 Pitt St, Sydney NSW 2000
PO Box R753, Royal Exchange, NSW 1225
P: (02) 9950 4000 F: (02) 9950 4001
www.sterlinginsurance.com.au

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Your Duty of Disclosure

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

You have this duty until We agree to insure you.

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

You do not need to tell Us anything that:

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

If You do not tell Us something

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

We Are An Agent

Sterling Insurance Pty Ltd is an authorised agent for the underwriters (i.e. insurers), for the purpose of entering into contracts of insurance with intending insured parties and for the dealing with and settling of claims thereunder. At no time do we act in the capacity of agent for the insured or intending insured parties, in either capacity or any other capacity.

General Insurance Code of Practice

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice, which is a self-regulatory code for use by all insurers. The Code aims to raise the standards of practice and service in the insurance industry.
Lloyd's Australia Limited has adopted the Code subject to certain Lloyd's specific qualifications. For further information on the Code please visit 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 www.insurancecode.org.au

Complaints and Disputes

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 Sterling in the first instance:

Sterling's Internal Dispute Resolution Officer
Sterling Insurance Pty Limited
Email: complaints@sterlinginsurance.com.au
Telephone: (02) 9950 4000
Post: PO Box R753, Royal Exchange NSW 1225 Australia

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
Email: idraustralia@lloyds.com
Telephone: (02) 8298 0783
Post: PO Box R1745, Royal Exchange NSW 1225 Australia

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:

Australian Financial Complaints Authority
Email: info@afca.org.au
Telephone: 1800 931 678
Post: GPO Box 3, Melbourne VIC 3001
Website: 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

Privacy

In this Privacy statement "we", "us" and "our" means the Insurer and Sterling acting under a binder as its agent and "you" or "your" means any individual whose personal information we collect for the purposes of the Policy.

We are bound by the requirements of the Privacy Act 1988 (Cth), including the Australian Privacy Principles (APPs) which set out standards on the collection, use, disclosure and handling of personal information.

Personal information includes any information or opinion about an identified individual, or an individual who is reasonably identifiable. This may include sensitive information such as health data, which we will only collect and use with your express consent.

Our Privacy Policy is available at www.sterlinginsurance.com.au or you can contact us as follows:

Sterling Insurance Pty Ltd
Level 16, 68 Pitt Street, Sydney NSW 2000
Telephone: 02 9950 4000

We, and our agents, need to collect, use and disclose your personal information in order to consider your application for insurance and to provide the cover you have chosen, administer the insurance and assess any claim and to make special offers of other services and products provided by us or those we have an association with, that might be of interest to you. You can choose not to provide us with some of the details or all of your personal information, but this may affect our ability to provide the cover, administer the insurance or assess a claim.

We may disclose your personal information to third parties (and/or collect additional personal information about you from them) who assist us in providing the above services and some of these are likely to be overseas recipients, including in the United Kingdom. Who they are may change from time

to time. Where we disclose personal information to overseas recipients, we take reasonable steps to ensure they comply with the APPs or are subject to laws that offer similar protections. If this is not possible, we will seek your consent or inform you of the risks involved.

These third parties, which include our related entities, distributors, agents, insurers, claims investigators, assessors, lawyers, medical practitioners and health workers, Lloyd's Regulatory Division and anyone either of us appoint to review and handle complaints or disputes, any other parties where permitted or required by law and federal or state regulatory authorities, including Medicare Australia and Centrelink, will only use the personal information for the purposes we provided it to them for (unless otherwise required by law).

Information will be obtained from individuals directly where possible and practicable to do so. Sometimes it may be collected indirectly (e.g. from your representatives or co-insureds or through websites from data you input directly or through cookies and other web analytic tools). If you provide information for another person you represent to us that:

- you have the authority from them to do so and it is as if they provided it to us; and
- you have made them aware that you will or may provide their personal information to us, the types of third parties we may provide it to, the relevant purposes we and the third parties we disclose it to will use it for, and how they can access it.

If it is sensitive information we rely on you to have obtained their consent on these matters. If you have not done or will not do either of these things, you must tell us before you provide the relevant information.

You have the right to access the personal information we hold about you and to request corrections if it is inaccurate, incomplete or out of date.

By providing us with personal information, you and any person you provide personal information for, consent to these uses and these disclosures unless you tell us otherwise. You may withdraw your consent at any time including for things such as receiving information on products and offers by us or persons we have an association with please by contacting ATC on 03 9258 1777 or write to us at the address given above.

Electronic Communication

Pursuant to the Insurance Contracts Act 1984 (Cth), a notice or other document may be given by electronic communication in accordance with the Electronic Transactions Act 1999 (Cth) and any regulations made under that Act. Amongst other things, this means that We can communicate with the Insured by email.

If You are represented by an agent (e.g. Your insurance broker) and they provide Us with their nominated email address, they and You consent to Us delivering documents electronically to that email address, unless You or they tell Us otherwise. Any documents sent by email will be considered to have been received by You and Your agent 24 hours from the time We send them to that email address.

In all other cases, if You provide Us with Your nominated email address You consent to Us delivering documents electronically to that email address, unless You tell Us otherwise. Any documents sent by email will be considered to have been received by You 24 hours from the time We send them to that email address.

It is Your and Your agent's obligation to ensure that any email address provided to Us is up to date and let Us know promptly if it changes.

Public & Products Liability Policy Wording

1. Insuring Clause

Subject to the terms of this Policy, Underwriters will pay to or on behalf of the Insured all sums which the Insured shall become legally liable to pay by way of compensation for:

1.1 Injury

1.2 Damage

1.3 Advertising Liability

happening during the Period of Insurance as a result of an Occurrence in connection with the Insured's Business.

2. Definitions

2.1 "Advertising Liability" means liability arising out of:

2.1.1 Libel, slander or defamation of character; or

2.1.2 Infringement of copyright of or passing off of title or slogan; or

2.1.3 Unfair competition, piracy or idea misappropriation contrary to an implied contract; or

2.1.4 Invasion of privacy;

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

2.2 "Aircraft" means any craft or object designed to travel through air or space.

2.3 "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 the Insured or any other party.

2.4 "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.

2.5 "Cyber Incident" means:

2.5.1 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

2.5.2 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.

2.6 "Damage" means:

2.6.1 Physical loss, destruction of or damage to tangible property, (other than Product) including all resulting loss of use of that property. All such loss of use shall be deemed to happen at the time of the physical loss, destruction or damage that caused it.

2.6.2 Loss of use of tangible property, (other than Product) that is not physically lost, destroyed or damaged provided such loss of use is caused by physical loss, destruction of or damage to other tangible property which happened during the Period of Insurance. All such loss of use shall be deemed to happen at the time of the physical loss, destruction or damage that caused it.

2.6.3 Denial of access to property, premises, services or facilities, or interference with any right of way, light, air or water.

2.6.4 Stoppage of or interference with pedestrian, vehicular, air, rail or waterborne traffic.

2.7 "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.

2.8 "Deductible" (or "Excess") means the first amount in respect to each Occurrence which is payable by the Insured or any other party seeking any payment under this Policy. The Deductible applies to all amounts payable under this Policy.

Should more than one Deductible apply to any Occurrence/claim (or series of Occurrences/claims arising from one event), then the highest level of Deductible shall apply.

2.9 "Employment Practices" means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination (sexual or otherwise) in respect of employment by the Insured.

2.10 "Hovercraft" means any vessel, craft, or device made or intended to float on or in or travel on or through the atmosphere or water on a cushion of air powered by a downward blast.

2.11 "Injury" means:

2.11.1 Death, bodily injury, sickness, disease, illness, disorder, disability, shock, fright, mental anguish and mental injury to any person, including loss of consortium or services resulting therefrom;

2.11.2 The effects of false arrest, wrongful detention, false imprisonment, malicious prosecution or humiliation;

2.11.3 The effects of wrongful entry or wrongful eviction or other invasion of privacy; and

2.11.4 The effects of assault and battery not committed by the Insured or at the Insured's direction unless reasonably committed for the purpose of preventing or eliminating danger to persons or property.

In the event of Injury claims arising from latent injury, latent sickness, latent disease, latent illness, latent disorder or latent disability: such injury, sickness, disease, illness,

disorder or disability in respect of each claim shall be deemed to have occurred on the day such injury, sickness, disease, illness, disorder or disability was first medically diagnosed.

2.12 “Injury to Contractor / Workers Compensation Subrogation” means:

2.12.1 Injury to any employee of any principal, contractor, subcontractor or labour hire personnel; or,

2.12.2 The recovery of payments made under the relevant Workers' Compensation legislation of any State or Territory of Australia.

Where applicable, the Deductible for “Injury to Contractor / Workers Compensation Subrogation” is stated in the Schedule.

2.13 “Insured” wherever used in this Policy means the Insured named in the Schedule and,

2.13.1 Any subsidiary company (including subsidiaries thereof) of the Insured;

2.13.2 Any entity controlled by the Insured and/or over which the Insured assumes active management during the Period of Insurance;

2.13.3 Any entity controlled by the Insured which is divested during the Period of Insurance, but only in respect of claims made against such divested entity caused by or arising out of Occurrences insured under this Policy, and which occurred prior to the divestment; and

2.13.4 As a joint venture partner, but limited solely to when the joint venture partner is the Insured named in the Schedule

2.14 “Insured’s Business” is the business shown in the Schedule, which shall include:

2.14.1 The ownership of premises and/or the tenancy thereof by the Insured, and

2.14.2 Private work undertaken by the Insured’s employees for any director, partner, proprietor, officer or executive of the Insured.

2.15 "Internal Labour Hire" means any Worker of any Insured which are then on-hired, loaned, engaged and/or otherwise utilised by another Insured.

2.16 “Limit of Indemnity” means the amount stated in the Schedule pursuant to Clause 5 of this Policy.

2.17 “Loading or Unloading” means the handling of property at the job site where the Insured is performing their Business:

2.17.1 After the property is moved from the place where it is accepted for movement into or onto a Watercraft, Aircraft, Vehicle, trailer attachable or attached to a Vehicle, or rolling stock of any kind, or

2.17.2 While the property is in or on a Watercraft, Aircraft, Vehicle, trailer attachable or attached to a Vehicle, or rolling stock of any kind, or

2.17.3 While the property is being moved from a Watercraft, Aircraft, Vehicle, trailer attachable or attached to a Vehicle, or rolling stock of any kind to the place where it is finally delivered;

but Loading or Unloading does not include the movement of property by means of mechanical device, other than a hand truck, that is not attached to the Watercraft, Aircraft, Vehicle, trailer attachable or attached to a Vehicle, or rolling stock of any kind.

2.18 "Occurrence" means an event, including continuous or repeated exposure to substantially the same general conditions, which results in Injury and/or Damage and/or Advertising Liability neither expected nor intended from the standpoint of the Insured. All events of a series consequent on or attributable to one source or original cause shall be deemed one Occurrence.

2.19 "Period of Insurance" is the period shown in the Schedule or the period shown within any subsequently issued renewal documentation.

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

2.21 "Premium" means the amount the Underwriters shall charge for insurance under this Policy for a Period of Insurance.

2.22 "Principal Controlled Insurance Policy" means an insurance policy:

2.22.1 Arranged by the principal for the benefit of the Insured; and

2.22.2 Indemnifies the principal, Insured and/or any other insured party for any loss and/or liability arising out of a project and/or agreement.

2.23 "Product" means any commodity, article or thing (after it has ceased to be in the possession or under the control of the Insured) which is or is deemed (whether by law or otherwise) to have been manufactured, constructed, grown, extracted, produced, processed, assembled, erected, installed, treated, altered, serviced, repaired, sold, handled, supplied or distributed by the Insured or by others trading under the name of the Insured (including any container thereof other than a Vehicle).

2.24 "Terrorism" means an act, which may include but is not limited to an act involving 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 organization(s) or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological or ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

2.25 "Tool of Trade" means a Vehicle that has tools, implements, machinery or plant attached to or towed by the Vehicle and is being used by the Insured either at or away from the Insured's business premises. Tool of Trade does not include:

2.25.1 Any Vehicle whilst travelling to or from the Insured's business premises, or to any area which the Vehicle will be used as a Tool of Trade; or

2.25.2 Vehicles that are used to carry goods to or from any premises.

2.26 "Vehicle" means any type of machine on wheels or on self-laid tracks made or intended to be propelled by other than manual or animal power, and any trailer or other attachment to be utilized in conjunction with or drawn by any such machine.

2.27 "Watercraft" means any vessel, craft or thing made or intended to float on or in or travel on or through water, other than model boats.

2.28 "Worker" means any person employed by the Insured or deemed to be employed by the Insured whether pursuant to any Workers' Compensation Law or otherwise.

2.29 “Workers’ Compensation Law” means any law relating to compensation for Injury to Workers or employees.

3. Indemnity to Others

The indemnity granted by this Policy will extend to:

3.1 Any principal for that principal’s vicarious liability for the negligent acts or omissions of the Insured arising out of the performance by the Insured of any written contract or agreement with the Insured for the performance of work for such principal, but the indemnity granted by this Policy does not extend to the liability of any principal arising out of its own negligence, breach of contract, or breach of duty.

3.2 Any director, executive officer or Worker of the Insured or, where the Insured is a partnership, any partner of the Insured, but only while acting within the scope of their duties in such capacity.

3.3 The officers, committee and members of the Insured’s canteen, social, sports, first aid/medical, firefighting, charities, child care facilities and employee welfare organisations in their respective capacity as such.

3.4 The legal personal representative of any person entitled to indemnity under this Clause 3 in circumstances giving rise to indemnity under this Policy.

Provided always that all such persons or parties shall, whilst not being a party to this contract, observe, fulfil and be subject to the terms of this Policy (insofar as they can apply) as though they were the Insured.

4. Cross Liabilities

Subject at all times to the terms of this Policy, each person or party indemnified is separately indemnified in respect of claims made by any of them against any other of them provided that:

4.1 The Underwriters' total liability shall not exceed the Limit of Indemnity for all claims under this Policy; and

4.2 This Policy does not cover liability in respect of claims for Injury arising from or in any way connected with any Internal Labour Hire between the Insured entities as per Definition 2.13. For clarity, this Clause 4.2 over-rides any cover afforded under the write-back in Exclusion 7.9.

5. Limit of Indemnity

The Underwriters’ liability to pay compensation shall not exceed the sum stated in the Schedule in respect of any one claim or series of claims arising from one Occurrence.

The total aggregate liability of the Underwriters for any one Period of Insurance for all claims in respect of or in any way connected with the Insured’s Product(s) shall not exceed the sum stated in the Schedule.

6. Defence Costs and Additional Expenses

In addition to the Limit of Indemnity, the Underwriters will pay:

6.1 Reasonable legal and investigative costs and expenses incurred with Underwriters' prior written consent in connection with:

6.1.1 Any claim or potential claim for which the Insured is indemnified by this Policy.

6.1.2 Representation at any formal legal inquiry involving an accident resulting in Injury or at any Coroner's Inquiry.

6.1.3 The protection of damaged or undamaged property of any person(s) including temporary repairs and/or temporary shoring up and/or underpinning thereof.

6.1.4 The purchasing and/or hiring and/or erection and dismantling of hoarding, barriers, fences and any other form of temporary protection, including such protection which the Insured must provide in compliance with the requirements of any Government, Local Government or other Statutory Authority.

6.2 Reasonable expenses incurred by the Insured (following an Occurrence for which indemnity is provided by this Policy) for the rendering of immediate first aid and/or medical and surgical relief to others as may be required at the time of any Occurrence of Injury.

6.3 Up to $20,000 for reasonable professional fees and such other expenses incurred by the Insured for the preparation of a claim under this Policy with prior written agreement of the Underwriters.

6.4 On the Insured's behalf any costs and expenses necessarily incurred in respect of measures taken by the Insured with the object of avoiding or mitigating a claim for which the Insured would be entitled to indemnity under the Policy had such measures not been taken.

6.5 Pay all charges, expenses and legal costs recoverable from or awarded against the Insured in any such claim or suit and all interest accruing on the Underwriter's portion of any judgment until the Underwriters have paid, tendered or deposited in court that part of such judgment which does not exceed the limit of the Underwriter's liability thereon.

Provided that the Underwriters shall not pay any legal costs or expenses in respect of any Occurrence after Underwriters have paid compensation up to the Limit of Indemnity.

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

7. Exclusions

This Policy does not cover liability:

7.1 Directly or indirectly arising out of the ownership, operation, possession or use by the Insured of any Vehicle (including any trailer attached thereto) which is required by law to be registered or in respect of which there is required by law to be in force a policy of

compulsory liability insurance or in relation to which there existed a statutory scheme providing compensation for Injury, but this exclusion does not apply to:

7.1.1 Injury for which no indemnity is or would be available to the Insured under the said policy of compulsory liability insurance had the Insured complied with its obligations pursuant to such law.

7.1.2 Injury caused by the use of any Vehicle (including any trailer attached thereto and any tool or plant forming part of or attached to or used in connection with any Vehicle or trailer for which no indemnity is or would be available to the Insured under the said policy of compulsory liability insurance had the Insured complied with its obligations pursuant to such law) as a Tool of Trade.

7.2 Directly or indirectly arising out of the ownership, operation, possession or use by the Insured of any Vehicle (including any trailer attached thereto) which is required by law to be registered or in respect of which there is required by law to be in force a policy of compulsory liability insurance or in relation to which there existed a statutory scheme providing compensation for Injury, but this exclusion does not apply to:

7.2.1 Damage caused by the use of any Vehicle as a Tool of Trade.

7.2.2 Damage to any bridge, weighbridge or road, or anything beneath such bridge, weighbridge or road caused by the weight of any Vehicle including any trailer attached thereto or of the load carried thereon.

7.2.3 Damage caused by or arising out of the Loading or Unloading of any Watercraft, Aircraft, Vehicle including any trailer attached thereto, or rolling stock of any kind used in work undertaken by the Insured.

7.2.4 Damage to any Vehicle including any trailer attached thereto (not owned, leased or hired by, under hire purchase, on loan or rented to the Insured) temporarily in the Insured's custody or control for the purpose of parking and directly arising out of such parking.

7.3 Arising out of damage to property owned, leased or under hire purchase by the Insured, or any other property otherwise in the Insured's care, custody or control other than:

7.3.1 Premises (or contents thereof) temporarily occupied by the Insured for the purpose of carrying out works thereto or thereon, but no indemnity is granted for liability in respect of physical damage to or destruction of that part of any premises on which the Insured is or has been working on if the physical damage or destruction arises from such work.

7.3.2 Premises tenanted by the Insured.

7.3.3 Directors', employees' and visitors' clothing and personal effects.

7.3.4 Other property (not owned by the Insured) temporarily in the Insured's possession for the purpose of repair, service, maintenance or alteration provided:

7.3.4.1 No indemnity is granted for liability in respect of physical damage to or destruction of that part of any property upon which the Insured is or has been working on; and

7.3.4.2 The Underwriters' limit of liability under this Clause 7.3.4 does not exceed $250,000 each and every Occurrence and in the aggregate for any one Period of Insurance.

Provided further that no indemnity is granted under this Policy in respect of liability assumed by the Insured under any contract or agreement which requires the Insured to effect material damage insurance on premises, property or goods not owned by the Insured.

7.4 Arising out of costs incurred in or in connection with the repair, reconditioning, replacement, removal or recalling of any Product or component part.

7.5 Arising out of any Product guarantee given by or on behalf of the Insured but this exclusion shall not apply to the requirements of any Federal or State legislation with respect to Product safety and information.

7.6 Assumed:

7.6.1 Under the terms of a contract, agreement or warranty unless the Insured would have been liable in the absence of such terms or warranty; or

7.6.2 Where the Insured may have been able to recover from another party(ies) but for an agreement between the Insured and such party(ies) where the Insured has waived, released or abandoned any right of recourse or recovery against such other party(ies).

7.7 Arising from:

7.7.1 Any contractor or subcontractor of the Insured;

7.7.2 Any contractor or subcontractor of any contractor or subcontractor of the Insured or any tier thereof; or

7.7.3 Any director, executive officer, employee or partner of any contractor or subcontractor (or any of their contractors or subcontractors) of the Insured or any tier thereof.

Notwithstanding the above, it is noted and agreed that this Exclusion 7.7 shall not apply to the Insured in respect of their own liabilities arising out of any act, omission or otherwise of any contractor, subcontractor or other entity named in 7.7.1, 7.7.2 or 7.7.3 above.

7.8 Arising out of any Product which is incorporated into the structure, machinery or controls of any Aircraft, Watercraft or Hovercraft.

7.9 For Injury to any Worker.

Provided that if the Insured:

7.9.1 Is 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 in amount or not) for such Injury; or

7.9.2 Is not required to so insure or otherwise fund such liability by reason only that the Injury is to a person who is not a Worker or “employee” within the meaning of the relevant Workers’ Compensation Law or the Injury is not an Injury which is subject to such Law;

then this Policy will respond to the extent that the Insured’s liability would not be covered under any such fund, scheme, Policy of insurance or self insurance arrangement had the Insured complied with its obligations pursuant to such Law.

7.10 Imposed:

7.10.1 By any Workers' Compensation Law;

7.10.2 By the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination; or

7.10.3 For or in respect of Employment Practices.

7.11 For loss of use of tangible property which has not been physically damaged or destroyed resulting from:

7.11.1 A delay in or lack of performance by or on behalf of the Insured of any contract or agreement; or

7.11.2 The failure of any Product to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by the Insured but this Exclusion 7.11.2 does not apply to loss of use of other tangible property directly or indirectly caused by, arising out of or in any way connected with or resulting from the sudden and accidental physical damage to or destruction of the Product after such Product has been put to use by any person or organization other than the Insured.

7.12 Arising out of any change in the nature of the Insured's Business which:

7.12.1 Occurred during the currency of this Policy; and

7.12.2 Was known by the Insured, or would have been known by a reasonable person in the circumstances, to be likely to increase the risk of Injury or Damage for which indemnity is provided by this Policy;

Unless the Insured provides written notice to the Underwriters and such change has been accepted in writing by the Underwriters. Such change becomes effective from:

7.12.3 The date the Underwriters have stated on their written confirmation; or

7.12.4 If no date is specified in the Underwriters written confirmation, then the date that the Underwriters written confirmation is received by the Insured.

For the purposes of this Exclusion 7.12, where the Insured is a corporate body, the knowledge of any officer of the Insured shall be deemed to be the knowledge of the Insured.

7.13 Caused by or arising out of the rendering of or failure to render professional advice or service by the Insured or any related error or omission but this exclusion does not apply to:

7.13.1 The rendering of or failure to render first aid provided always that the Insured's Business does not include the provision of medical services; or

7.13.2 Injury or Damage arising therefrom providing such professional advice or service is not given for a fee.

7.14 Arising out of Advertising Liability:

7.14.1 For libel, slander or defamation of character related to any broadcasting, telecasting or publishing activities to or on any form or type of social media platform, website, blog or Computer System;

7.14.2 Resulting from acts, errors, omissions or statements made prior to the commencement of the Period of Insurance;

7.14.3 Resulting from statements made at the direction of the Insured with the knowledge of the falsity thereof;

7.14.4 For breach of contract, other than unintentional misappropriation of advertising ideas contrary to an implied contract;

7.14.5 For infringement or passing off of a trade mark, service mark or trade name on any Products, goods or services sold, offered for sale or advertised. This does not apply to the unintentional infringement of titles or slogans;

7.14.6 Arising from the export of the Products to, or business visits by the Insured to the United States of America and its respective territories and protectorates and any other territory coming within the jurisdiction of the courts of the United States of America;

7.14.7 For any Insured whose Business is predominantly advertising, broadcasting, publishing or telecasting;

7.14.8 For incorrect description of the price of Products, goods or services; or

7.14.9 For failure of Products, goods or services to conform with advertised performance, quality, fitness or durability.

7.15 7.15.1 Arising out of injury or Damage directly or indirectly arising out of the discharge, dispersal, release or escape of Pollutants; or

7.15.2 The cost of removing, nullifying or cleaning up Pollutants;

Provided that the Underwriters shall cover liability otherwise excluded under Clauses 7.15.1 and 7.15.2 which is caused by a sudden, identifiable, unintended and unexpected event from the standpoint of the Insured which takes place in its entirety at a specific time and place during the Period of Insurance.

7.16 Directly or indirectly caused by, arising out of or anyway connected with:

7.16.1 Ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or

7.16.2 The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.

7.16.3 Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or

7.16.4 The radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes

7.16.5 Any chemical, biological, bio-chemical, or electromagnetic weapon.

7.17 Directly or indirectly caused by, arising out of or in any way connected with, occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

7.18 Arising out of ownership, maintenance, operation, possession or use by or on behalf of the Insured of any Aircraft, Watercraft or Hovercraft but this Exclusion 7.18 does not apply to:

7.18.1 Any Watercraft not owned or operated by the Insured but which is used for entertainment as part of the Insured's Business; or

7.18.2 Any Watercraft which is less than 15 metres in length.

7.19 Any sum forming part of the Deductible.

7.20 Arising out of the erection and/or addition to buildings by or on behalf of the Insured except for contracts not exceeding in cost the sum of $1,000,000 or 10% (ten percent) of the Limit of Indemnity whichever is the lesser.

7.21 Directly or indirectly caused by, arising out of or in any way connected with asbestos including but not limited to:

7.21.1 The existence of or exposure to asbestos and/or any asbestos containing materials; or

7.21.2 Any obligation to defend any claim or suit against the Insured alleging liability resulting from 7.21.1 above nor to Underwriters' liabilities for Defence Costs arising therefrom.

7.22 Arising out of any Injury directly or indirectly due to the inhalation or ingestion of, or exposure to tobacco or tobacco smoke or any ingredient or additive present in any articles, items or goods which contain or include tobacco.

7.23 7.23.1 For claims made and actions instituted within the United States of America and its respective territories

7.23.2 For claims and actions to which the laws of the United States of America and its respective territories and protectorates apply.

Provided that this Exclusion 7.23 does not apply to claims and actions caused by a Worker of the Insured who normally resides in the Commonwealth of Australia while such Worker is temporarily travelling on behalf of the Insured in order to perform non-manual duties outside the Commonwealth of Australia.

7.24 Arising out of fines, penalties, punitive damages, exemplary damages, liquidated damages and/or aggravated damages.

7.25 Arising out of any alleged or actual fraudulent, dishonest, malicious, wilful or criminal act or omission of the Insured or any person covered by Clause 3 of this Policy. Provided that this Exclusion 7.25 shall only apply if a judgment or other final adjudication of any court, tribunal or arbitrator establishes that such conduct, act or omission was committed by the Insured with actual fraudulent, dishonest, wilful or criminal purpose and intent and was material to any claim under this Policy.

7.26 Arising out of the use of any electric, oxy-acetylene or similar welding or cutting equipment and allied processes by or on behalf of the Insured unless such welding or cutting was done in full compliance with Australian Standard 1674 “Safety in Welding and Allied Processes”.

7.27 Arising out of the storage, transportation and/or use of explosives.

7.28 Arising out of any contract requiring the Insured to perform work immediately above, over or beside a railway line which is in use.

7.29 Arising out of any contract that requires the Insured to use a ball and chain.

7.30 Arising out of the failure of underpinning or de-watering to fulfil the purpose for which it was designed or to perform as specified, warranted or guaranteed.

7.31 Arising out of any Insured not licensed in accordance with all relevant Government Acts, Rules, Regulations and Industry requirements.

7.32 Directly or indirectly caused by, arising out of or anyway connected with any act of Terrorism.

If the Underwriters allege that by reason of this Exclusion 7.32, any loss, Injury, Damage, cost or expense is not covered by this insurance the burden of proving contrary shall be upon the Insured.

This Exclusion 7.32 shall take precedence over any other term of the Policy, including any Endorsement added at any time, which does not expressly override it.

7.33 Arising out of any costs or expenses incurred in performing, completing, correcting or improving any work or service undertaken or provided by the Insured or on behalf of the Insured.

7.34 To pay any claim or provide any benefit to the extent that the provision of such indemnity, payment of such claim or provision of such benefit would expose Underwriters to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, Commonwealth of Australia, United Kingdom or United States of America.

7.35 For any claim or benefit that is covered under a Principal Controlled Insurance Policy, but this Exclusion 7.35 does not apply to a shortfall in the limit of indemnity or deductible or scope of cover in such Principal Controlled Insurance Policy. Provided always:

7.35.1 That any indemnity afforded under this Policy is subject to the terms of this Policy and does not exceed the Limit of Indemnity; and,

7.35.2 This Policy shall not be drawn into contribution with such other Principal Controlled Insurance Policy.

7.36 Directly or indirectly from, or in connection with any form or type of:

7.36.1 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

7.36.2 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.

If the Underwriters allege that by reason of this exclusion that loss sustained by the Insured is not covered by this Policy, the burden of proving the contrary shall be upon the Insured.

For clarity, should any part of this exclusion contradict any other part of the Policy, then this Exclusion 7.36 shall take precedent.

7.37 Directly or indirectly arising from a Product unless such Product is compliant with the National Construction Code of Australia; the Building Code of Australia, or the relevant Australian Standard(s).

7.38 Directly or indirectly caused by, arising out of or in any way connected with any Injury from silica, silica fibres and/or silica dust, including but not limited to:

7.38.1 The existence of or exposure to any silica, silica fibres, silica dust, silica gas or silica liquid; or

7.38.2 Any obligation to defend any claim or suit against the Insured alleging liability resulting from Clause 7.38.1 nor to Underwriters' liabilities for Defence Costs arising therefrom.

7.39 Directly or indirectly caused by, arising out of or in any way connected with poly-fluoro alkyl or per-fluoro alkyl (PFAS), perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid or perfluorooctane sulfonate (PFOS), or perfluorohexane sulfonate (PFHxS).

7.40 Directly or indirectly from Damage to underground services (including but not limited to water, gas, sewerage, sewage or fuel pipes, or electric or communication cables) or any underground property or structure for the purpose of storing, conveying, transporting, transmitting, or delivering electricity, water, gas, fuel, telecommunications media, signals, radio and other waves unless prior to the commencement of any work, the Insured has inquired with the relevant public authority or owner of such service, property or structure as to the exact location of such service, property or structure and taken all precautions to avoid such service, property or structure. Any indemnity provided by the proviso to this Exclusion shall be limited to the cost of repair, replacement or reinstatement of such damaged service, property or structure and shall not extend to any consequential or financial loss resulting therefrom.

7.41 Directly or indirectly from:

7.41.1 Any allegation or claim arising from, brought by or on behalf of any other joint venture partner or entity established to control or manage such joint venture; or

7.41.2 The percentage of interest of any other joint venture partner or the insolvency of the joint venture.

8. General Conditions

8.1 The Insured shall give written notice to the Underwriters as soon as possible after any Occurrence that may give rise to a claim under this Policy and shall give all such additional information as the Underwriters may require. Every letter, claim, writ, summons or process shall be forwarded to the Underwriters immediately it is received.

8.2 No admission, offer, promise, or payment shall be made or given by or on behalf of the Insured without the prior written consent of the Underwriters who shall be entitled to take

over the conduct in the name of the Insured of 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 shall require.

8.3 This Policy and any endorsements attached to this Policy shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the Schedule shall bear such specific meaning wherever it may appear.

8.4 Underwriters shall be permitted but not obligated to inspect the Insured's property and operations at any reasonable time. Neither the Underwriter's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of an Insured or others to determine or warrant that such property or operations are safe or healthy, or are in compliance with any law, rule or regulation.

8.5 Underwriters may examine and audit the Insured's books and records at any time during the Period of Insurance and within seven (7) years after the final termination of the policy, as far as they relate to the subject matter of this insurance

8.6 The Underwriters may at any time discharge its total liability to the Insured in respect of any one claim or series of claims arising from one Occurrence by paying to or on behalf of the Insured:

8.6.1 The total amount in respect of the said claim or claims to which the Insured is entitled to indemnity under this Policy, or

8.6.2 The total amount sought by the claimant(s) in the said claim or claims, or

8.6.3 The total amount for which the said claim or claims can be settled,

and in addition to such payment the Underwriters will pay Defence Costs and Additional Expenses incurred up to the date of the said payment as provided for by Clause 6 of this Policy.

Upon such payment, the Underwriters shall relinquish conduct or control of such claims and be under no further liability under this Policy in connection with such claim or claims.

8.7 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 Sterling Insurance Pty Limited in the first instance:

Kirsten Gorman
Sterling Insurance Pty Limited
Email: complaints@sterlinginsurance.com.au
Telephone: +61 2 9950 4000
Post: PO Box R753, Royal Exchange NSW 122 Australia

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
Email: idraustralia@lloyds.com
Telephone: +61 2 8298 0783
Post: Level 32, 225 George Street, Sydney NSW 2000

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

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 Underwriters accepting this Insurance agree that:

8.7.1 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;

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

Lloyd's Underwriters' General Representative in Australia
Level 32, 225 George Street, Sydney NSW 2000

who has authority to accept service on the Underwriters' behalf;

8.7.3 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.

8.8 The Insured shall be bound by all Procedures and Regulations as stated within Australian Standard 2601-1991 together with all relevant Occupational Health and Safety Guidelines and Procedures, and/or Workplace Health and Safety Guidelines and Procedures.

8.9 The Insured must:

8.9.1 Exercise reasonable care that only competent Workers are employed and competent contractors/sub-contractors are engaged;

8.9.2 Take reasonable measures to maintain all premises, fittings and plant in sound condition;

8.9.3 Take reasonable precautions to:

8.9.3.1 Prevent Injury and Damage;

8.9.3.2 Prevent the manufacture, sale or supply of defective Products;

8.9.3.3 Comply, and ensure that its Workers, servants and agents comply with all statutory obligations, by-laws or regulations imposed by any public authority for the safety of persons or property;

8.9.4 At its own expense take reasonable action to trace, recall or modify any Products containing any defect or deficiency which the Insured has knowledge of or has reason to suspect.

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

8.10 Where the premium is provisionally based on the Insured's estimates, the Insured shall keep accurate records and after expiry of the Period of Insurance declare as soon as possible such details as the Underwriters require and the premium shall be adjusted and any difference paid by or allowed to the Insured as the case may be subject to any minimum premium that may apply. In accordance with Condition 8.5, Underwriters reserve the right to examine and audit the Insured's books and records to validate the Insured's declaration.

In the event that the Insured fails to pay an adjustment premium within a reasonable timeframe, Underwriters reserve the right to:

8.10.1 Short-term the affected policy to reflect the unpaid adjustment premium; or

8.10.2 Off-set the unpaid adjustment premium against a claim; or

8.10.3 Any other reasonable means to off-set or recover the unpaid adjustment premium including the appointment of recovery agents.

Any additional costs incurred by Underwriters under 8.10.1-8.10.3 will be borne by the Insured.

8.11 8.11.1 The Insured may cancel this Policy at any time by giving notice in writing to the Underwriters. This premium is non-refundable unless it is premium funded.

Where the premium has been premium funded, a refund will be granted:

8.11.1.1 After written proof is provided to the Underwriters showing that a premium funding contract was in place for this Policy during the Period of Insurance and that the Policy is being cancelled by the premium funder; and

8.11.1.2 Where a minimum and deposit premium applies, then the Insured shall declare the actuals and the premium shall be adjusted and any difference taken into account prior to calculating a refund (subject to any minimum premium that may apply); and

8.11.1.3 The premium refund is calculated on a pro-rata basis of the unexpired Period of Insurance less 20%. Additionally, underwriter/policy fees are non-refundable and statutory charges will only be refunded where allowed; and

8.11.1.4 If the premium refund (excluding statutory charges) exceeds $1,000; and

8.11.1.5 The Insured is not insolvent and/or under administration.

8.11.2 The Underwriters may cancel this Policy at any time where:

8.11.2.1 The Underwriters are entitled to do so pursuant to the Insurance Contracts Act 1984 or any amendments thereto, or

8.11.2.2 The Insured has failed to notify the Underwriters of any specific act or omission where such notification is required under the terms or conditions of this Policy, or

8.11.2.3 The Insured has acted in contravention of or omitted to act in compliance with any term of this Policy which empowers the Underwriters to refuse to pay a claim in the event of such contravention or omission.

Any notice of cancellation given by the Underwriters shall take effect either at the time when another contract of insurance between the Insured and the Underwriters or some other insurer (being a contract that is intended by the Insured to replace this Policy) is entered into, or the date specified by the Underwriter (whichever is the earlier).

Where the Insured comprises more than one person or company, it is agreed that the named Insured referred to in the Schedule shall be the agent of each of the other Insured persons or companies or others indemnified by Clause 3 for the purposes of receiving any notice of cancellation pursuant to this Clause, or any other notice, statement, document or information relating to this Policy. Where the Insured has an insurance broker, nothing in this paragraph shall restrict the Underwriters right to notify the broker as agent of the Insured.

8.12 Where this Policy provides any indemnity to the Insured which is prohibited by law, this Policy shall be varied by operation of this Clause so that this Policy does not respond to the extent that the indemnity is prohibited by law.

8.13 Where the Underwriters makes a payment under this Policy for the acquisition of goods, services or other supply, the Underwriters will reduce the amount of the payment by the amount of any input tax credit that the Insured is, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999, in relation to that acquisition, whether or not that acquisition is actually made.

Where the Underwriters makes a payment under this Policy as compensation instead of payment for the acquisition of goods, services or other supply, the Underwriters will reduce the amount of the payment by the amount of any input tax credit that the Insured is, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or other supply.

8.14 Lloyd's and its agents are bound by the obligations of the Privacy Act 1988 as amended by the Privacy Amendment Private Sector Act 2000 (the Act). This sets out basic standards relating to the collection, use, disclosure and handling of personal information.

"Personal information" is essentially information or an opinion about a living individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

Information will be obtained from individuals directly where possible. Sometimes it may be collected indirectly (e.g. from your representatives).

Only information necessary for the arrangement and administration of Lloyd's business by Lloyd's, its agents and their representatives will be collected. This includes information

necessary to accept risk, to assess a claim, to determine competitive and appropriate premiums, etc.

Lloyd's and its agents disclose personal information to third parties who they believe are necessary to assist them in doing the above. These parties will only use the personal information for the purposes we provided it to them for (or if required by law).

When you give Lloyd's and its agents personal information about other individuals, we rely on you to have made or make them aware that you will or may provide their personal information to us, the types of third parties we may provide it to, the relevant purposes we and the third parties we disclose it to will use it for, and how they can access it. If it is sensitive information we rely on you to have obtained their consent on these matters. If you have not done or will not do either of these things, you must tell us before you provide the relevant information.

You are entitled to access your information if you wish and request correction if required.

8.15 The Insured's rights under this Policy shall not be prejudiced by any unintentional and/or inadvertent:

8.15.1 Breach of a condition or warranty without the Insured's knowledge or consent, or

8.15.2 Error in the name or title of any person(s), corporation and/or other organisation which forms part of the definition of "Insured"; or

8.15.3 Error in name, description or situation of Insured's business premises; or

8.15.4 Failure to report any property and/or entity and/or insurable exposure in which the Insured has an interest.

Provided always that, upon discovery of any such fact or circumstances referred to above, the Insured's officer responsible for insurance matters shall give written notice thereof to the Underwriters as soon as reasonably practicable thereafter and the Insured shall (if so requested) pay such reasonable additional premium that the Underwriter's may require.

8.16 The Insured must advise the Underwriters in writing as soon as possible if circumstances occur, or if changes or alterations are intended or made which increase the risk of Injury, Damage or Advertising Liability.

The Insured must advise the Underwriters immediately in writing of every change that comes to the Insured's knowledge which materially varies any of the facts or circumstances existing at the commencement of this Policy. The Underwriters may at their discretion, for what they consider to be an increase of risk:

8.16.1 Charge additional premium, and/or amend and/or impose additional terms or conditions; or

8.16.2 Cancel the Policy.

If the Underwriters agree to make a change to this Policy, then such change becomes effective from:

8.16.3 The date the Underwriters have stated on their written confirmation; or

8.16.4 If no date is specified in the Underwriters written confirmation, then the date that the Underwriters written confirmation is received by the Insured.

8.17 Any notice given in writing by the Underwriter to the first named Insured specified in the Schedule will be treated as notice to each of the parties comprising the Insured.

Service of notices by the Underwriter will be effective immediately on receipt by the first named Insured of a letter or electronic communication sent by the Underwriter or in the case of notices by post, three business days after having been posted by the Underwriter.

8.18 In the event that any portion of an Exclusion is found to be invalid or unenforceable, then the remainder of that Exclusion shall remain in full force and effect.