



Marine Repairers and Marinas General and Products Liability Insurance Contract

In association with

Steadfast IRS PTY Ltd

Suite 3, Building B, 34-46 Brookhollow Avenue,

Baulkham Hills NSW 2153

T: 61 2 8633 8804

F: 61 2 9034 5500

afsl: 435538ww

ABN: 95 159 898 398

www.steadfast-irs.com.au



THE CONTRACT OF INSURANCE

The Insured having made to the Underwriter an application containing particulars and statements and in consideration of payment of the premium, the Underwriter will provide insurance in accordance with this Contract during the Period of Insurance (or during any subsequent Contract agreed between the Underwriter and the Insured for which the Insured may make a further application and for which the Underwriter may accept payment) subject to the terms contained herein or endorsed hereon.

The Contract, Schedule(s) and any endorsements shall be read as one contract and any word or expression to which a specific meaning has been attached in any part of the Contract, its endorsement(s) (if any) or the Schedule(s) shall bear the same meaning wherever it may appear.

In the event of any inconsistency between the application and the Contract then the terms of the Contract will prevail.

Any general or specific reference to statute(s) or statutory provisions shall be construed as including a reference to any statutory modification, consolidation or re-enactment thereof for the time being in force and to include any bye-laws, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made thereunder and any conditions attaching thereto.



Marine Repairers and Marinas General And Products Liability Insurance Contract Wording

TABLE OF CONTENTS

SUBJECT	PAGE NUMBER
1 DEFINITIONS – Words with special meaning	
1.1 Actual Cash Value	1 of 34
1.2 Advertising Injury	1 of 34
1.3 Aircraft	1 of 34
1.4 Business	1 of 34
1.5 Compensation	1 of 34
1.6 Employment Practices	2 of 34
1.7 Excess	3 of 34
1.8 General Liability	2 of 34
1.9 Gross Receipts	2 of 34
1.10 Hovercraft	2 of 34
1.11 Incidental Contracts	2 of 34
1.12 Internet Operations	2 of 34
1.13 Insured Services	3 of 34
1.14 Marina Operations	3 of 34
1.15 Medical Persons	3 of 34
1.16 Named Insured	3 of 34
1.17 North America	3 of 34
1.18 Occurrence	3 of 34
1.19 Period of Insurance	4 of 34
1.20 Personal Injury	4 of 34
1.21 Pollutant	4 of 34
1.22 Products	4 of 34



	SUBJECT	PAGE NUMBER
	1.23 Products Liability	4 of 34
	1.24 Property Damage	4 of 34
	1.25 Removal of Wreck Expenses	5 of 34
	1.26 Retroactive Coverage	5 of 34
	1.27 Schedule	5 of 34
	1.28 Statutory Liability	5 of 34
	1.29 Territorial Limits	5 of 34
	1.30 Tool of the Trade	5 of 34
	1.31 Underwriter	5 of 34
	1.32 Vehicle	6 of 34
	1.33 Watercraft	6 of 34
	1.34 We, Us, Our, Ourselves	6 of 34
	1.35 Worksite	6 of 34
	1.36 You, Your, Insured	6 of 34
2	INSURING CLAUSES	
	2.1 What We Cover	8 of 34
	2.2 Defence Costs and Supplementary Payments	9 of 34
	2.3 Limits of Liability and Excess	10 of 34
	2.4 Additional Benefit — Claims Preparation Costs	10 of 34
	2.5 Optional Additional Benefit — Errors and Omissions Extension	10 of 34
	2.6 Optional Additional Benefit – Statutory Liability	11 of 34
	2.7 Optional Additional Coverage – Tools of the Trade	12 of 34
	2.8 Optional Additional Coverage – Your Watercraft	13 of 34
	2.9 Optional Additional Coverage – Faulty Workmanship	15 of 34
3	WHAT WE EXCLUDE	
	3.1 Property owned by You	16 of 34
	3.2 Property in Your care, custody or control	16 of 34
	3.3 Vehicles	16 of 34
	3.4 Aircraft or Hovercraft	16 of 34
	3.5 Aircraft Products	16 of 34
	3.6 Damage to Products	17 of 34
	3.7 Faulty Workmanship	17 of 34
	3.8 Loss of Use	17 of 34
	3.9 Product Guarantee	17 of 34



3.10	Advertising Injury	17 of 34
SUBJECT		PAGE NUMBER
3.11	Asbestos	17 of 34
3.12	Breach of Professional Duty	18 of 34
3.13	Contractual Liability	18 of 34
3.14	Employers Liability	18 of 34
3.15	Fines, Penalties, Punitive, Exemplary or Aggravated Damages	19 of 34
3.16	Electronic Data and Software	19 of 34
3.17	Libel and Slander	19 of 34
3.18	Liquidated Damages	19 of 34
3.19	Mould	19 of 34
3.20	Seepage, Pollution or Contamination	19 of 34
3.21	Strike, Riot, Civil Commotion	20 of 34
3.22	War and Terrorism Exclusion	20 of 34
3.23	CL370 Institute Radioactive Contamination Chemical Biological Biochemical and Electromagnetic	20 of 34
3.24	CL380 Institute Cyber Attack	21 of 34
3.25	Sanction Limitation and Exclusion Clause	21 of 34
3.26	Internet Operations	21 of 34
3.27	Faulty Design	21 of 34
4	CLAIMS CONDITIONS	
4.1	Notification of Occurrence, Claim or Suit	22 of 34
4.2	Your Duties in the Event of an Occurrence, Claim or Suit	22 of 34
4.3	Our Rights Regarding Claims	22 of 34
4.4	Goods and Services Tax (GST)	22 of 34
5	GENERAL CONDITIONS	
5.1	Alteration of Risk	24 of 34
5.2	Bankruptcy or Insolvency	24 of 34
5.3	Breach of Condition or Warranty	24 of 34
5.4	Cancellation of this Contract	24 of 34

SUBJECT	PAGE NUMBER
5.5 Cross Liabilities	25 of 34
5.6 Inspection and Audit	25 of 34
5.7 Jurisdiction	26 of 34
5.8 Premium Funding	26 of 34
5.9 Reasonable Precautions	26 of 34
5.10 Release	26 of 34
5.11 Non-Imputation	26 of 34
5.12 Foreign Currency	27 of 34
5.13 Subrogation and Allocation of the Proceeds of Recoveries	27 of 34
5.14 Subrogation Waiver	27 of 34
5.15 Conformity to Statute	27 of 34
5.16 Titles	27 of 34
ENDORSEMENTS (if any)	
LSW1145 - Australian Litigation Disputes Resolution Endorsement	28 of 34
IMPORTANT INFORMATION	
Duty of Disclosure	30 of 34
Claims Procedure	31 of 34
Lloyd's Complaints	32 of 34
LMA5137 - The General Insurance Code of Practice	34 of 34
NMA1854 – Service of Suit (Australia)	34 of 34
LSW3000 - Premium Payment Clause	34 of 34

MARINE REPAIRERS AND MARINAS GENERAL AND PRODUCTS LIABILITY INSURANCE CONTRACT WORDING

1. DEFINITIONS - words with special meaning:

For the purpose of determining the cover provided by this Contract:

Unless otherwise stated, any word or expression to which a particular meaning has been given in the Definitions in this Contract shall bear the same meaning wherever it appears in the Contract and unless the context requires otherwise;

- The singular includes the plural and vice versa;
- The male gender includes the female and neutral genders;
- Person includes a body corporate.

1.1 "Actual Cash Value" means:

the present-day value of the cost to repair, rebuild or replace Tools of the Trade at the time of the loss after first deducting any physical wear and tear, obsolescence and depreciation.

1.2 "Advertising Injury" means:

Injury arising out of:

- 1.2.1 libel, slander or defamation, or
- 1.2.2 any infringement of copyright or passing off of title or slogan; or
- 1.2.3 unfair competition, piracy, idea misappropriation contrary to an implied contract; or
- 1.2.4 invasion of privacy;

committed or alleged to have been committed during the Period of Insurance in any advertisement, publicity article, broadcast or telecast and caused by or arising out of Your advertising activities.

1.3 "Aircraft" means:

any craft or object designed to travel through air or space, other than model aircraft.

1.4 "Business" means:

the Business as described in the Schedule (and, where applicable, as further described in any more specific underwriting information provided to Us at the time when this Contract was negotiated) and shall include:

- 1.4.1 the ownership of premises and/or the tenancy thereof by You; and
- 1.4.2 the provision of any sponsorships, charities, galas, first aid, medical, ambulance or firefighting services by You or on Your behalf; and
- 1.4.3 private work undertaken by Your employees for any of Your directors, partners, proprietors, officers or executives; and
- 1.4.4 the provision of any canteen, social and/or sporting clubs or welfare and/or child care facilities by You or on Your behalf, which are primarily for the benefit of Your employees.

1.5 "Compensation" means:

- 1.5.1 monies paid or agreed to be paid by judgment, award or settlement for Personal Injury and/or Property Damage and/or Advertising Injury provided that such Compensation is only payable in respect of an Occurrence to which this Contract applies.

1.6 **"Employment Practices"** means:

any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination in respect of Your employees.

1.7 **"Excess"** means:

1.7.1 the first amount of each claim or series of claims, arising out of any one Occurrence, for which You are responsible.

1.7.2 the Excess applicable to this Contract as specified in the Schedule.

1.7.3 the Excess applies to all amounts for which We will be liable, including the indemnity provided by Insuring Clause 2.2 (Defence Costs and Supplementary Payments).

1.8 **"General Liability"** means:

Your legal liability for Personal Injury, Property Damage or Advertising Injury caused by or arising out of an Occurrence happening in connection with the Business other than Products Liability.

1.9 **"Gross Receipts"** means:

the Gross Receipts earned by You from Insured Services but only up to a maximum of **AUD 10,000** per year. It is a Condition of coverage that liability arises from a duty responsibility or function associated with the Insured Services

1.10 **"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 provided by a downward blast.

1.11 **"Incidental Contracts"** means:

1.11.1 any written rental agreement or lease of real or personal property not requiring an obligation to insure such property or be strictly liable regardless of fault.

1.11.2 any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities.

1.11.3 any written contract with any railway authority for the loading, unloading and/or transport of Products, including contracts relating to the operation of railway sidings.

1.11.4 those contracts designated in the Schedule.

1.12 **"Internet Operations"** means:

1.12.1 transfer of computer data or programmes by use of electronic mail systems by You or Your employees, including for the purpose of this Definition only, part-time and temporary staff, contractors and others within Your organisation whether or not such data or programmes contain any malicious or damaging code, including but not limited to computer virus, worm, logic bomb or Trojan horse,

1.12.2 access through Your network to the world wide web or a public internet site by You or Your employees, including for the purposes of this Definition only, part-time and temporary staff, contractors and others within Your organisation;

1.12.3 access to Your intranet (meaning internal company information and computing resources) which is made available through the world wide web for Your customers or others outside Your organisation; and

1.12.4 the operation and maintenance of Your web site.

1.13 **"Insured Services"** means:

Ship Repair and/or Marine Operator and including associated design, repair, installation and maintenance work carried out on third party Watercraft and the ownership, tenancy and use of premises or car parks, including when agreed Inspection Reports carried out by You on third party Watercraft.

It is a condition of coverage that liability arises from a duty of responsibility or function associated with the Insured Services.

1.14 **"Marina Operations"** means:

Loss of or damage to third party Watercraft and their motors, the property of others while in Your care, custody and control for any of the following operations:

- 1.14.1 repair, alterations or maintenance
- 1.14.2 storage
- 1.14.3 mooring at slips, spaces or buoys rented by the Insured
- 1.14.4 hauling out or launching not in connection with 1.14.1 or 1.14.2
- 1.14.5 fuelling and miscellaneous servicing of a transient nature

1.15 **"Medical Persons"** includes but is not limited to:

medical practitioners, medical nurses, dentists and first-aid attendants.

1.16 **"Named Insured"** means:

- 1.16.1 the person(s), corporations and/or other organisations specified in the Schedule; and
- 1.16.2 all existing subsidiary and/or controlled corporations (including subsidiaries thereof) of the Named Insured incorporated in the Commonwealth of Australia or New Zealand and/or any other organisations under the control of the Named Insured; and
- 1.16.3 all subsidiary and/or controlled corporations (including subsidiaries thereof) of the Named Insured and/or any other organisations under the control of the Named Insured incorporated in the Commonwealth of Australia or New Zealand and which are constituted or acquired by the Insured after the commencement of the Period of Insurance; and
- 1.16.4 every subsidiary and/or controlled corporation and/or other organisation of the Named Insured which is divested during the Period of Insurance, but only in respect of claims made against such divested subsidiary, related or controlled corporation or organisation caused by or arising out of an Occurrence insured against by this Contract, which occurred prior to the divestment.

1.17 **"North America"** means:

- 1.17.1 the United States of America and Canada; and
- 1.17.2 any state, territory or protectorate incorporated in, or administered by, the United States of America or Canada; and
- 1.17.3 any country or territory subject to the laws of the United States of America or Canada.

1.18 **"Occurrence"** means:

- 1.18.1 an event, including continuous or repeated exposure to substantially the same General Conditions, which results in Personal Injury and/or Property Damage and/or Advertising Injury that is neither expected nor intended (except for the matters set out in Definition 1.20.5 – Personal Injury) from Your standpoint.
- 1.18.2 with respect to Personal Injury or Property Damage, all series of events consequent upon or attributable to one source or original cause shall be deemed to be one Occurrence.
- 1.18.3 all Advertising Injury arising out of 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.

1.19 **"Period of Insurance"** means:

the Period of Insurance specified in the Schedule and any Extension thereof which may be agreed in writing between You and Us.

1.20 **"Personal Injury"** means:

1.20.1 bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish and/or mental injury, including loss of consortium or services resulting therefrom; or

1.20.2 false arrest, false imprisonment, wrongful detention, malicious prosecution or humiliation; or

1.20.3 wrongful entry or wrongful eviction or other invasion of privacy; or

1.20.4 libel, slander or defamation of character, unless arising out of Advertising Injury; or

1.20.5 assault and battery not committed by You or at Your direction, unless committed for the purpose of preventing or eliminating danger to persons or property.

In the event of Personal Injury claims arising from latent injury, latent sickness, latent disease, latent illness or latent disability: such injury, sickness, disease, illness or disability in respect of each claim shall be deemed to have occurred on the day such injury, sickness, disease, illness or disability was first medically diagnosed.

1.21 **"Pollutant"** means:

Any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

1.22 **"Products"** means:

anything, manufactured, constructed, erected, assembled, installed, grown, extracted, produced or processed, treated, altered, modified, repaired, serviced, bottled, labelled, handled, sold, supplied, re-supplied or distributed, imported or exported, by You or on Your behalf (including Your predecessors in the Business), including any packaging or containers thereof, You are deemed to have manufactured in the course of the Business including discontinued products.

Provided always that for the purpose of this Contract the term "Products" shall not be deemed to include:

1.22.1 food and beverages supplied by You or on Your behalf primarily to Your employees as a staff benefit,

1.22.2 any vending machine or any other property rented to or located for use of others but not manufactured or sold by You;

and any claims made against You in respect of Personal Injury and/or Property Damage arising out of any Occurrence in connection therewith shall be regarded as General Liability claims hereunder.

1.23 **"Products Liability"** means:

your legal liability for Personal Injury and/or Property Damage caused by or arising out of any Products or the reliance upon a representation or warranty made at any time with respect to such products; but only where such Personal Injury and/or Property Damage occurs away from premises owned or leased by or rented to You and after physical possession of such products has been relinquished to others.

1.24 **"Property Damage"** means:

1.24.1 physical loss, destruction of or damage to tangible property, including the loss of use thereof at any time resulting therefrom; and/or

1.24.2 loss of use of tangible property which has not been physically lost, destroyed or damaged, provided that such loss of use is caused by or arises out of an Occurrence.

1.25 **“Removal of Wreck Expenses”** means:

reasonable expenses incurred by You in the attempted or actual raising and/or removal and/or disposal and/or destruction of a physically damaged Watercraft that:

- 1.25.1 a recognised Maritime, Port or Harbour Authority has ordered You to raise and/or remove and/or dispose of and/or destroy; or
- 1.25.2 has laid sunken within any place owned, leased or occupied by You for more than 30 (thirty) days after You first issued a legal notice ordering the Watercraft owner to raise and/or remove and/or dispose of and/or destroy;

provided the Watercraft became a wreck as the result of an Occurrence during the Period of Insurance.

Removal of Wreck Expenses shall not include any expenses incurred in the attempted or actual raising and/or removal and/or disposal and/or destruction of a Watercraft owned, hired, chartered, leased by or loaned to You subject, however if applicable, to Optional Additional Coverage 2.8 – Your Watercraft.

1.26 **"Retroactive Coverage"** means:

where the Retroactive Date has been stated in the Schedule, coverage hereon is extended to cover losses occurring between the Retroactive Date and the inception date of this Contract that are not otherwise covered by the Named Insured's previous policies by reason of the claim being made outside of the previous policies claims reporting terms. Subject always to the terms, Conditions and Exclusions of this Contract

1.27 **"Schedule"** means:

the most current schedule issued by Us in connection with this Contract.

1.28 **“Statutory Liability”** means (notwithstanding Exclusion 3.20 – Seepage, Pollution or Contamination):

any pecuniary penalty awarded in and under the laws of the jurisdictions of the Commonwealth of Australia against You for any:

- 1.28.1 civil offence in connection with the discharge, dispersal, release or escape of a Pollutant; and
- 1.28.2 strict liability offence in connection with the discharge, dispersal, release or escape of a Pollutant; and
- 1.28.3 strict liability offence in connection with a breach of any Australian Federal, State or Territory occupational health and safety law or regulation.

1.29 **"Territorial Limits"** means:

- 1.29.1 anywhere in the Commonwealth of Australia and its external territories or New Zealand;
- 1.29.2 elsewhere in the World, but only with respect to:
 - 1.29.2.1 overseas Business visits by any of Your directors, partners, officers, executives or employees but not where they perform manual work in North America; or
 - 1.29.2.2 Products supplied from the Commonwealth of Australia, but the indemnity granted in relation to such Products shall not apply to claims in respect of Personal Injury and/or Property Damage happening in North America where such Products have been exported to North America with Your knowledge.

1.30 **"Tool of the Trade"** means:

Implements, business tools, machinery or plant or equipment including diagnostic equipment being the personal property of any one of Your directors, partners, proprietors, officers, executives, employees or named sub-contractors and including the clothing and personal effects of any of your visitors.

1.31 **“Underwriter”** means:

Travelers Syndicate Management Limited

1.32 **"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 includes tools, implements, machinery or plant attached to or towed by the vehicle and is being used by You at Your premises or on any Worksite but excluding any vehicle whilst travelling to or from a Worksite or any vehicle which is being used to carry goods to or from any premises.

1.33 **"Watercraft"** means:

any vessel or craft made or intended to float on or in or travel on or through water, other than model boats.

1.34 **"We, Us, Our, Ourselves"** means:

Travelers Syndicate Management Limited

1.35 **"Worksite"** means:

any premises or site where any work is performed for and/or in connection with the Business together with all areas surrounding such premises or site and/or all areas in between such premises or site that You shall use in connection with such work.

1.36 **"You, Your, Insured"**

Each of the following is an Insured to the extent specified below:

1.36.1 the Named Insured,

1.36.2 every past or present director, stockholder or shareholder, partner, proprietor, officer, executive or employee of the Named Insured (including the spouse of any such person while accompanying such person on any commercial trip or function in connection with the Business) while such persons are acting for or on behalf of the Named Insured and/or within the scope of their duties in such capacities.

1.36.3 every principal in respect of the principal's liability arising out of:

1.36.3.1 the performance by or on behalf of the Named Insured of any contract or agreement for the performance of work for such principal, but only to the extent required by such contract or agreement and in any event only for such coverage and Limits of Liability as are provided by this Contract.

1.36.3.2 any Products sold or supplied by the Named Insured, but only in respect of the Named Insured's own acts or omissions in connection with such products and in any event only for such coverage and Limits of Liability as are provided by this Contract.

1.36.4 every person, corporation, organisation, trustee or estate to whom or to which the Named Insured is obligated by reason of law (whether written or implied) to provide insurance such as is afforded by this Contract, but only to the extent required by such law and in any event only for such coverage and Limits of Liability as are provided by this Contract.

1.36.5 every officer, member, employee or voluntary helper of the Named Insured's canteen, social and/or sporting clubs, first aid, medical, ambulance or firefighting services, charities, welfare and/or child care facilities, while acting in their respective capacities as such.

1.36.6 any director, partner, proprietor, officer or executive of the Named Insured in respect of private work undertaken by the Named Insured's employees for such person and any employee whilst actually undertaking such work.

1.36.7 the estates, legal representatives, heirs or assigns of:

1.36.7.1 any deceased or insolvent persons, or

1.36.7.2 persons who are unable to manage their own affairs by reason of mental disorder or incapacity,

who would otherwise be indemnified by this Contract, but only in respect of liability incurred by such persons as described in Definitions 1.36.7.1 and 1.36.7.2 above.



- 1.36.8 every party including joint venture companies and partnerships to whom the Named Insured is obligated by virtue of any contract or agreement to provide insurance such as is afforded by this Contract; but only to the extent required by such contract or agreement and in any event only for such coverage and Limits of Liability as are provided by this Contract.

2. INSURING CLAUSES

2.1 What We Cover

We agree (subject to the terms, Claims Conditions, General Conditions, Exclusions, Definitions and Limits of Liability incorporated herein) to pay to You or on Your behalf all amounts which You shall become legally liable to pay as Compensation in respect of:

- 2.1.1 Personal Injury, and/or
- 2.1.2 Property Damage; and/or
- 2.1.3 Advertising Injury;

caused by or arising out of an Occurrence during the Period of Insurance, or

caused by or arising out of an Occurrence which occurs between the Retroactive Date specified in the Schedule and the inception date of this Contract (if applicable)

in connection with the Business as described in the Schedule and within the Territorial Limits.

- 2.1.4 Notwithstanding Exclusion 3.2 (Property in Your care, custody or control) the following is also included.

Care Custody and Control in respect of Watercraft Repairers and Marinas:

- 2.1.4.1 Loss of or damage to any third party Watercraft which is in the care, custody or control of You for shifting and moving within the limits of the port or marina at which the Business is being carried out, trial trips but not exceeding 100 miles from such port or marina, and collection or delivery trips prior to or following work being carried out but not exceeding 100 miles from such port or marina at which the Business is being carried out.
- 2.1.4.2 Loss of or damage to any other third-party Watercraft upon which You are working except third party Watercraft at sea other than whilst on trial trips;
- 2.1.4.3 Loss of or damage to cargo or other things on or discharged from any third-party Watercraft referred to in 2.1.4.1 or 2.1.4.2 above;
- 2.1.4.4 Loss of or damage to machinery or equipment of any third-party Watercraft, whilst such machinery or equipment is removed from such third-party Watercraft and is in Your care, custody or control for the purpose of being worked upon or Marina Operations, including whilst in transit between such third-party Watercraft and Your premises or whilst in transit to or from specialist repairers' or manufacturers' premises;
- 2.1.4.5 Loss of or damage to third party property occurring in the course of or arising from the third-party Watercraft repairs or Marina Operations of You,

caused by or arising out of an Occurrence in connection with the Business which happens during the Period of Insurance and within the Territorial Limits.

You should make best endeavours to ensure that the third-party Watercraft is fully insured by the owner.

The most We will pay under clause 2.1.4.5 for all events arising out of an Occurrence during the Period of Insurance is as per the Public Liability Sum Insured / Limit of Liability amount shown in the Schedule.

It is understood and agreed that this Insuring Clause 2.1.4 excludes loss or damage to third party Watercraft or Products imported by You that occurs while the third-party Watercraft is in Your possession prior to delivery to the final owner. This exclusion will not apply if You have obtained evidence that relevant hull or physical damage insurance has been arranged on the specific imported third-party Watercraft or Products.

2.1.5 **Underground Cables / Pipes / Facilities**

You are insured for all sums that You become legally liable to pay arising out of an Occurrence for damage to any existing:

- 2.1.5.1 underground cable, or
- 2.1.5.2 underground pipes, or
- 2.1.5.3 other underground facilities,

that happens during the Period of Insurance in Australia, provided that prior to commencement of the work that caused the damage, You have inquired with the relevant authorities about the exact position of those cables, pipes or other underground facilities.

2.1.6 **Removal of Wreck Expenses**

You are insured for all sums that You become legally liable to pay in respect of Removal of Wreck Expenses incurred in the ordinary course of Your Business from any place owned, leased or occupied by You and where the removal order is first served on, or issued by, You during the Period of Insurance.

2.2 **Defence Costs and Supplementary Payments**

With respect to the indemnity provided by this Contract, We will:

- 2.2.1 defend, at Our option, in Your name and on Your behalf, any claim or suit against You alleging such Personal Injury, Property Damage or Advertising Injury and seeking damages on account thereof even if any of the allegations of such claim or suit is groundless, false or fraudulent.
- 2.2.2 pay all charges, expenses and legal costs incurred by Us and/or by You with Our written consent:
 - 2.2.2.1 in the investigation, defence or settlement of such claim or suit, including loss of salaries or wages because of Your attendance at hearings or trials at Our request, or
 - 2.2.2.2 in bringing or defending appeals in connection with such claim or suit.Up to the Limit of Liability as stated in the Schedule.
- 2.2.3 pay all charges, expenses and legal costs recoverable from or awarded against You in any such claim or suit and all interest accruing on Our portion of any judgment until We have paid, tendered or deposited in court that part of such judgment which does not exceed the limit of Our liability thereon.
- 2.2.4 pay expenses incurred by You for:
 - 2.2.4.1 rendering first aid and/or surgical or medical relief to others at the time of any Personal Injury (other than any medical expenses which we are prevented from paying by any law).
 - 2.2.4.2 temporary protection of damaged or undamaged property of any person or party, including temporary repairs, shoring up and/or underpinning thereof.
 - 2.2.4.3 purchasing and/or hiring and/or erection and dismantling of hoarding, barriers, fences and any other form of temporary protection, including such protection which You must provide in compliance with the requirements of any Government, Local Government or other Statutory Authority.
- 2.2.5 pay all legal costs incurred by You with Our consent for representation of You at:
 - 2.2.5.1 any Coronial Inquest or Inquiry; and
 - 2.2.5.2 any proceedings in any court or tribunal in connection with liability insured against by this Contract.

The amounts of such Defence Costs and Supplementary Payments incurred, except payments in settlement of claims and suits, are deemed to form part of and not in addition to the applicable Limit of Liability of this Contract.

Where We are prevented by law or otherwise from making payments on Your behalf, We will indemnify You for legal liability incurred to the extent that such liability is covered by this Contract.

In jurisdictions where We may not legally be permitted to, or cannot for any other reason, defend any claim or suit against You, We will reimburse You for the expense of such defence incurred with Our written consent.

2.3 **Limits of Liability and Excess**

Subject to Insuring Clause 2.2 (Defence Costs and Supplementary Payments) above and Insuring Clause 2.4 (Additional Benefit – Claims Preparation Costs) and Exclusion 3.2.4 (Property in Your care, custody or control) below:

2.3.1 The Limit of Liability under this Contract, in respect of any one Personal Injury, Property Damage or Advertising Injury or series thereof arising out of one Occurrence, shall be as specified in the Schedule, inclusive of liability for costs and expenses which are either: -

2.3.1.1 incurred with the written consent of the Underwriters hereon, or

2.3.1.2 awarded against the Insured.

2.3.2 This Contract shall only pay amounts over the Excess amount shown in the Schedule in respect of Your ultimate loss resulting from any one Personal Injury, Property Damage or Advertising Injury or series thereof arising out of one Occurrence.

2.4 **Additional Benefit - Claims Preparation Costs**

2.4.1 In addition to the amount of cover provided by this Contract, We will pay up to **AUD20,000** or currency equivalent for reasonable professional fees and such other expenses incurred by You for the preparation of a claim under this Contract.

2.4.2 The cover provided under this Additional Benefit operates in addition to and shall not in any way affect the cover provided under Insuring Clause 2.2 (Defence Costs and Supplementary Payments) of this Contract.

2.5 **Optional Additional Benefit - Errors and Omissions Extension**

(Applicable only where this Additional Benefit is confirmed in the Schedule)

Notwithstanding Exclusion 3.12 (Breach of Professional Duty) the following Optional Extension shall apply in respect of the Errors and Omissions coverage as respects the Insured Services as specified in the Schedule.

Our aggregate liability for all claims for Errors and Omissions will not exceed the amount specified in the Schedule in all during the Period of Insurance. The Errors and Omissions limit specified in the Schedule forms part of and is not in addition to the Limit of Liability as specified in the Schedule.

The cover provided by this Contract is extended to include any judgment, award or settlement made anywhere in the World to enforce such judgment, award or settlement either in whole or in part, subject to the following additional terms and Exclusions in respect of any such judgment, award or settlement:

2.5.1 Cover only applies in respect of Your legal liability for negligent performance, including emergency medical advice or emergency medical treatment provided by You, arising out of the Insured Services provided by You which You neither intended nor reasonably should have expected to have arisen during or as a result of the performance of the Insured Services.

2.5.2 Where You as part of the Insured Services provide professional advice including but not limited to recommendations valuations inspections surveys or design consultation to a third party in respect of third-party property You will use best endeavours to apply Your standard Terms and Conditions or other suitable contractual terms in line with the applicable professional bodies recommendations. In order to properly incorporate contractual terms to the provision of services it is recommended that these should be agreed in writing in advance by the customer. Furthermore, all formal reports and written advice must contain a clear reference that these are issued in accordance with Your Standard Terms and Conditions or other contractual terms.

- 2.5.3. Provided that
 - 2.5.3.1 the claim relates to an Occurrence for which Gross Receipts Earned from Insured Services is included and
 - 2.5.3.2 such claims made against You are first received by You during the Period of Insurance and
 - 2.5.3.3 notification of the Occurrence giving rise to such claims had not been given prior to the Period of Insurance and
 - 2.5.3.4 You provide written notification to Us of such claims made which is received within 90 (ninety) days of such notification or discovery by You and
 - 2.5.3.5 the Insured Services giving rise to the claim was performed by You or on behalf of You within the Period of Insurance, unless a Retroactive Date is provided for in the Schedule to this Contract, in which case the Insured Services giving rise to the claim was performed by You between the Retroactive Date and the inception date of this Contract.
 - 2.5.3.6 Where You have appointed a sub-contractor or an agent to act on Your behalf You are expected to check that the sub-contractor or agent has a satisfactory reputation and the appropriate experience to fulfil their duties. You should make best endeavours to ensure that the sub-contractor holds and maintains adequate professional indemnity liability insurance during the Period of Insurance or is financially able to meet its legal liability. You should also adequately instruct any sub-contractor or agent in writing as to their responsibilities and duties
- 2.5.4 This cover shall always exclude any actual or alleged liability where the proximate cause arises from
 - 2.5.4.1 Your or Your sub-contractor or agent's own illegal trade dishonesty infidelity or fraud collusion malicious wilful or deliberate act or reckless conduct, an example of which might be the failure to establish proper systems and controls
 - 2.5.4.2 the failure to commence or abandonment of or inability to perform the Insured Services
 - 2.5.4.3 Vessel valuations or statistical and market information provided to any third party which is included in a share prospectus bond issue or other document where finance is being raised
 - 2.5.4.4 For Personal Injury sustained by any person or any Property Damage unless such claim emanates from negligent breach of a duty owed in a professional capacity by You
 - 2.5.4.5 arising out of or relating directly or indirectly from Your insolvency or bankruptcy
 - 2.5.4.6 in respect of which You are entitled to indemnity under any other insurance (or other part of this Contract) except in respect of any excess beyond the amount which is payable under such other insurance
 - 2.5.4.7 arising out of any circumstance or Occurrence which could give rise to a claim under this Contract of which You are aware or ought reasonably to be aware at inception of this Contract whether notified under any other insurance or not
 - 2.5.4.8 where action for damages is brought in a court of law outside the territories specified in the Schedule or where action is brought in a court of law within those territories to enforce a foreign judgement whether by way of reciprocal Agreement or otherwise

2.6 **Optional Additional Benefit – Statutory Liability**

Notwithstanding Exclusion 3.15 (Fines, Penalties, Punitive, Exemplary or Aggravated Damages) the following is also included:

You are insured for any Statutory Liability resulting solely from the conduct of Your Business which We are not legally prohibited from paying.

Our aggregate liability for all claims for Statutory Liability will not exceed the amount specified in the Schedule in all during the Period of Insurance. The Statutory Liability limit specified in the Schedule forms part of and is not in

addition to the Limit of Liability as specified in the Schedule.

We will not be liable to make any payment in respect of Statutory Liability:

- 2.6.1 arising from or contributed to, wholly or partially, by Your reckless or negligent conduct or any wilful, deliberate or intentional breach, contravention or violation by You or any law or regulation;
- 2.6.2 relating to the regulation of vehicular, air or marine traffic;
- 2.6.3 arising from or contributed to, wholly or partially, any dishonest, malicious or fraudulent acts by You;
- 2.6.4 in connection with any consumer protection law. However, this exclusion does not apply to a Statutory Liability of Your officers or employees arising in connection with the performance of their duties other than a Statutory Liability arising from or connected with a contravention of a provision of the Australian Consumer Law in Schedule 2 of the Competition and Consumer Act 2010 (Cth);
- 2.6.5 arising from or contributed to, wholly or partially, a wilful, intentional or deliberate failure to comply with any lawful notice, direction, enforcement action or proceeding under any law or regulation;
- 2.6.6 arising from a contravention of Sections 182, 183, 601FD, 601FE or 601JD of the Corporations Act 2001 (Cth) and any amendment, consolidation or re-enactment of any of those Sections;
- 2.6.7 in connection with any claim brought against You prior to the Retroactive Date as specified in the Schedule.

2.7

Optional Additional Coverage – Tools of the Trade

(Applicable only where this Additional coverage is confirmed in the Schedule)

Notwithstanding Exclusion 3.1 (Property owned by You) the following Optional Additional Coverage shall apply in respect of Tools of the Trade.

We will indemnify You for loss and/or Property Damage and/or theft of Your Tools of the Trade, which occurs during the Period of Insurance, based on the lesser of the cost to repair, rebuild or replace the destroyed, damaged or stolen Tools of the Trade to a condition equal to, but not superior to or more extensive than, its condition when new.

The Tools of Trade limit specified in the Schedule forms part of and is not in addition to the Limits specified in the Schedule.

If the destroyed, damaged or stolen Tools of the Trade are not repaired, rebuilt or replaced within 60 (sixty) days after the loss and/or Property Damage and/or theft, We shall not be liable for any amount to repair, rebuild or replace in excess of the Actual Cash Value of the Tools of the Trade destroyed, damaged or stolen.

However, and in addition to the Exclusions contained in Section 3 (What We Exclude), this Optional Additional Coverage does not cover any loss or damage caused by or contributed to by:

- 2.7.1 fire;
- 2.7.2 wear, tear, marring, scratching, gradual deterioration, wet rot, dry rot, mould (notwithstanding Exclusion 3.19), spoilage, decay, decomposition, corrosion, rust, discoloration, electrolyte action, oxidation, erosion, leakage, evaporation, loss of weight, breakage of glass or other fragile articles;
- 2.7.3 animals, vermin, moths, termites or other insects;
- 2.7.4 atmospheric dampness or dryness, condensation, smog, fog, heat, extremes or changes in atmospheric temperature, excessive exposure to sunlight;
- 2.7.5 seepage of any substance whatsoever, backing up of sewers or drains, pollution or contamination;
- 2.7.6 earthquake, tsunami, tidal wave, seaquake, hurricane, typhoon, tornado, hailstorm or volcanic eruption;
- 2.7.7 inherent vice, latent defect, error in design, fault or error in workmanship, manufacture or use of unsuitable materials;

- 2.7.8 confiscation, requisition, detention, occupation, embargo, quarantine, or arising from any order of public or government authority or arising from acts of contraband or illegal transportation or illegal trade;
- 2.7.9 mechanical or electrical breakdown or derangement of any communication equipment or alarm system or computer system;
- 2.7.10 whilst the Tools of the Trade are located in an unlocked motor vehicle;
- 2.7.11 boilers, steam pipes, steam turbines, steam engines, pressure or vacuum vessels, caused by explosion, implosion, rupture or bursting;
- 2.7.12 cessation, fluctuation or variation in, or insufficiency of water, gas or electricity supplies;
- 2.7.13 loss of market, loss of use, loss of income, interruption of business, or any other consequential loss or damage whatsoever;
- 2.7.14 unexplained loss or mysterious disappearance or inventory shortage;
- 2.7.15 Your or Your employee's infidelity, dishonesty, theft, fraud or pilferage or others to whom You have entrusted responsibility;
- 2.7.16 You and/ or Your employees voluntarily parting with title or possession of the Tools of the Trade;
- 2.7.17 Tools of the Trade in the care, custody or control of a third party;
- 2.7.18 inappropriate storage, screen bruising by hand, servicing, breakdown, malfunction, design fault or electrical supply other than a power surge;
- 2.7.19 loss of data or loss of software that is not standard manufacturer installed operating system;
- 2.7.20 data processing or media failure;
- 2.7.21 loss and/or Property Damage and/or theft whilst on an Aircraft, unless the Tools of the Trade accompany You as cabin baggage except where airport or airline authorities, as a condition of travel, require the Tools of the Trade to be placed in the hold of an Aircraft and any loss and/or Property Damage and/or theft is recoverable from the airline.

2.8 Optional Additional Coverage – Your Watercraft
(Applicable only where this Additional Coverage is confirmed in the Schedule)

Physical Loss or Property Damage to Your Watercraft

We will indemnify You up to the Watercraft material damage limit specified in the Schedule, this limit forms part of and is not in addition to the Limits specified in the Schedule. for physical loss and/or Property Damage (including machinery damage) to Your Watercraft including the reasonable costs and expenses incurred in respect of inspection, salvage, sue and labour, pollution avoidance, resulting from physical loss and/or Property Damage to Your Watercraft, which occurs during the Period of Insurance, based on:

- 2.8.1 the lesser of the cost of recovering, repairing or restoring Your Watercraft to a condition equal to, but not superior to or more extensive than, its condition when new; or
- 2.8.2 the actual total loss where Your Watercraft is actually lost or destroyed; or
- 2.8.3 constructive total loss where the reasonable cost of recovering, repairing or restoring Your Watercraft would exceed the insured value as specified in the Schedule.

You shall ensure that You exercise due diligence to maintain Your Watercraft in a seaworthy condition and Your Watercraft is only covered under this Optional Additional Coverage when it is properly manned and under the control of a competent skipper, having due regard to all circumstances.

You shall also ensure that You exercise due diligence at all times to ensure the safety and security of Your Watercraft, including ensuring that Your Watercraft is securely fastened or moored, and that reasonable and appropriate anti-theft precautions are taken.

Exclusions relating to Physical Loss or Property Damage to Your Watercraft

in addition to the Exclusions contained in Section 3 (What We Exclude), this Optional Additional Coverage does not cover any loss or damage caused by or contributed to by:

- 2.8.4.1 gross negligence, reckless and malicious acts carried out by You or any person on board Your Watercraft with Your permission;
- 2.8.4.2 wear and tear, gradual deterioration, marring, electrolysis, corrosion, galvanic action, rust, denting, scratching, dampness of atmosphere, weathering, osmosis, blistering, mould (notwithstanding Exclusion 3.19), mildew, fungi, wet or dry rot;
- 2.8.4.3 birds, vermin, rodents, insects, animals and marine life;
- 2.8.4.4 failure to maintain Your Watercraft (including machinery and equipment) in good condition;
- 2.8.4.5 loss of or damage to Your Watercraft's mooring or any part of the mooring;
- 2.8.4.6 inherent vice, latent defect, error in design, fault or error in workmanship, manufacture or use of unsuitable materials;
- 2.8.4.7 confiscation, requisition, detention, occupation, embargo, quarantine, or arising from any order of public or government authority or arising from acts of contraband or illegal transportation or illegal trade;
- 2.8.4.8 mechanical or electrical breakdown or derangement of any communication equipment or alarm system or computer system;
- 2.8.4.9 loss of market, loss of use, loss of income, interruption of business, or any other consequential loss or damage whatsoever;
- 2.8.4.10 unexplained loss or mysterious disappearance;
- 2.8.4.11 the failure of or degradation to the gelcoat, barrier coating or hull sheathing;
- 2.8.4.12 theft of any outboard unless it is secured to Your Watercraft by an appropriate anti-theft device in addition to its normal operating mounting and there are visible signs of violent forcible removal, or it is stolen from a locked cabin or locked storage compartment following violent forcible entry into Your Watercraft or place of storage;
- 2.8.4.13 theft of any of Your Watercraft's gear or equipment unless following violent forcible entry into a locked cabin or locked storage compartment, on board or ashore;
- 2.8.4.14 theft or loss of any boat or tender to Your Watercraft unless permanently marked with Your Watercraft's name or registration number.

Third Party Liability in respect of Your Watercraft

We will indemnify You or any person using and in control of Your Watercraft with Your permission up to the Watercraft Third Party Liability limit specified in the Schedule this limit forms part of and is not in addition to the Limits specified in the Schedule for all amounts You shall become legally liable to pay as Compensation in respect of:

- 2.8.5 death and bodily injury to a third party;
- 2.8.6 Property Damage to third party property;
- 2.8.7 reasonable legal costs, fees and expenses incurred by You in the defence of any claim or suit arising from or in connection with an incident for which a claim or suit against You under this Optional Additional

Coverage is made provided that such costs, fees and expenses are incurred with Our written consent;

- 2.8.8 the attempted or actual raising, removal or destruction of the wreck of Your Watercraft or any neglect or failure to raise, remove or destroy the wreck;

arising out of the use and operation of Your Watercraft during the Period of Insurance, within the Territorial Limits and in connection with Business as described in the Schedule.

You shall ensure that You exercise due diligence to maintain Your Watercraft in a seaworthy condition and Your Watercraft is only covered under this Optional Additional Coverage when it is properly manned and under the control of a competent skipper, having due regard to all circumstances.

Exclusions relating to Third Party Liability in respect of Your Watercraft

in addition to the Exclusions contained in Section 3 (What We Exclude), this Optional Additional Coverage does not cover any legal liability caused by or contributed to by:

- 2.8.9.1 accidents caused by or to water-skiers or persons involved in kiting, wake-boarding, riding inflatable toys or similar activities;
- 2.8.9.2 damages or penalties arising solely out of any contract or agreement;
- 2.8.9.3 fines or penalties imposed under any statutory code or law (notwithstanding Optional Additional Benefit 2.6 – Statutory Liability)

2.9 **Optional Additional Coverage – Faulty Workmanship**

(Applicable only where this Additional Coverage is confirmed in the Schedule)

Notwithstanding Exclusion 3.7 (Faulty Workmanship) We will indemnify You up to the limit as specified in the Schedule in respect of loss, damage, liability, cost or expense for the rectification of faulty workmanship as regards any third-party property or Watercraft, however, Our liability will be limited to:

- 2.9.1 the wholesale cost of any parts;
- 2.9.2 the net labour cost;
- 2.9.3 freight costs;

required to rectify or re-perform work, in whole or in part, on any third-party property or Watercraft on which:

- 2.9.4 You had contracted to perform work, repairs, maintenance or service prior to the Occurrence causing the loss or damage to the third-party property or Watercraft, and
- 2.9.5 the performance or re-performance of the work is made necessary by the same Occurrence causing the loss or damage to the third-party property or Watercraft.

3 WHAT WE EXCLUDE

We do not cover any liability:

3.1 **Property owned by You**

for Property Damage in respect of property owned by You other than Your Watercraft, if applicable, as per Optional Additional Coverage 2.8 – Your Watercraft.

3.2 **Property in Your care, custody or control**

for Property Damage in respect of property in Your physical or legal care, custody or control; but this Exclusion shall not apply with regard to:

3.2.1 premises or part(s) of premises (including their contents) leased or rented to, or temporarily occupied by, You for the purpose of the Business, but no cover is provided by this Contract if You have assumed the responsibility to insure such premises; or

3.2.2 3.2.2.1 premises (and/or their contents) temporarily occupied by You for the purpose of carrying out work in connection with the Business, or

3.2.2.2 any other property temporarily in Your possession for the purpose of being worked upon;

but no indemnity is granted for damage to that part of any property upon which You are or have been working if the damage arises solely out of such work.

3.2.3 any Vehicle (including its contents, spare parts and accessories while they are in or on such Vehicle) not belonging to or used by You, whilst any such Vehicle is in a car park owned or operated by You; provided that You do not operate the car park for reward, as a principal part of Your Business; or

3.2.4 any property (except property that You own) not mentioned in Exclusions 3.2.1 to 3.2.3 above whilst in Your physical or legal care, custody or control where You have accepted or assumed legal liability for such property. Provided that Our liability under this Exclusion 3.2.4 shall not exceed **AUD100,000** or currency equivalent in respect of any one claim or series of claims arising out of any one Occurrence.

3.3 **Vehicles**

for Personal Injury or Property Damage arising out of the ownership, possession or use by You of any Vehicle for which compulsory liability insurance or statutory indemnity is required by virtue of legislation (whether or not that insurance is affected), but this Exclusion shall not apply to claims arising out of:

3.3.1 any Vehicle (including any tool or plant forming part of or attached to or used in connection with such Vehicle) whilst being operated or used by You or on Your behalf at Your premises or on any Worksite; or

3.3.2 the delivery or collection of goods to or from any Vehicle; or

3.3.3 the loading or unloading of any Vehicle; or

3.3.4 any Vehicle temporarily in Your custody or control for the purpose of parking; or

3.3.5 damage to third party Watercraft that are being towed by the insured.

3.4 **Aircraft or Hovercraft owned leased chartered or operated by You**

for Personal Injury and/or Property Damage arising from the ownership, maintenance, operation or use by You of any Aircraft or Hovercraft; or

3.5 **Aircraft Products**

arising out of any Products which, with Your knowledge, is intended for incorporation into the structure, machinery or instruments of any Aircraft.

3.6 **Damage to Products**

for Property Damage to any Products where such damage is directly caused by a fault or defect in such Products; but this Exclusion shall be interpreted to apply with respect to damage to that part and only that part of such product to which the damage is directly attributable.

3.7 **Faulty Workmanship**

for any loss, damage, liability, cost or expense, including compensation or costs, caused or contributed to by, or in connection with, or arising from damage to that part of any third-party property or Watercraft upon which You have been completing, correcting or improving any work undertaken by You or on Your behalf.

This exclusion does not apply to any coverage granted under Insuring Clause 2.5 (Errors and Omissions) and Insuring Clause 2.9 (Faulty Workmanship).

3.8 **Loss of Use**

for loss of use of tangible property, which has not been physically lost, destroyed or damaged, directly arising out of:

3.8.1 any delay by You or on Your behalf, including any penalty clauses pursuant to any contract or agreement; or

3.8.2 failure of any Products or work performed by You or on Your behalf to meet the level of performance, quality, fitness or durability expressed or implied, warranted or represented by You.

3.9 **Product Guarantee**

for any Products warranty or guarantee given by You or on Your behalf, but this Exclusion shall not apply to the requirements of any legislation as to product safety and information.

3.10 **Advertising Injury**

for Advertising Injury:

3.10.1 resulting from statements made at Your direction with knowledge that such statements are false; or

3.10.2 resulting from failure of performance of contract but this Exclusion shall not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract; or

3.10.3 resulting from any incorrect description of Products or services; or

3.10.4 resulting from any mistake in advertised price of Products or services.

3.10.5 failure of Your products or services to conform with advertised performance, quality, fitness or durability; or

3.10.6 incurred by any Insured whose principal occupation or Business is advertising, broadcasting, publishing or telecasting.

3.11 **Asbestos**

in so far as indemnity would otherwise be provided under this Contract where operative or any Optional Extensions or Endorsements attaching thereto in respect of legal liability inclusive of claimants' and defence costs and expenses directly or indirectly resulting from caused by contributed to attributed to or in any way related to or in consequence of

3.11.1 the actual alleged or threatened absorption ingestion or inhalation of asbestos in any form by any person, or

3.11.2 any obligation, request, demand, order, or statutory or regulatory requirement that You or others test for, monitor, clean up, remove, contain, treat, neutralize, protect against or in any other way respond to the actual, alleged or threatened presence of asbestos or any material or product containing, or alleged to contain, asbestos.

Notwithstanding any other provisions of this Contract, We will have no duty to investigate, defend or pay defence costs in respect of any claim excluded in whole or in part under paragraphs 3.11.1 or 3.11.2 hereof.

3.12 **Breach of Professional Duty**

arising out of any breach of duty owed in a professional capacity by You and/or any person(s) for whose breaches You may be held legally liable, but this Exclusion shall not apply to claims:

3.12.1 for Personal Injury and/or Property Damage arising from such breach of duty; or

3.12.2 arising out of the rendering of or failure to render professional medical advice by Medical Persons employed by You to provide first aid and other medical services on Your premises; or

3.12.3 arising out of advice which is not given by You for a fee; or

3.12.4 arising out of advice given in respect of the use or storage of Your Products.

3.13 **Contractual Liability**

which has been assumed by You under any contract or agreement that requires You to:

3.13.1 effect insurance over property, either real or personal; or

3.13.2 assume liability for, Personal Injury or Property Damage regardless of fault; provided that this Exclusion shall not apply with regard to:

3.13.2.1 liabilities which would have been implied by law in the absence of such contract or agreement; or

3.13.2.2 liabilities assumed under Incidental Contracts; or

3.13.2.3 terms regarding merchantability, quality, fitness or care of Your Products which are implied by law or statute; or

3.13.2.4 liabilities assumed under the contracts specifically designated in the Schedule or in any Endorsement(s) to this Contract.

3.14 **Employers Liability**

3.14.1 for Personal Injury to any Worker in respect of which You are or would be entitled to indemnity under any Contract of insurance, fund, scheme or self-insurance pursuant to or required by any legislation relating to Workers' Compensation or Accident Compensation whether or not such Contract, fund, scheme or self-insurance has been affected.

Provided that this Contract will respond to the extent that Your liability would not be covered under any such Contract, fund, scheme or self-insurance arrangement had You complied with its obligations pursuant to such law.

3.14.2 imposed by:

3.14.2.1 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 contract of employment or workplace agreement; or.

3.14.2.2 any law relating to Employment Practices.

For the purpose of Exclusions 3.14.1 and 3.14.2:

(i) the term 'Worker' means any person deemed to be employed by You pursuant to any Workers' Compensation Law. Voluntary workers, secondees and work experience students (if any) shall

not be deemed to be Your Workers.

- (ii) the term 'Personal Injury' means bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish and/or mental injury, including loss of consortium or services resulting therefrom.

3.15 **Fines, Penalties, Punitive, Exemplary or Aggravated Damages**

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

3.16 **Electronic Data and Software**

loss or damage caused by:

- 3.16.1 the corruption or destruction of data, coding program or software, or
- 3.16.2 the unavailability of data and/or malfunction of hardware, software and/or embedded chips, or
- 3.16.3 any Business interruption losses resulting therefrom.

Provided that this Exclusion shall not apply where such loss or damage occurs as a direct result of physical damage which is otherwise insured by this Contract.

3.17 **Libel and Slander**

for libel and slander:

- 3.17.1 resulting from statements made prior to the commencement of the Period of Insurance; or
- 3.17.2 resulting from statements made at Your direction with knowledge that such statements are false; or

3.18 **Liquidated Damages**

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

3.19 **Mould**

in so far as indemnity would otherwise be provided under this Contract where operative or any Optional Extensions or Endorsements attaching thereto in respect of legal liability inclusive of claimants' and defence costs and expenses directly or indirectly resulting from caused by contributed to attributed to or in any way related to:

mould, mildew, fungus, spores or other micro-organism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

This Exclusion applies regardless of whether there is

- 3.19.1 any physical loss or damage to property insured;
- 3.19.2 any insured peril or cause, whether or not contributing concurrently or in any sequence;
- 3.19.3 any loss of use, occupancy, or functionality; or
- 3.19.4 any action required, including but not limited to repair, replacement, removal, clean up, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

Notwithstanding any other provisions of this Contract, We will have no duty to investigate, defend or pay defence costs in respect of any claim excluded in whole or in part under paragraphs 3.19.1 to 3.19.4 hereof.

3.20 **Seepage, Pollution or Contamination**

for seepage, pollution or contamination unless caused by an event which is identified as occurring at an instantaneous moment in time during the period of this Contract, is accidental and neither expected or intended by

You, and became known to You within 72 (seventy-two) hours after its commencing and is reported to Us within 90 (ninety) days thereafter. Nothing in this Exclusion shall operate to provide coverage for: -

- 3.20.1 Fines, penalties, punitive damages, exemplary damage, treble damages or any other damages resulting from the multiplication of compensatory damages;
- 3.20.2 Any site or location used in whole or in part for the handling, processing, treatment, storage, disposal or dumping of any waste materials or substances;
- 3.20.3 The cost of evaluating and/or monitoring and/or controlling seepage and/or contaminating substances;
- 3.20.4 The cost of removing and/or nullifying and/or cleaning up seepage and/or polluting and/or contaminating substances on property at any time owned and/or leased and/or rented by the Insured and/or under the control of the Insured.

3.21 **Strikes Riot Civil Commotion**

arising from any strike, lock-out, labour disturbance, riot, civil commotion or act of any person taking part in any such Occurrence, or from any act of any person acting maliciously;

3.22 **JL2002/002 - Joint Liability Committee War & Terrorism Exclusion Clause**

This Contract excludes any actual or alleged liability, costs or expenses arising directly or indirectly out of any one or more of the following:

- 3.22.1 war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power;
- 3.22.2 confiscation or expropriation;
- 3.22.3 capture, seizure, arrest, restraint or detainment and the consequences thereof or any attempt thereat;
- 3.22.4 any terrorist act or any person(s) acting maliciously or from a political motive;
- 3.22.5 strikers, locked-out workmen, or persons taking part in labour disturbance, riots or civil commotions;
- 3.22.6 derelict mines, torpedoes, bombs or other derelict weapons of war.

3.23 **CL370 - Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons**

This Exclusion shall be paramount and shall override anything contained in this Contract inconsistent therewith

In no case shall this Contract cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from:

- 3.23.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
- 3.23.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
- 3.23.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- 3.23.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The Exclusion in this sub-Exclusion 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
- 3.23.5 any chemical, biological, bio-chemical, or electromagnetic weapon.

3.24 **CL380 Institute Cyber Attack**

3.24.1 Subject only to Exclusion 3.24.2 below, in no case shall this Contract cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

3.24.2 Where this Exclusion is endorsed on Contracts covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, Clause 3.24.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

3.25 **Sanction Limitation and Exclusion Clause**

No Underwriter shall be deemed to provide cover and no Underwriter shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that Underwriter to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

3.26 **Internet Operations**

Liability directly or indirectly caused by or arising from Your Internet Operations.

This Exclusion will not apply to liability arising out of any material which is already in print by the manufacturer in support of its products which is also reproduced on Your web site, but the Exclusion will still apply to any other advice or information located on Your site that is used for the purpose of attracting customers.

For the purpose of this Exclusion, "employee" means any person engaged under a contract of service or apprenticeship with You.

3.27 **Faulty Design**

in respect of or arising in connection with: -

3.27.1 condemnation or rejection of any part by reason of faulty design;

3.27.2 any loss or expense arising from such condemnation or rejection;

3.27.3 the cost or expense of repairing, modifying or replacing any part (or for any loss or expense arising therefrom) by reason of faulty design;

4 CLAIMS CONDITIONS

4.1 Notification of Occurrence, Claim or Suit

You shall give:

- 4.1.1 written notice to Us, as soon as reasonably practicable, of any claim made against You or any Occurrence that may give rise to a claim being made against You and which is covered by this Contract; and
- 4.1.2 all such additional information that We may reasonably require and every demand, writ, summons, proceedings, impending prosecution or inquest and all documents relating to the claim or Occurrence shall be forwarded to Us as soon as practicable after they are received by You; and
- 4.1.3 written notice (including facsimile transmission) to Us via Steadfast IRS PTY Ltd.

4.2 Your Duties in the Event of an Occurrence Claim or Suit

- 4.2.1 You shall not, without Our written consent, make any admission, offer, promise or payment in connection with any Occurrence or claim.
- 4.2.2 You shall use Your best endeavours to preserve all property, products, appliances, plant, and all other things which may assist in the investigation or defence of a claim or suit or in the exercise of rights of subrogation and, so far as may be reasonably practicable, no alteration or repair shall be effected without Our consent until We or our representatives have had an opportunity of inspection.
- 4.2.3 You shall, when so requested, provide Us with details of any other insurances current at the time of any Occurrence, and/or Personal Injury and/or Property Damage and/or Advertising Injury and covering any of the liability insured by this Contract.

4.3 Our Rights Regarding Claims

- 4.3.1 Following the happening of any Occurrence in respect of which a claim is, or may be, made under this Contract, We shall have full discretion in the conduct of any proceedings in connection with any claim. You shall give such information and assistance that We may reasonably require in the prosecution, defence or settlement of any claim.
- 4.3.2 We may at any time pay to You, in respect of all claims against You arising directly or indirectly from one source or original cause:
 - 4.3.2.1 the amount of the Limit of Liability or such other amount specified in respect thereof (after deduction of any amount already paid by Us, which amounts would reduce the amount of Our unfulfilled liability in respect thereof); or
 - 4.3.2.2 any lesser amount for which the claim(s) can be settled.
- 4.3.3 Upon making such payment, We shall relinquish conduct and control of, and be under no further liability under this Contract in connection with such claim(s) except for Defence Costs and Supplementary Payments:
 - 4.3.3.1 recoverable from You in respect of the period prior to the date of such payment (whether or not pursuant to an order made subsequently); or
 - 4.3.3.2 incurred by Us, or by You with Our written consent, prior to the date of such payment.

4.4 Goods and Services Tax

You must inform Us of the extent to which You are entitled to an input tax credit for the premium each time that You make a claim under this Contract. No payment will be made to You for any GST liability that arises on the settlement of a claim under this Contract when You have not informed Us of Your entitlement or correct entitlement to an input tax credit.

Notwithstanding anything contained in this Contract (including the Schedule and any Endorsements attached hereto) to the contrary, Our liability will be calculated after taking into account:

- 4.4.1 any input tax credit to which You, or any claimant against You, is entitled for any acquisition relevant to a claim paid under this Contract; and
- 4.4.2 any input tax credit to which You, or any claimant against You, would have been entitled were You or the claimant to have made a relevant acquisition; and
- 4.4.3 the GST exclusive amount of any supply made by You which is relevant to Your claim.

If the applicable Limit of Liability is not sufficient to cover Your claim, We will only pay GST (less any relevant input tax credit) that relates to Our proportion of Your claim.

The terms **`GST'**, **`input tax credit'**, **`acquisition'** and **`supply'** have the meanings ascribed to them in the A New Tax System (Goods and Services Tax) Act 1999.

5 GENERAL CONDITIONS

5.1 Alteration of Risk

Every change which substantially varies any of the material facts or circumstances existing at the commencement of each Period of Insurance, that shall come to the knowledge of You or Your officer responsible for insurance matters, shall be notified to Us as soon as reasonably practicable thereafter and You shall (if so requested) pay such reasonable additional premium as We may require.

5.2 Bankruptcy or Insolvency

In the event that You become bankrupt or insolvent, We shall not be relieved thereby of the payment of any claims hereunder because of such bankruptcy or insolvency.

In case of execution against You of any final judgment covered by this Contract being returned 'unsatisfied' by reason of such bankruptcy or insolvency, then an action may be maintained by the injured party or their representative against Us in the same manner, and to the same extent as You but not in excess of the Limit of Liability.

5.3 Breach of Condition or Warranty

Your rights under this Contract shall not be prejudiced by any unintentional and/or inadvertent:

- 5.3.1 breach of a Condition or warranty without Your knowledge or consent, or
- 5.3.2 error in the name or title of any person(s), corporation and/or other organisation which forms part of Definition 1.36 (You, Your, Insured); or
- 5.3.3 error in name, description or situation of property; or
- 5.3.4 failure to report any property and/or entity and/or insurable exposure in which You have an interest.

Provided always that, upon discovery of any such fact or circumstance referred to above, You or Your officer responsible for insurance matters shall give written notice thereof to Us as soon as reasonably practicable thereafter and You shall (if so requested) pay such reasonable additional premium that We may require.

5.4 Cancellation of This Contract

The Contract may be cancelled by You mailing to Us written notice stating when thereafter such cancellation shall be effective. The Contract may be cancelled by Us by mailing to You at the address shown in this Contract as a last known address written notice providing they meet the following criterion:

The Cancellation of policies (Sections 59 and 60 - Insurance Contracts Act 1984)

We may only cancel a Contract if:

- You breach Your duty of utmost good faith.
- You breach Your disclosure obligations.
- You misrepresent the facts to Us.
- You do not do what the Contract requires You to do.
- You make a fraudulent claim. Please note that Section 56 of the Insurance Contracts Act provides that in the event of a fraudulent claim, We may not avoid the Contract *ab initio* but may refuse to pay the claim (and cancel the remainder of the Contract under Section 60). Fraudulent Claims Clauses cannot therefore be used in Australian policies.

We can also cancel if an act or omission occurs after the Contract if entered into, where:

- The Contract includes a provision that requires You to notify Us of a specified act or omission by You.
- The effect of the Contract is to authorise Us to refuse to pay a claim, either in whole or in part, by reason of an act or omission of You or of some other person.

We must give notice of the proposed cancellation in writing to You. The notice cancels the Contract from the earlier of:

- The time when a replacement Contract is entered into.
- The latest of the following times:
 - 4pm three business days after receipt of Our notice or 14 (fourteen) business days in the case of a statutory Contract in force by virtue of section 58.
 - The time specified in the Contract, if any.
 - The time specified in the notice, if any.

In relation to instalment contracts, section 62 allows Us to include provisions inconsistent with the cancellation notice requirements set out above under section 59 or the requirements regarding the method of providing notices under the Act in section 77.

If these criteria are met, We will write to You stating when not less than 10 (ten) days thereafter such cancellation shall be effective except that five days written notice will be given by Us when cancellation is for non-payment of premium or as specified in the Schedule which shall supersede these General Conditions.

The mailing of such notice shall be sufficient proof of notice and the effective date of cancellation stated in the notice shall become the end of the Period of Insurance. Delivery of such written notice either by You or by Us shall be equivalent to mailing.

In the event the Contract or a specific coverage is cancelled by either party the premium for the Contract or the specific coverage shall be deemed fully earned unless and until You submit a financial statement certified by an independent auditor approved by Us and indicating the exact figure for incurred expenses on all budget items used to determine the premium at the time the cancellation has become effective.

5.5 **Cross Liabilities**

This Contract extends to indemnify:

5.5.1 each of the parties comprising the Named Insured, and

5.5.2 each of the Insureds hereunder,

separately in the same manner and to a like extent as though policies had been issued in their separate names.

In particular, but without limiting the foregoing, this Contract shall indemnify each of the parties described in General Condition 5.5.1 and 5.5.2 in respect of claims made by any other of such parties.

Provided always that:

5.5.3 each of such parties shall be separately subject to the terms, Claims Conditions, General Conditions, Exclusions and Definitions of this Contract in the same manner and to a like extent as though separate policies had been issued; and

5.5.4 in no case shall the amount payable by Us in respect of any one claim or series of claims arising out of any one Occurrence or in the aggregate, as the case may be, exceed the applicable Limit of Liability as specified in the Schedule.

5.6 **Inspection and Audit**

We shall be permitted, but not obligated, to inspect Your premises and operations at any reasonable time. Neither Our right to make inspections, nor Our failure to make inspections, nor the making of inspections, nor any report of an inspection shall constitute an undertaking, on behalf of or for the benefit of You or others, to determine or warrant that such premises or operations are safe or sound or are in compliance with any law, rule or regulation. We may examine and audit Your books and records at any time during the currency of this Contract and within 3 (three) years after the final termination of this Contract but only with regards to matters which in Our opinion are relevant to this Contract.

5.7 Jurisdiction

This Contract of insurance shall be governed by and construed in accordance with the laws of Australia and the States and Territories thereof. Each party agrees to submit to the exclusive jurisdiction of any Court of competent jurisdiction in the State or Territory of Australia as specified in the Schedule and to comply with all requirements necessary to give such Court jurisdiction. All disputes arising under this Contract shall be determined in accordance with the law and practice of such Court.

5.8 Premium Funding

If the premium has been funded by a premium funding company which holds a legal right over this Contract by virtue of a notice of assignment and irrevocable power of attorney, then subject to Section 60 of the Insurance Contracts Act 1984, We may cancel this Contract at the request of the premium funding company, after substantiation of the debt and default in payment by You has been made and proven to Us, by giving You not less than 3 (three) business days written notice to that effect, following which a refund will be made to the premium funding company of the proportionate part of the premium applicable to the unexpired Period of Insurance.

5.9 Reasonable Precautions

You must:

- 5.9.1 exercise reasonable care that only competent employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition.
- 5.9.2 take reasonable precautions to prevent:
 - 5.9.2.1 Personal Injury, Property Damage and Advertising Injury; and/or
 - 5.9.2.2 the manufacture, sale or supply of defective Products, and comply, and ensure that Your employees, servants and agents comply, with all statutory obligations, by-laws or regulations imposed by any public authority in respect of Your Products for the safety of persons or property; and/or
 - 5.9.2.3 at Your own expense take reasonable action to trace, recall or modify any Products containing any defect or deficiency which defect or deficiency You have knowledge of or have reason to suspect.

5.10 Release

Where You are required by contractual agreement to release any Government or Public or Local Authority or other Statutory Authority or any landlord or any other persons or parties from liability for loss, destruction or damage or legal liability insured against under this Contract, such release is allowed without prejudice to this Contract.

Notwithstanding General Condition 5.13 (Subrogation and Allocation of the Proceeds of Recoveries) of this Contract, We agree to waive all Our rights of subrogation against any such Authority or persons or parties in the event of any Occurrence for which a claim for indemnity may be made under this Contract.

5.11 Non-Imputation

Where this Contract is arranged in the joint names of more than one Insured, as described in Definition 1.36 (You, Your, Insured), it is hereby declared and agreed that:

- 5.11.1 each Insured shall be covered as if it made its own proposal for this Contract; and
- 5.11.2 any declaration, statement or representation made in any proposal shall be construed as a separate declaration, statement or representation by each Insured; and
- 5.11.3 any knowledge possessed by any Insured shall not be imputed to the other Insured(s).

5.12 **Foreign Currency**

All amounts referred to in this Contract are in Australian Dollars.

If You incur liability to settle any claim for an amount stated in the local currency of any country or territory outside the Commonwealth of Australia, where an award is made or a settlement is agreed upon, then the amount payable by Us shall be the value of such award or settlement together with costs awarded or payable to any claimant, converted to Australian Dollars at the free rate of exchange published in the Australian Financial Review on the date when the award was made or settlement was agreed upon subject always to the applicable Limit of Liability.

5.13 **Subrogation and Allocation of the Proceeds of Recoveries**

Subject to General Condition 5.14 (Subrogation Waiver), any corporation, organisation or person claiming under this Contract shall, at Our request and at Our expense, do and concur in doing and permit to be done all such acts and things that may be necessary or may reasonably be required by Us for the purpose of enforcing any rights and remedies, or for obtaining relief or indemnity from any other organisation(s) or person(s), to which We shall be or would become entitled upon Us paying for or indemnifying You in respect of legal liability under this Contract.

Should You incur any legal liability which is not covered by this Contract:

5.13.1 due to the application of an Excess; and/or

5.13.2 where the amounts of any judgments or settlements exceed the applicable Limit of Liability

We will be entitled to the first call on the proceeds of all recoveries made, by either You or Us, on account of such legal liability until fully reimbursed for such uninsured amount or amounts (less the actual costs of making such recoveries where those costs are incurred by Us) and any remaining amount(s) will be applied to reimburse You.

5.14 **Subrogation Waiver**

Notwithstanding General Condition 5.13 (Subrogation and Allocation of the Proceeds of Recoveries) We hereby agree to waive all Our rights of subrogation under this Contract against:

5.14.1 each of the parties described under Definition 1.36 (You, Your, Insured); and/or

5.14.2 any corporation, organisation or person which or who owns or controls the majority of the capital stock of any corporation or organisation to which or to whom protection is afforded under this Contract.

Where such corporation, organisation or person is protected from liability which is insured against by any other Contract of indemnity or insurance, Our right of subrogation is not waived to the extent and up to the amount of such other Contract.

5.15 **Conformity to Statute**

Any terms of this Contract which may conflict with applicable statutes (or statutes deemed applicable by a court of competent jurisdiction) are amended to conform with the minimum requirements of such statutes

5.16 **Titles**

The titles in this Contract are only for reference. The titles do not in any way affect the provisions of this Contract.

ENDORSEMENTS

LSW 1145 - Lloyd's Australian Alternative Disputes Resolution

In the event that a dispute arises between Underwriters and the Insured / Reinsured out of or otherwise in relation to this agreement, then:

- (a) Any party to the dispute shall, without prejudice to any other right or entitlement they may have, give written notice to the other party (the "**Dispute Notice**") requiring them within 7 (seven) days of this notice to negotiate (whether in a face to face meeting or by teleconference) in good faith as to how the dispute can be resolved;
- (b) If a dispute is not resolved within 10 (ten) days of the Dispute Notice, either party can request the other party within a further 10 days to agree on either:
 - 1. a process for resolving the dispute through means other than litigation or arbitration, such as further negotiation, mediation, or any other alternative dispute resolution technique. The rules governing any such technique shall be agreed as between the parties and where no such agreement as to the process and or guidelines is reached within 10 (ten) days, then it shall be by mediation by a mediator selected by the Chairperson for the time being of Lawyers Engaged in Alternative Dispute Resolution (**LEADR**) (or other appropriate professional body as agreed by the parties); or
 - 2. referral of the matters in dispute to an independent expert for an expert determination. The parties agree that they will not be bound by the determination of the expert. The expert:
 - (a) will be a person agreed between the parties within 10 (ten) days of the dispute being referred to expert determination or failing this, the expert will be a person appointed by the Australian Insurance Law Institute (or other appropriate professional body as agreed by the parties);
 - (b) will act as an expert and not as an arbitrator;
 - (c) will proceed in such a manner as he or she thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
 - (d) will take into consideration all documents, information and other written and oral material that the parties place before him or her including documents, information and material relating to the facts in dispute and to arguments and submissions upon the matters in dispute; and
 - (e) will act with expedition to provide the parties with a determination in writing within 35 (thirty-five) days of the referral to him or her of the matters in dispute.

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

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

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

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

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

Lloyd's Underwriters' General Representative in Australia
Suite 2, Level 21
Angel Place
123 Pitt Street
Sydney
NSW 2000
Australia

who has authority to accept service and to appear on Underwriters' behalf.

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

- (d) Except where the dispute renders it impossible to do so, the parties will continue performing their respective obligations under the Contract while the dispute is being resolved, unless and until such obligations are terminated or expire in accordance with this agreement.
- (e) Each party must use its reasonable endeavours to ensure that where a dispute is reasonably foreseeable, it is dealt with at a sufficiently early stage to ensure that there is a minimal effect on the ability of either party to perform its obligations under the Contract.
- (f) Notwithstanding anything in this schedule, either party may at any time commence Court proceedings in relation to any dispute or claim arising under, or in connection with the Contract where the party seeks urgent interlocutory relief.

In the event of a claim arising under this Insurance IMMEDIATE NOTICE should be given to:

Steadfast IRS PTY Ltd
Suite 3, Building B
34-46 Brookhollow Ave,
Baulkham Hills NSW 2153

PO Box 7893
Baulkham Hills BC 2153

Phone: 61 2 8633 8804
Fax: 61 2 9034 5500

IMPORTANT INFORMATION

To determine if this Contract is appropriate for You, it is important that You read:

- This *Important Information* section — this section contains information on important matters You need to be aware of before applying for this Contract, such as Your Duty of Disclosure.
- The *Definitions - words with special meaning* section — this section sets out what We mean by certain defined terms in this Contract;
- The *What We Exclude* section — this section sets out what We do not cover;
- The *General Conditions* section — this section contains details of Your and Our rights and obligations under this Contract, including information on making a claim and what Excesses may be payable. If You breach a Condition or warranty under this Contract, We may be able to cancel the Contract or reduce Our liability in respect of a claim to the extent permitted by law;
- Any other documents We provide to You about the Contract which may change the standard cover.

Please read this Contract carefully to ensure that it is in accordance with Your requirements and that You understand its terms Exclusions and Conditions Contact Us immediately if any corrections are necessary

Any enquiries You may have regarding Your Contract may be addressed to Steadfast IRS PTY Ltd.

This Contract makes provision for payment of Goods and Services Tax by You in relation to premiums and by Us in relation to claims.

If You have any questions regarding the Contract, please contact Steadfast IRS PTY Ltd.

Capital letters have been used at the beginning of words to identify defined terms throughout the Contract.

DUTY OF DISCLOSURE FOR CONTRACTS OF GENERAL INSURANCE

Your Duty of Disclosure

Before You enter into a contract of general insurance with Us, You have a duty, under the Insurance Contracts Act 1984, to disclose to Us every matter that You know, or could reasonably be expected to know, is relevant to Our decision whether to accept the risk of the insurance and, if so, on what terms.

You have the same duty to disclose those matters to Us before You renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of matter –

- That diminishes the risk to be undertaken by Us;
- That is of common knowledge;
- That We know, or, in the ordinary course of Our Business, ought to know;
- As to which compliance with Your duty is waived by Us.

Non-disclosure

If You fail to comply with Your duty of disclosure, We may be entitled to reduce Our liability under the contract in respect of a claim or may cancel the contract.

If Your non-disclosure is fraudulent, We may also have the option of avoiding the contract from its beginning.



Claims Procedure

If You wish to make a claim, please contact Steadfast IRS PTY Ltd

Suite 3, Building B
34-46 Brookhollow Ave,
Baulkham Hills NSW 2153
Phone: 02 8633 8804
Fax: 02 9034 5500
www.steadfast-irs.com.au

What to do if you have a complaint?

About Lloyd's

Since the late seventeenth century, the name Lloyd's has been synonymous with insurance.

Many of the world's leading underwriters are based at Lloyd's. The market is internationally renowned and has an impeccable claims record.

In Australia, Lloyd's is proud to be a member of the Insurance Council of Australia and strives to comply with the agreement We have made under the General Insurance Code of Practice.

Our aim is to provide the highest service to Our Australian Policyholders and, to this end; We have developed the following procedures for the fair handling of complaints from Lloyd's Policyholders.

How can We help You?

There are established procedures for dealing with complaints and disputes regarding Your Contract or claim. All Policyholders can take advantage of the complaints service, as can third party motor Vehicle claimants who are uninsured and where the amount in dispute is less than AUD3,000 or currency equivalent.

Step 1

Any enquiry or complaint relating to a Lloyd's Contract or claim should be addressed to either Your Lloyd's insurance intermediary ("the Coverholder") or to the administrator handling Your claim in the first instance – in most cases this will resolve Your grievance.

We will respond to Your complaint within 15 business days provided We have all necessary information and have completed any investigation required. Where further information, assessment or investigation is required, We will agree to reasonable alternative timeframes with You. You will also be kept informed of the progress of Your complaint.

Step 2

In the unlikely event that this does not resolve the matter, or You are not satisfied with the way Your complaint has been dealt with, You should contact Chris McKinnon at:

Lloyd's Australia Ltd
Level 9/ 1 O'Connell Street
Sydney NSW 2000
Australia

T: + 61 (0)2 8298 0700

F: +61 (0)2 8298 0788

Email: Christopher.MacKinnon@lloyds.com

When You lodge Your dispute with Us, We will usually require the following information:

- Name, address and telephone number of the Policyholder
- The type of insurance Contract involved
- Details of the Contract concerned (Contract and/or claim reference numbers, etc)
- Name and address of the insurance intermediary through whom the Contract was obtained
- Details of the reasons for lodging the dispute
- Copies of any supporting documentation You believe may assist Us in addressing Your dispute appropriately.

Following receipt of Your dispute, You will be advised whether Your dispute will be handled by either Lloyd's Australia or the Policyholder & Market Assistance Department at Lloyd's in London:

- Where You are a retail client and Your dispute is eligible for referral to the Financial Ombudsman Service (FOS), Your dispute will be reviewed by a person at Lloyd's Australia with appropriate authority to deal with Your dispute.
- Where You are a retail client and Your dispute is not eligible for referral to the FOS, or where You are a wholesale client, Lloyd's Australia will refer Your dispute to the Policyholder & Market Assistance Department at Lloyd's, who will then liaise directly with You.

How long will the Step 2 process take?

Your dispute will be acknowledged in writing within 5 business days of receipt, and You will be kept informed of the progress of Our review of Your dispute at least every 10 business days.

The length of time required to resolve a particular dispute will depend on the individual issues raised, however in most cases You will receive a full written response to Your dispute within 15 business days of receipt, provided We have received all necessary information and have completed any investigation required.

Step 3

If Your dispute is not resolved in a manner satisfactory to You, We will then provide retail clients eligible for referral to the FOS with details of that body. FOS is an independent body that operates nationally in Australia and aims to resolve disputes between You and Us. Your dispute must be referred to the FOS within 2 years of the date of Our final decision.

Retail clients not eligible for referral to the FOS, and wholesale clients, may be eligible for referral to the Financial Ombudsman Service (UK). Such referral must occur within 6 months of the final decision by the Policyholder & Market Assistance Department at Lloyd's.

Further details will be provided by the Policyholder & Market Assistance Department with their final decision to You.

How much will this procedure cost You?

This service is free of charge to Policyholders.



LMA5137 - GENERAL INSURANCE CODE OF PRACTICE

This Insurance does not comply with the Insurance Council of Australia's General Insurance Code of Practice.

20 March 2009

Form approved by Lloyd's Market Association

NMA1854 - SERVICE OF SUIT CLAUSE (AUSTRALIA)

The Underwriters hereon agree that: -

- (i) In the event of a dispute arising under this Policy, Underwriters at the request of the insured (or reinsured) will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court.
- (ii) Any summons notice or process to be served upon the Underwriters may be served upon the Representatives shown in the Policy and/or Policy Schedule.

who has authority to accept service and to enter an appearance on Underwriters' behalf, and who is directed at the request of the insured (or reinsured) to give a written undertaking to the insured (or reinsured) that he will enter an appearance on Underwriters' behalf.
- (iii) If a suit is instituted against any one of the Underwriters all Underwriters hereon will abide by the final decision of such Court or any competent Appellate Court.

17/4/75

PREMIUM PAYMENT CLAUSE

You undertake that premium will be paid in full to Us within the number of days specified in the Schedule of this Contract (or, in respect of instalment premiums, when due).

If the premium due under this contract has not been so paid to Us as specified in the Schedule of this Contract (and, in respect of instalment premiums, by the date they are due Us) shall have the right to cancel this Contract by notifying You via the broker in writing. In the event of cancellation, premium is due to Us on a pro rata basis for the period that We are on risk, but the full Contract premium shall be payable to Us in the event of a loss or Occurrence prior to the date of termination which gives rise to a valid claim under this Contract.

It is agreed that We shall give not less than 15 days prior notice of cancellation to You via the broker. If premium due is paid in full to Us before the notice period expires, notice of cancellation shall automatically be revoked. If not, the Contract shall automatically terminate at the end of the notice period.

Unless otherwise agreed, We are authorised to exercise rights under this Clause on behalf of all Insurers participating in this Contract.

If any provision of this Clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this Clause which will remain in full force and effect.

Where the premium is to be paid through a London Market Bureau, payment to Us will be deemed to occur on the day of delivery of a premium advice note to the Bureau.

LSW3000 11/01