Umbrella Liability Insurance
Policy Wording
Welcome to Zurich

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Umbrella Liability Insurance – Policy Wording

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Welcome to Zurich

About Zurich
The insurer of this product is Zurich Australian Insurance Limited (ZAIL), ABN 13 000 296 640, AFS Licence Number 232507. In this document, ZAIL may also be expressed as ‘Zurich’, ‘we’, ‘us’ or ‘our’.
ZAIL is part of the Zurich Insurance Group, a leading multi-line insurance provider with a global network of subsidiaries and offices. With about 55,000 employees, the Zurich Insurance Group delivers a wide range of general insurance and life insurance products and services for individuals, small businesses, and mid-sized and large companies, including multinational corporations, in more than 170 countries.

Duty of Disclosure
Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.
You have this duty until we agree to insure you.
You have the same duty before you renew, extend, vary or reinstate an insurance contract.
You do not need to tell us anything that:
• reduces the risk we insure you for; or
• is common knowledge; or
• we know or should know as an insurer; or
• we waive your duty to tell us about.

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

Our contract with you
Your policy is a contract of insurance between you and Zurich and contains all the details of the cover that we provide.
Your policy is made up of:
• the policy wording. It tells you what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
• the proposal, which is the information you provide to us when applying for insurance cover;
• your most current policy schedule issued by us. The policy schedule is a separate document unique to you, which shows the insurance details relevant to you. It includes any changes, exclusions, terms and conditions made to suit your individual circumstances and may amend the policy; and
• any other written change otherwise advised by us in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only those covers shown in your policy schedule are insured.
This document is used for any offer of renewal we may make, unless we tell you otherwise. Please keep your policy in a safe place. We reserve the right to change the terms of this product where permitted to do so by law.
Umbrella Liability Insurance

In consideration of the insured having paid or agreed to pay the premium, Zurich, on the basis of all information provided to us, agrees with the insured to provide insurance as follows, subject to the provisions of this policy and on the basis that this policy will not be in force unless it has been signed by an authorised Zurich official.

1. Insuring Clause

Zurich, subject to the terms and conditions of this policy, will pay the ultimate net loss in excess of the insured’s retained limit which the insured becomes legally liable to pay as compensation arising out of:

1.1 personal injury;
1.2 property damage; or
1.3 advertising liability,

happening during the period of insurance within the territorial limits as a result of an occurrence in connection with the business or products.

2. Limits of Liability

Our liability to pay compensation as a result of an occurrence will not exceed the Limits of Liability specified in the schedule, in excess of the insured’s retained limit.

Our total aggregate liability to pay compensation in respect of or in any way related to products will not exceed the Limits of Liability specified in the schedule, in excess of the insured’s retained limit.

In the event that the aggregate limits of liability in the policy(ies) of Underlying Insurance specified in the schedule are reduced because of payment of compensation claims, this policy will continue in excess of the reduced Underlying Insurance or, in the event of exhaustion, in force as Underlying Insurance for the remainder of the period of insurance.

3. Extensions of Cover

3.1 Defence – Settlement – Additional payments

In respect of a liability covered by this policy that is not covered by the policy(ies) of Underlying Insurance specified in the schedule, we:

3.1.1 may defend, at our option, any suit against the insured seeking compensation, even if such suit is groundless, false or fraudulent;
3.1.2 may make such investigation, negotiation and settlement of any claim or suit as we deem expedient; and
3.1.3 in addition to the Limits of Liability specified in the schedule, will pay as additional payments:

(i) reasonable legal costs and expenses incurred by the insured with our written consent in the defence of any claim;
(ii) expenses incurred by the insured for first aid to others;
(iii) reasonable expenses incurred by the insured for the temporary repair or shoring up or preservation of property which has been damaged; and
(iv) interest accruing after entry of judgment against the insured until we have paid, tendered or deposited in court such part of the judgment as does not exceed the Limits of Liability specified in the schedule,
on the basis that:

3.1.4 if a payment exceeding our Limits of Liability specified in the schedule has to be made to dispose of a claim, our liability to pay any additional payments will be limited to that proportion of those amounts as the Limits of Liability bear to the amount paid to dispose of the claim;

3.1.5 in the event of a claim covered by this policy being made against the insured in any Court or before any other legally instituted body in North America, the Limits of Liability specified in the schedule will apply to such claim inclusive of all additional payments; and

3.1.6 we will not be obligated to pay any compensation or additional payments, or judgment or to defend any suit after our Limits of Liability specified in the schedule have been exhausted by payment of claims, judgments and/or settlements.

4. Definitions
When used in this policy, its schedule and its Endorsements, the following definitions will apply:

4.1 Act of terrorism
act of terrorism means any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

4.1.1 involves violence against one or more persons;
4.1.2 involves damage to property;
4.1.3 endangers life other than that of the person committing the action;
4.1.4 creates a risk to health or safety of the public or a section of the public; or
4.1.5 is designed to interfere with or to disrupt an electronic system.

4.2 Advertising liability
advertising liability means:

4.2.1 infringement of copyright of, or passing off of a title or slogan;
4.2.2 unfair competition, piracy or idea misappropriation contrary to an implied contract;
4.2.3 invasion of privacy; or
4.2.4 defamation, libel, slander,

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

4.3 Aircraft
aircraft means any vessel, craft or thing made, or intended, to fly or move in or through the atmosphere or space.
4.4 Business  

*business* means all activities and operations specified in the *schedule* and includes:

4.4.1 the provision and management of catering, social, sports, welfare, childcare, theatrical and related facilities including galas for the benefit of *employees*;

4.4.2 the provision of fire, first aid, ambulance and security services;

4.4.3 at the *insured*’s discretion, private work carried out by an *employee* for a director or partner or *employee* of the *insured*;

4.4.4 the ownership, maintenance, repair and occupation of premises or facilities belonging to the *insured*;

4.4.5 attendance at or participation in trade fairs, shows and exhibitions by any *employee* or director in connection with their employment; and

4.4.6 provision of sponsorship.

4.5 Compensation  

*compensation* means monies paid or agreed to be paid by judgment or settlement for:

4.5.1 *personal injury*;

4.5.2 *property damage*; and

4.5.3 *advertising liability*.

4.6 Computer virus  

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

4.7 Employee  

*employee* means:

4.7.1 any person under a contract of service or apprenticeship with the *insured*;

4.7.2 any labour master or person supplied, or any person supplied by a labour only sub-contractor;

4.7.3 any self-employed person working under contract with the *insured* and under its direction;

4.7.4 any person hired by the *insured* from another employer subject to a written agreement under which the person is deemed to be employed by the *insured*;

4.7.5 any student or person undertaking work for the *insured* under a work experience or similar scheme; or

4.7.6 any voluntary helper,

whilst engaged in connection with the *business*.

4.8 Employment practices  

*employment practices* means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, sexual harassment or discrimination in respect of employment by the *insured*.

4.9 Hovercraft  

*hovercraft* means any vessel, craft or device made to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.
4.10 Insured

*insured* means the Insured named in the *schedule*, and includes:

4.10.1 any of the *insured’s* subsidiary companies (including subsidiaries thereof) and any other entity under the *insured’s* control, and over which the *insured* exercises active management;

4.10.2 any of the *insured’s* directors, officers, *employees* or partners but only whilst acting within the scope of their duties in such capacity;

4.10.3 any person, principal, organisation, trustee or estate to whom or to which the *insured* is obligated by virtue of a written contract to provide insurance as is afforded by this policy, but only to the extent that is required by such contract and in any event only for such coverage and Limits of Liability as provided in this policy;

4.10.4 any social and/or sporting clubs, first aid, fire and ambulance services formed with the *insured’s* consent and includes any office bearer or member thereof in their respective capabilities as such;

4.10.5 any of the *insured’s* directors or senior executives in respect of private work undertaken by the *insured’s* *employees* for such director or senior executive; and

4.10.6 any partnership or joint venture named in the schedule as the Insured and includes any partner or member thereof, but only with respect to their liability incurred in the operation of that partnership or joint venture.

4.11 Insured’s retained limit

*insured’s retained limit* means the greater of:

4.11.1 Underlying Insurance – the amount equal to the Limit of Liability in the policy(ies) of Underlying Insurance specified in the *schedule*; or

4.11.2 Self Insured Retention – the amount stated in the *schedule* in respect of an *occurrence* not covered in the policy(ies) of Underlying Insurance specified in the *schedule*.

4.12 Internet operations

*internet operations* means:

4.12.1 transfer of computer data or programmes by use of electronic mail systems by the *insured* or the *insured’s* employees, including for the purpose of this definition only, part-time and temporary staff, contractors and others within the *insured’s* organisation whether or not such data or programs contain any malicious or damaging code, including but not limited to *computer virus*, worm, logic bomb or Trojan horse;

4.12.2 access through the *insured’s* network to the world wide web or a public internet site by the *insured* or the *insured’s* employees, including for the purposes of this definition only, part-time and temporary staff, contractors and others within the *insured’s* organisation;

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

4.12.4 the operation and maintenance of the *insured’s* web site.

4.13 Motor vehicle

*motor vehicle* means any type of machine and attachments thereto including a trailer designed for use on land only, and which travels on wheels or on self laid tracks and is propelled by other than manual or animal power.

4.14 North America

*North America* means:

4.14.1 the United States of America and/or Canada; and

4.14.2 any state or territory incorporated in, or administered by, the United States of America or Canada.
4.15 Occurrence

_occurrence_ means an event, including continuous or repeated exposure to conditions, which results in _personal injury_, _property damage_ or _advertising liability_ neither expected nor intended from the _insured's_ standpoint, during the _period of insurance_.

With respect to _personal injury_ or _property damage_, all such exposure to substantially the same general conditions will be deemed one _occurrence_.

With respect to _advertising liability_ all damages involving the same injurious material or act, regardless of the frequency or repetition thereof, the number and kind of media used and the number of claimants, will be deemed to arise out of one _occurrence_.

4.16 Period of insurance

_period of insurance_ means the Period of Insurance stated in the _schedule_.

4.17 Personal injury

_personal injury_ means:

4.17.1 bodily injury, death, disease, illness, disability, nervous shock, mental anguish or mental injury or loss of consortium;

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

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

4.17.4 defamation, libel or slander; and

4.17.5 assault and/or battery committed by or at the direction of the _insured_ whilst engaged in the _business_ and for the purpose of preventing or eliminating danger to persons or property.

4.18 Pollutants

_pollutants_ means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals or waste. Waste includes but is not limited to material to be recycled, reconditioned or reclaimed.

4.19 Products

_products_ means any goods or products manufactured, grown, extracted, produced, processed, treated, altered, handled, sold, supplied, distributed, imported, exported, repaired, serviced, installed, assembled, erected or constructed by the _insured_ (including packaging and containers) in connection with the _business_ in or from the _territorial limits_, and after it has ceased to be the _insured's_ property, or in the _insured's_ custody or legal control.

4.20 Property damage

_property damage_ means:

4.20.1 physical damage to, or loss of or destruction of tangible property, including the subsequent loss of use of that property;

4.20.2 loss of use and/or loss of value of tangible property that has not been physically damaged, physically lost or physically destroyed provided such loss of use and/or loss of value is caused by physical damage to, physical loss of or physical destruction of other tangible property and includes denial of access to property, premises, services or facilities, interference with or stoppage of vehicular or pedestrian traffic; and

4.20.3 trespass, nuisance or interference with right of way or right to light, air or water, easement or quasi-easement.
4.21 Schedule

*schedule* means the Schedule attaching to and forming part of this policy, including any Schedule substituted for the original Schedule.

4.22 Territorial limits

*territorial limits* means anywhere in the world, except *North America*, where the policy will only apply in respect of *products* exported into those countries.

4.23 Ultimate net loss

*ultimate net loss* means the sum actually paid or payable in the settlement or satisfaction of losses for which the *insured* is legally liable either by adjudication or compromise with Zurich’s written consent, after making proper deductions for all recoveries and salvages collectible, but excluding all loss expenses and legal expenses (including legal fees, court costs and interest on any judgment or award) and all salaries of *employees* and office expenses of the *insured*, Zurich or any Underlying Insurers so incurred.

4.24 Watercraft

*watercraft* means any vessel, craft or thing made, or intended to float on or in, or travel on or through or under water.

5. Exclusions

Zurich will not be liable under this policy in respect of:

5.1 Advertising liability

*advertising liability* directly or indirectly caused by, in connection with or contributed to by or arising from:

5.1.1 failure of performance of contract, but this will not relate to claims resulting from unauthorised appropriation of ideas based upon alleged breach of an implied contract;

5.1.2 incorrect description of any article or commodity; or

5.1.3 mistake in advertised price.

5.2 Aircraft products

any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from the *insured’s products* which, with the *insured’s* knowledge, are intended for incorporation into any critical part, the structure, machinery or controls of any *aircraft*.

However this does not apply:

5.3.1 to the extent that such cover is otherwise provided under any policies specified in the *schedule* as Underlying Insurance; or

5.3.2 to non-owned *aircraft*, *watercraft* or *hovercraft* hired, leased or chartered by the *insured* with a pilot/master and crew, to the extent that such cover is otherwise provided under any policies specified in the *schedule* as Underlying Insurance.

5.3 Aircraft, watercraft, hovercraft

any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from the ownership, maintenance, possession, use or operation, loading or unloading, of any *aircraft*, *watercraft* or *hovercraft* (other than *watercraft* not exceeding 15 metres in length for use on inland or coastal waters).

5.4 Asbestos

any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from asbestos or asbestos products or asbestos contained in any products.
5.5 Contractual liability

any liability or obligation assumed by the insured under any agreement or contract except to the extent that:

5.5.1 the liability or obligation would otherwise have been implied by law;

5.5.2 the liability or obligation arises from a provision in a contract for lease of real or personal property other than a provision which obliges you to effect insurance or provide indemnity in respect of the subject matter of the contract;

5.5.3 the liability or obligation is assumed by the insured under any warranty under the requirement of Federal or State legislation in respect to product safety; or

5.5.4 the liability or obligation is assumed under those agreements specified in the schedule.

5.6 Custody and control

property damage to property owned by, hired to or in the custody or control of the insured or any employee or any party acting on behalf of the insured, other than:

5.6.1 guests’, visitors’, directors’, officers’, employees’ or partners’ personal effects;

5.6.2 motor vehicles in a car park, unless the car park is owned or operated by the insured for reward;

5.6.3 premises at which the insured is undertaking work in connection with the business; or

5.6.4 any building (including its fixtures and fittings) leased, hired or rented to the insured provided Zurich will not be liable in respect of liability assumed by the insured under a tenancy or other agreement which would not have attached in the absence of such agreement.

5.7 Deliberate acts

any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from any deliberate act or omission of the insured or any employee and which could reasonably have been expected, having regard to the nature and circumstances of such an act or omission.

5.8 Injury to employees

any liability to indemnify or pay compensation arising out of:

5.8.1 personal injury where any insured or employee is indemnified or entitled to be indemnified under any policy of insurance required to be taken out pursuant to any legislation relating to workers’ compensation, whether or not the insured is a party to such contract of insurance;

5.8.2 any scheme created by legislation to provide compensation to persons who sustain personal injury arising out of or in the course of their employment; or

5.8.3 any claim for employment practices.

This policy will not be drawn into contribution with such insurance or scheme.

This Exclusion does not apply with respect to liability of others assumed by the insured under any written contracts. However if the insured:

5.8.4 is required by law to insure or otherwise fund, whether through self-insurance, statutory fund or other statutory scheme, all or any common law liability (whether limited or not) for personal injury; or

5.8.5 is not required to so insure or otherwise fund such liability by reason only that the personal injury is to a person who is not a “worker” or “employee” within the meaning of the relevant workers’ compensation law or the personal injury is not an injury which is subject to such law,

then this policy will cover liability for personal injury to the extent that the insured’s liability would not have been covered under any such fund, scheme, policy of insurance or self insurance arrangement had the insured complied with its obligations pursuant to such law.
5.9 **Information technology hazards**

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

5.9.1 the insured's internet operations; or

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

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

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

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

However this Exclusion does not apply to:

5.9.3 personal injury, property damage or advertising liability arising out of any material which is already in print by the manufacturer in support of any of its products, including but not limited to product use and safety instructions or warnings, and which is also reproduced on its site; or

5.9.4 liability which arises irrespective of the involvement of the insured's internet operations.

5.10 **Liquidated or punitive damages**

any liability for any amount in respect of:

5.10.1 fines or penalties; or

5.10.2 liquidated, punitive or exemplary damages or multiplication of awards.

5.11 **Loss of use**

any liability for any amount in respect of loss of use of tangible property which has not been damaged, lost or destroyed as a result of:

5.11.1 a delay in or lack of performance by or on behalf of any insured in respect of any contract or agreement; or

5.11.2 the failure of the products to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by an insured.

However Exclusion 5.11.2 above does not apply to loss of use of other tangible property resulting from the sudden and accidental damage to or destruction of the products, after such products have been put to use by any person or organisation other than the insured.

5.12 **Motor vehicle liability**

any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from the use of a motor vehicle owned by, or in the physical or legal control of the insured:

5.12.1 which is required by law to be registered; or

5.12.2 in respect of which insurance is required by virtue of any legislation.

However this Exclusion does not apply to:

5.12.3 a motor vehicle (other than a motor vehicle owned or used by or on behalf of the insured) whilst that motor vehicle is in a car park owned or operated by the insured other than for income or reward as a car park operator;

5.12.4 personal injury or property damage occurring during the loading or unloading of a motor vehicle caused by or arising from the collection or delivery of any goods from or to the motor vehicle where such personal injury or property damage occurs beyond the limits of any carriageway or thoroughfare, and where applicable legislation does not require insurance against such liability;
5.12.5 accidental or erroneous failure to maintain such statutory insurance; or

5.12.6 personal injury or property damage where insurance in respect of such liability is provided by an Underlying Policy specified in the schedule, but then only to the extent of the cover provided by such policy.

5.13 Pollution

Any liability arising out of:

5.13.1 personal injury or property damage directly or indirectly caused by, in connection with or contributed to by or arising from the discharge, seepage, migration, dispersal, release or escape of pollutants into or upon any property, land, the atmosphere or any watercourse or body of water (including ground water);

5.13.2 personal injury or property damage directly or indirectly caused by, in connection with or contributed to by or arising from the discharge, seepage, migration, dispersal, release or escape of pollutants caused by any product that has been discarded, dumped, abandoned or thrown away by others;

5.13.3 the cost of removing, nullifying or cleaning up pollutants; or

5.13.4 the cost of preventing the escape of pollutants.

Exclusions 5.13.1 and 5.13.3 above will not apply where the occurrence arises from a sudden identifiable, unintended and unexpected event from the insured’s standpoint which takes place in its entirety at a specific time and place during the period of insurance and occurs outside of North America. However, the total aggregate Limits of Liability during any one period of insurance will not exceed the Limits of Liability specified in the schedule.

5.14 Professional liability

Any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from the rendering or failure to render professional advice or service by the insured, or any error or omission in connection therewith. However, this Exclusion will not apply to:

5.14.1 the insured’s liability in respect of personal injury or property damage resulting from the provision of professional advice or services, or any error or omission in connection with the insured’s products which is not given for a fee; or

5.14.2 the rendering or failure to render professional advice by any employee or to provide first aid or other medical services at the insured’s premises.

Medical services excludes advice or services provided by a qualified medical practitioner, nurse or first aid attendant.

5.15 Radioactive contamination

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

5.15.1 ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or

5.15.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

However this will not apply to liability arising from radio-isotopes, radium or radium compounds when used away from the place where such are made or produced and when used exclusively incidental to ordinary industrial, educational, medical, scientific or research pursuits.
5.16 **Repair and replacement**
any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from:

5.16.1 the cost of rectifying defective work carried out by or on behalf of the insured;
5.16.2 *property damage* to any of the *insured's products* causing *personal injury or property damage*; or
5.16.3 the costs or expenses of recalling, removing, repairing, recovering, altering or replacing the insured's *products* arising from a defect in or an error in connection with the sale or supply of such *products* or the guaranteed performance of the insured's *products* or the unsuitability thereof for the use for which they are supplied.

5.17 **Specific products and substances**
any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from:

5.17.1 urea formaldehyde;
5.17.2 silicon based human implants;
5.17.3 AIDS, HIV or HIV related illness;
5.17.4 contraceptives and RU 486;
5.17.5 human biological materials including extracts thereof (e.g. blood, plasma, plasmaproteins, immunoglobulins, cells, tissue, organs, urine, excretions, etc.);
5.17.6 genetically modified seeds or organisms;
5.17.7 vaccines;
5.17.8 application or use of polychlorinated biphenyls including polychlorinated biphenyl generated dibenzyofurans and dioxins;
5.17.9 tobacco and tobacco related products; or
5.17.10 the manufacture or supply of all pharmaceutical active ingredients including medical implants.

5.18 **Terrorism**
any injury, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any *act of terrorism*, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This Exclusion also excludes injury, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any *act of terrorism*.

If Zurich alleges that by reason of this Exclusion, any injury, loss, damage, cost or expense is not covered by this policy the burden of proving the contrary will be upon the insured.

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

5.19 **War**
any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.
6. General Conditions

6.1 Action against Zurich
Zurich will not be liable unless the insured has complied fully with all provisions of this policy nor until the amount of compensation has been finally determined, either by judgment against the insured or by written agreement with the insured, the claimant and Zurich.

The insured must make a definite claim for any personal injury or property damage for which Zurich may be liable within a reasonable time after such final determination.

6.2 Appeals
If the insured’s Underlying Insurer elects not to appeal a judgment in excess of the insured’s retained limit, Zurich may do so at our own expense. Under no circumstances will Zurich’s liability for the ultimate net loss exceed the applicable Limits of Liability specified in the schedule, plus the taxable costs, disbursements and interest incidental to such appeal.

6.3 Cancellation
6.3.1 The insured may cancel this policy at any time by giving notice in writing to us.
6.3.2 Zurich may cancel this policy in any of the relevant circumstances set out in the Insurance Contracts Act 1984 (Cth), such cancellation to take effect within 30 days from the time of notification received by the insured.
6.3.3 Upon cancellation by the insured a refund of premium will be allowed pro rata of 80% of the premium for the unexpired period of insurance.
6.3.4 Upon cancellation by Zurich, a refund of premium will be allowed pro rata for the unexpired period of insurance.

6.4 Change in risk
Every change materially affecting the facts or circumstances existing at the commencement of or during the course of this policy, or at any subsequent renewal date, must be notified to Zurich as soon as such change comes to the insured’s notice. Zurich reserves the right to accept or deny coverage at the time of such notification and to establish a separate rate and premium for any such coverage.

6.5 Claims assistance and cooperation
The insured must assist and cooperate with Zurich fully and promptly in relation to a claim, including:
6.5.1 supplying us with all information and assistance we may reasonably require;
6.5.2 allowing us to negotiate, defend or settle the claim:
   (i) in the insured’s name and on the insured’s behalf; or
   (ii) in the name of and on behalf of any other party covered by the insured’s policy;
6.5.3 sending to us any claim, writ, summons or full details of other relevant legal or other proceedings such as an impending prosecution or inquest of which the insured is notified or becomes aware; and
6.5.4 as far as possible, preserve any product, appliance, plant or other items which might prove necessary or useful as evidence until Zurich has had an opportunity of inspection.

6.6 Control of claims
6.6.1 The insured must not, without Zurich’s written consent, admit or repudiate liability, negotiate or make any offer, promise or payment in connection with any claim.
6.6.2 Zurich will be entitled, but not obligated, to take over and conduct in the insured’s name, the defence or settlement of any claim, or to prosecute in the name of the insured at its own expense and for its own benefit any claim for indemnity or damages or otherwise against any persons, and will have full discretion in the conduct of any proceedings and in the settlement of any claim.
6.6.3 The insured must give all such information and assistance as Zurich may require.
6.7 Cross liability
Subject to General Condition 6.13 ‘Joint insured’ for the purpose of this policy, when an insured consists of more than one party, the insured will be considered as a separate insured as though a separate policy had been issued to each of the said parties but nothing herein contained will operate to increase our Limits of Liability.

6.8 Discharge of any liability
Zurich may at any time pay the Limits of Liability specified in the schedule (after deduction of sum or sums already paid), or any lesser sums for which any claim or claims can be settled, and will then be under no further liability in respect thereof except for any payment under Extension of Cover 3.1 ‘Defence – Settlement – Additional payments’ incurred prior to such payment.

In the event of a claim or series of claims arising from an occurrence resulting in liability of the insured to pay a sum in excess of the Limits of Liability specified in the schedule, Zurich’s liability for any payment under Extension of Cover 3.1 ‘Defence – Settlement – Additional payments’ will not exceed an amount being in the same proportion as Zurich’s payment bears to the total payment made by or on behalf of or to be made by the insured in satisfaction of the claim or claims.

6.9 Fraud
If any claim upon this policy be in any respect fraudulent, or if any fraudulent means or devices be used by the insured, or if any damage be occasioned by a wilful act of the insured or with their connivance, all benefit under this policy will be forfeited and the policy void.

6.10 Headings
Headings have been included for ease of reference, but do not form part of the policy.

6.11 Insured’s retained limit
Zurich will be liable only for the ultimate net loss in excess of the insured’s retained limit.

The Self Insured Retention specified in the schedule applies to each occurrence and is payable by the insured at such time as is required by Zurich. Zurich’s liability to indemnify the insured under this policy is over and above the Self Insured Retention.

6.12 Inspection and audit
Zurich will be permitted but not obligated to inspect the insured’s property and operations at any reasonable time. Neither our right to make inspections nor the making thereof nor any report thereon will constitute an undertaking on behalf of or for the benefit of an insured or others to determine or warrant that such property or operations are safe or healthy, or are in compliance with any law, rule or regulation.

Zurich may examine and audit the insured’s books and records at any time during the period of insurance and within three years after the final termination of the policy, as far as they relate to the subject matter of this insurance.

6.13 Joint insured
Where the insured is comprised of more than one legal entity, information supplied to us will be deemed to have been furnished by and on behalf of all such entities, and any information supplied to us or any omission or non-disclosure in relation to any renewal or extension hereof, will likewise be deemed to have been furnished, omitted or withheld on behalf of all such entities.

6.14 Joint responsibility and liability
Any and all insureds and any persons deriving benefit under this insurance are jointly liable and responsible for any breach of any terms of this policy and/or misrepresentation and/or non-disclosure and/or fraud. For the avoidance of doubt this clause survives avoidance of the policy.

6.15 Liability not to be admitted
The insured must not admit liability for or offer to or agree to settle any claim without Zurich’s written consent. Zurich will be entitled to take over and defend any claim, with full discretion in the conduct of that claim.
6.16 Maintenance of Underlying Insurance

The Underlying Insurance specified in the schedule must be maintained in force as valid collectible insurance during the currency of this policy, except for any reduction of the aggregate limits contained therein solely by reason of payment of claims. Failure to comply with the foregoing or bankruptcy or insolvency of any of the Underlying Insurers will not invalidate this policy but in the event of such circumstances, Zurich will be liable only to the extent that we would have been liable had such circumstances not existed during the period of insurance.

The insured must give Zurich written notice as soon as practicable of any change in the scope of coverage or in the amount of Limits of Liability in the Underlying Insurance and of the termination of any coverage or exhaustion or likely exhaustion of aggregate Limits of Liability of any Underlying Insurance.

6.17 No cover under this policy

Where the insured is not entitled to be indemnified under this policy, Zurich owes no duty of any kind and has no liability of any kind to the insured.

6.18 Notice and proof of claim

Upon the discovery of any personal injury or property damage loss or circumstance giving rise or which may give rise to a claim (whether or not the insured believes the claim amount might fall within the Limits of Liability of the Underlying Insurance specified in the schedule or within the Self Insured Retention amount stated in the schedule) under this policy, the insured must:

6.18.1 give notice in writing to Zurich as soon as practicable after the insured becomes aware of such loss or circumstance and within 30 days thereafter provide, at the insured's own expense, a written statement detailing all relevant information;

6.18.2 advise of the cause and the amount of loss and any other proof or information with respect to the claim that may be reasonably required;

6.18.3 furnish to us details of any other insurance covering or which may cover the same loss;

6.18.4 take reasonable steps to prevent further loss; and

6.18.5 at all reasonable times permit us or our agents to inquire into, investigate and examine the circumstances of any loss.

6.19 Payments in respect to Goods and Services Tax

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

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

6.20 Premium

Unless otherwise stated, the premium is adjustable. The insured must, within 30 days after the expiry of each period of insurance, provide such information as Zurich may require to adjust the premium.

Any difference in premium will be paid by or allowed to the insured, provided that the adjusted premium will not be less than any minimum premium specified in the schedule. The insured must at all times allow Zurich to inspect such records.
6.21 Proper law and jurisdiction

6.21.1 The construction, interpretation and meaning of the provisions of this policy will be determined in accordance with Australian law.

6.21.2 In the event of any dispute arising under this policy including, but not limited to, its construction and/or validity and/or performance and/or interpretation, the Insured will submit to the exclusive jurisdiction of any competent Court in the Commonwealth of Australia.

6.22 Reasonable precautions

It is a condition precedent to Zurich’s liability under this policy that the insured will, at its own expense:

6.22.1 take, and cause to be taken, reasonable precautions to prevent personal injury, property damage and/or advertising liability;

6.22.2 comply with all statutory or local authority law, obligations and requirements or equivalent;

6.22.3 prevent the manufacture, sale or supply of defective products; and

6.22.4 withdraw, inspect, repair, replace, trace, recall or modify any of the products containing any defect or deficiency of which the insured has knowledge or has reason to suspect.

6.23 Sanctions regulation

Notwithstanding any other terms or conditions under this policy, Zurich will not be deemed to provide coverage and will not make any payments nor provide any service or benefit to any insured or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of the insured would violate any applicable trade or economic sanctions, law or regulation.

6.24 Subrogation

Zurich waives all rights of subrogation under this policy against:

6.24.1 any corporation or organisation the majority of whose capital stock is owned or controlled by the insured; and

6.24.2 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 policy, except that if such corporation, organisation or person is protected from such loss by any other policy of indemnity or insurance, Zurich’s right of subrogation is not waived to the extent and up to the amount of such other policy.

6.25 Valuation and foreign currency

All premiums, limits, retentions, indemnity and other amounts referred to in this policy are expressed and payable, where due, in Australian currency. Unless where otherwise provided, if judgment is rendered, settlement is denominated or an element of loss under this policy is stated in a currency other than Australian dollars, payment under this policy will be made in Australian dollars at the cash rate of exchange for the purchase of Australian dollars as reported in the Australian Financial Review on the date the final judgment is reached, the amount of the settlement is agreed upon or the element of loss is due, as the case may be.