

S U R A SPECIALTY



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IMPORTANT INFORMATION

ABOUT SURA SPECIALTY

SURA Specialty Ltd ABN 34 125 318 247 (SURA Specialty) has developed this Broadform Liability Insurance Policy which is underwritten by the Insurer referred to below.

SURA Specialty has an authority from the Insurer to arrange, enter into/bind and administer this insurance (including handling and settling claims) for the Insurer.

In providing any financial services SURA Specialty acts as an Authorised Representative of SURA Pty Ltd ABN 36 115 672 350 AFSL 294 313

Our contact details are:

1.04/29-31 Lexington Drive
Bella Vista, NSW 2153
PO Box 7423, Baulkham Hills BC, NSW 2153

T: 02 9672 6088

ABOUT THE INSURERS

This insurance is underwritten by Certain Underwriters at Lloyd's.

Lloyd's has been insuring Australian risks for over 150 years and is licensed to write non-life insurance business under the Australian Insurance Act 1973. You or Your representatives can obtain further details of the syndicate numbers and the proportions of this insurance for which each of the Underwriters at Lloyd's is liable by requesting them from Us. In the event of loss, each Underwriter (and their Executors and Administrators) is only liable for their own share of the loss.

Lloyd's Underwriters have strong financial security characteristics. However, please note that ratings can vary from time to time. You can check the Insurer's current ratings at the following website Standard & Poors: www.standardandpoors.com

You should contact SURA Specialty in the first instance in relation to this insurance.

Lloyd's contact details are:

Lloyd's Australia Limited
Level 9,
1 O'Connell Street,
Sydney, NSW 2000
Telephone: (02) 8298 0783
Facsimile: (02) 8298 0788

ASSUMED LIABILITY AND WAIVED RIGHTS

If You have entered into an agreement with another party:

- where You are assuming a greater liability than would apply had You not entered into that agreement; or
- which prevents You from taking a recovery action for indemnity or contribution from that party

it may adversely affect Your rights to cover under this Policy.

CLAIMS MADE INSURANCE

Your Broadform Liability Insurance Policy is issued on a claims made basis. This means that the policy responds:

- a) To Claims first made against You during the policy period and notified to Us during that policy period, providing that You were not aware at any time prior to the policy inception of circumstances which would have put a reasonable person in Your position on notice that a Claim might be made against You; and
- b) Pursuant to section 40 sub-section 3 of the Insurance Contracts Act, which states: "where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the contract".

When the Policy expires, no new notification can be made on the expired Policy even though the event giving rise to the Claim against You may have occurred during the policy period. You will not be entitled to indemnity under Your new policy in respect of any Claim arising out of circumstances of which You were aware at any time prior to policy inception that would have put a reasonable person in Your position on notice that a Claim might be made against You.

DISPUTE RESOLUTION PROCESS

We view seriously any complaint made about Our products or services and will deal with it promptly and fairly.

If You have a complaint please first try to resolve it by contacting the relevant member of Our staff.

If the matter is still not resolved, please then contact Our Internal Disputes Resolution Officer on (02) 9930 9500, or by email at IDR@SURA.com.au or by writing to Us at the address for SURA Specialty given above. They will seek to resolve the matter in accordance with the General Insurance Code of Practice and Our Dispute Resolution procedures.

If the matter is still not resolved, or You are not satisfied with the way a complaint has been dealt with, you should write to:

Lloyd's Australia Limited

Level 9, 1 O'Connell St
Sydney NSW 2000
Telephone: (02) 8298 0783
Facsimile: (02) 8298 0788
Email: ldraustralia@lloyds.com

If You are a natural person or a small business, and You are not satisfied with the final decision, You may wish to contact the Financial Ombudsman Service ("FOS"). The FOS is a free independent external disputes resolution service provided to customers to review and resolve complaints where We have been unable to satisfy Your concerns.

For further details You can visit their website at www.fos.org.au or contact them:

The Financial Ombudsman Service Australia

Address: PO Box 3,
Melbourne, VIC, 3001
Telephone: 1800 367 287
Email: info@fos.org.au.

DISCLAIMER

When You enter into this Policy You confirm and warrant that You have read the Policy documents provided to You.

YOUR DUTY OF DISCLOSURE

This Policy is subject to the Insurance Contracts Act 1984 (Act). Under that Act You have a Duty of Disclosure.

Before You take out insurance with Us, You have a duty to tell Us of everything that You know, or could reasonably be expected to know that may affect Our decision to insure You and on what terms. If You are not sure whether something is relevant You should inform Us anyway.

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

Your duty however does not require disclosure of matters that:

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

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

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

After the Policy is entered into, ongoing disclosure obligations can apply. See the Policy for details.

GENERAL INSURANCE CODE OF PRACTICE

We proudly support the General Insurance Code of Practice (the 'Code'). The purpose of the Code is to raise the standards of practice and service in the general insurance industry.

The objectives of the Code are:

- to promote better, more informed relations between insurers and their customers;
- to improve consumer confidence in the general insurance industry;
- to provide fair and effective mechanisms for the resolution of complaints and disputes between insurers and their customers;
- to commit insurers and the professionals they rely upon to higher standards of customer service; and
- to promote continuous improvement of the general insurance industry through education and training.

For further information on the Code, please visit www.codeofpractice.com.au or alternatively you can request a brochure on the Code from SURA Specialty.

GOODS AND SERVICES TAX (GST)

The amount payable by You for this Policy includes an amount for GST.

When We pay a Claim, Your GST status will determine the amount We pay. The amount that We are liable to pay under this Policy will be reduced by the amount of any Input Tax Credit (ITC) that You are or may be entitled to Claim for the supply of goods or services covered by that payment.

You must advise Us of Your correct Australian Business Number (ABN) and Taxable Percentage. Taxable Percentage is Your entitlement to an ITC on Your premium as a percentage of the total GST on that premium. Any GST liability arising from Your incorrect advice is payable by You.

Where the settlement of a Claim is less than the applicable Limit of Indemnity or the other limits applicable to this Policy, We will only pay the GST (less Your ITC) applicable to the settlement. This means that if these amounts are not sufficient to cover the whole Claim, We will only pay the GST relating to Our share of the settlement for the whole Claim. We will pay the Claim by reference to the GST exclusive amount of any supply made by any Business of Yours which is relevant to the Claim.

GST, ITC, BAS and Acquisition have the same meaning as given to those words or expressions in A New Tax System (Goods and Services Tax) Act 1999 and related legislation as amended from time to time.

PRIVACY STATEMENT

In this Privacy Statement the use of “We”, “Our” or “Us” means SURA Specialty and the Insurers unless specified otherwise.

In this Privacy Statement the use of “personal information” includes sensitive information.

We are committed to protecting the privacy of the personal information You provide to Us.

The Privacy Act 1988 contains the Australian Privacy Principles which require Us to tell You that We collect, handle, store and disclose Your personal and sensitive information for the specific purpose of:

- deciding whether to issue a policy,
- determining the terms and conditions of your Policy,
- compiling data to help develop and identify other products and services that may interest clients, and
- handling Claims.

Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) whether the information or opinion is true or not;
- b) whether the information or opinion is recorded in a material form or not.

Sensitive information includes, amongst other things, information about an individual’s racial or ethnic origin, political opinions, membership of a political organisation, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual orientation or practices, criminal record, health information about an individual, genetic information, biometric information or templates.

You have given Us Your consent to collect, use and disclose Your personal and sensitive information in order to provide You with the relevant services and/or products.

When You give us personal information about other individuals, We rely on You to have made or make the individual aware that You will or may provide their personal information to Us and the types of other parties and service providers We may provide it to, the relevant purposes We and the other parties and service providers will use it for, and how they can access it. If You have not done or will not do either of these things, You must tell Us before You provide the relevant personal information to Us.

We disclose personal information to other parties and service providers whom We believe are necessary to assist Us and them in providing the relevant services and/or products. For example, in handling Claims, We may have to disclose Your personal and other information to other parties and service providers such as Our claim management partner, other insurers, reinsurers, loss adjusters, external claims data collectors, investigators and agents, facilitators, assessors or other parties as required by law. We limit the use and disclosure of any personal information provided by Us to them to the specific purpose for which We supplied it.

We may disclose Your personal information to Our insurers, reinsurers, related entities and service providers overseas, including but not limited to New Zealand, Singapore, India, United Kingdom, the Philippines, the European Union and the United States of America.

If You do not provide the personal information requested and/or do not provide Us with Your consent to the use and disclosure of Your personal information as set out in this Privacy Statement, Your insurance application may not be accepted, or We may not be able to administer Your Policy, or You may be in breach of Your duty of disclosure, the consequences of which are set out under the heading Duty of Disclosure in this document.

If You would like a copy of Our Privacy Policies, would like to seek access to or correct Your personal information, opt out of receiving materials We send, complain about a breach of Our privacy or You have any query on how Your personal information is collected or used, or any other query relating to Our Privacy Policies, please contact Us.

SERVICE OF SUIT

The Insurers accepting this insurance agree that:

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

Lloyd's Australia Limited

Level 9, 1 O'Connell St
Sydney NSW 2000

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

SEVERAL LIABILITY

The liability of an insurer under this contract is several and not joint with other insurers party to this contract. An insurer is liable only for the proportion of liability it has underwritten. An insurer is not jointly liable for the proportion of liability underwritten by any other insurer. Nor is an insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

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

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with any other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various parts in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural. The insurers named hereon bind themselves each and for their own part and not one for another.

Each insurer's liability under this contract shall not exceed that percentage or amount of the risk shown against that insurer's name.

SANCTIONS

We shall not be deemed to provide cover and We shall not be liable to pay any claim or provide any benefit under this Policy to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Us, Our parent company or Our ultimate controlling entity to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the Commonwealth of Australia, United Kingdom or the United States of America.

GENERAL DEFINITIONS

Some key words and terms used in this Policy, its Schedules and its endorsements have a special meaning.

If words and terms are only used in one Section of the Policy We will describe their special meaning in that Section. Wherever the following words or terms are used in the Policy, they mean what is set out below.

Unless the context requires another meaning, a reference to the singular includes the plural and vice versa.

Advertising Liability

means:

- a) defamation, both libel and slander
- b) infringement of copyright or of title or slogan
- c) piracy or unfair competition or idea misappropriation under an implied contract
- d) invasion of privacy

committed or alleged to have been committed during the Period of Insurance in any advertisement, publicity article, broadcast or telecast and arising out of Your advertising activities or any advertising activities conducted on Your behalf in the course of advertising the Products, goods or services.

Aircraft

means any vessel, hovercraft, craft or thing designed to transport persons or property in or through the air or space.

Business

means the business stated in the Schedule and shall include the activities of any canteen, social, sports, welfare, and/or child care organisation or first aid, medical, fire or ambulance services.

Claim

means:

- a) a written demand, notice or other written communication received by You seeking a remedy and/or alleging liability or responsibility on Your part for an Occurrence. A Claim also includes litigation, arbitration, mediation, adjudication or any other process of dispute resolution seeking a remedy and/or alleging liability or responsibility on Your part for an Occurrence; and
- b) a Claim lodged with Us by You seeking indemnity under this Policy.

Electronic Data

means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for such equipment

Employee

means any person under a contract of service or apprenticeship with You.

Excess

means the first amount payable by You in respect to each Occurrence and includes all Defence Costs and Supplementary Payments.

Geographical Limits

means anywhere in the World except the United States of America and Canada.

Provided that:

- a) The Geographical Limits shall include the United States of America and Canada but only in respect to:
 - i. Products exported to the United States of America and/or Canada without Your knowledge;
 - ii. Business visits by directors, officers and Employees normally resident outside the United States of America and/or Canada, other than Employees who are engaged in manual labour during such visits;
- b) Regardless of any of the other provisions of this Policy, this Policy does not apply to any judgement, award, payment, settlement or proceedings arising directly or indirectly out of operations at or out of premises situated in the United States of America or any territories which come within the jurisdiction of the United States of America.
- c) The indemnity granted by this Policy in respect of any judgement, award or settlement made within the United States of America and/or Canada (or any Order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part) is subject to the following additional terms and Exclusions in respect of such judgement, award or settlement:
 - i. the Limit of Liability is inclusive of the other costs and expenses as described in the Defence Costs and Supplementary Payments Clause of this Policy;
 - ii. liability for Personal Injury and/or Property Damage arising out of Pollution is hereby excluded. It is further agreed that the cost of preventing, removing, nullifying or cleaning up any seeping, contaminating or polluting substances shall also form part of this Exclusion and shall not be recoverable under this Policy

Insurer

means certain Underwriters at Lloyds.

Limit of Liability

means the amount(s) specified as such in the Schedule.

Medical Persons

means medical doctors, medical nurses, dentists and first aid attendants.

Occurrence

means an event including continuous or repeated exposure to substantially the same general conditions, which causes Personal Injury, Property Damage or Advertising Liability which is not expected or intended from Your standpoint.

Period of Insurance

means the duration of this Policy as stated in the Schedule incorporated into the Policy.

Personal Injury

means:

- a) bodily injury, death, sickness, disease, disability, shock, fright, mental anguish or mental injury;
- b) false arrest, false Imprisonment and malicious prosecution;
- c) defamation, including libel and slander (other than Advertising Liability);
- d) wrongful entry or wrongful eviction or other invasion of the right of private occupancy;
- e) 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;

which occurs during the Period of Insurance.

Pollution

means the discharge, dispersal, seepage, release or escape of smoke, vapours, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or water.

Pollution liability

means Personal Injury or Property Damage arising from Pollution or contamination of the atmosphere or of any water, land or other tangible property.

Products

means anything, Including any packaging or container thereof (after it has ceased to be in Your possession or control) manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied, resupplied or distributed by You including all previously supplied products.

Products Liability

means Personal Injury or Property Damage.

- a) caused by any defect, or the harmful nature of any of Your Products,
- b) resulting from any defect or deficiency in any direction or advice given at any time, or intended to be given by You concerning the use or storage of Your Products.

Property Damage

means:

- a) physical injury to or destruction or loss of tangible property which occurs during the Period of Insurance and any loss of use of that property resulting therefrom; or
- b) loss of use of tangible property which has not been physically injured or destroyed or lost which is caused by physical injury to or destruction or loss of other tangible property which occurs during the Period of Insurance.

Public Liability

means liability covered by this Policy but does not include Products Liability, Advertising Liability or Pollution liability.

Retroactive Date

means the date identified in the Schedule of this Policy.

Schedule

means New Policy Schedule, Renewal Schedule or Endorsement Schedule Issued by Us.

Tool of Trade

means any Vehicle which has a tool or plant forming part of or attached to or used in connection with it while such tool or plant is engaged on or about or In close proximity to or travelling to and from a worksite, but does not include Vehicles whilst used for transport or haulage, excluding whilst at the worksite or about or in close proximity to the worksite.

Vehicle

means any type of machine on wheels or on caterpillar tracks made or intended to be propelled other than by manual or animal power.

Watercraft

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

We / Our / Us

means SURA Specialty acting under a binder as a agent of the Insurer.

You / Your / Insured

means:

- a) the Named Insured stated in the Schedule;
- b) any subsidiary company (including subsidiaries thereof) of the Named Insured and any other organisation under the control of the Named Insured and over which it is exercising active management;
- c) any new organisation, which conducts the same business activity as You, acquired during the Period of Insurance by You described in a) and b) above, through consolidation, merger, purchase, or assumption of control and active management, provided that such acquisition or assumption is:
 - i. reported to Us within forty five (45) days after it is acquired; and
 - ii. endorsed on this Policy;
- d) any director, officer, Employee, partner or shareholder of the Named Insured or of a company designated in a), b) or c) above, but only whilst acting within the scope of their duties in respect of the conduct of Your Business;
- e) any voluntary worker and any person whilst working for an insured party for the purpose of gaining work experience and/ or any person supplied or under any work experience or similar Government scheme;
- f) if a party named in the Schedule as an insured party is an individual, the spouse and family of that individual but only in respect of the conduct of the Business;
- g) any person in respect of their liability arising out of the performance by the Insured designated in (a) and (b) and (c) above, of any contract or agreement, but only to the extent required by such contract or agreement and in any event only for such coverage and Limits of Liability as provided in this Policy;
- h) if the Insured is declared in the Schedule as a partnership or joint venture, any partner or member thereof but only with respect to their liability as a partner or member of such partnership or joint venture.

The expression "Named Insured" shall mean the person or entities specified in the Schedule.

COVERAGE

WHAT YOU ARE INSURED AGAINST

We agree to indemnify You against any amount that You are legally liable to pay as compensation for any Claim first made against You during the Period of Insurance and which is notified in writing to Us as soon as reasonably practicable thereafter but still during the Period of Insurance, in respect of:

- a) Personal Injury; or
- b) Property Damage; or
- c) Advertising Injury.

happening during the Period of Insurance, in connection with Your Business or Products and which is caused by an Occurrence.

LIMIT OF LIABILITY

The limit of Our liability in respect of any one Occurrence shall not exceed the Limit of Liability stated in the Schedule for Public Liability or Products Liability or Advertising Liability or Pollution Liability. All Personal Injury and Property Damage arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one Occurrence.

Our total aggregate limit during any one Period of Insurance for all Claims arising out of Products Liability including Advertising Liability and Pollution Liability shall not exceed the Limit of Liability stated in the Schedule.

DEFENCE COSTS AND SUPPLEMENTARY PAYMENTS

With respect to the indemnity provided by this Policy, We will pay the following costs and expenses in addition to the Limit of Liability:

- a) all legal costs and other expenses incurred with Our written consent;
- b) all costs and expenses incurred by You for legal representation at any coroner's inquest, fatal accident, inquiry or court of summary jurisdiction or an indictment in a higher court, arising out of any alleged breach of a statutory duty resulting in Injury or Property Damage which may be the subject of indemnity under this Policy;
- c) all expenses incurred by You for first aid rendered for Injury to others at the time of an Occurrence, except any medical expenses which We are prohibited by law from paying;
- d) all expenses incurred by You for temporary repairs, shoring up or protection of property of others that has been damaged as a result of an Occurrence which may be the subject of indemnity under this Policy.

Even if the allegations of a suit are groundless, false or fraudulent, We will defend any suit against You for compensation or damages to which indemnity under this Policy applies (or would apply if the Claim was sustained) and We may make such investigations and settlement of any Claim as We deem expedient.

If a payment exceeding the Limit of Liability has to be made to dispose of a Claim, Our liability to pay Defence Costs and Supplementary Payments under this clause will be limited to that proportion of Defence Costs and Supplementary Payments as the Limit of Liability bears to the amount paid to dispose of the Claim.

EXCESS

When specified in the Schedule, each Claim (or series of Claims arising out of continuous or repeated exposure to substantially the same general conditions) arising under the What You Are Insured Against and/or the Defence Costs and Supplementary Payments clauses is subject to the Excess shown. Should more than one Excess apply under this Policy for any Claim (or series of Claims arising out of continuous or repeated exposure to substantially the same general conditions) such Excesses shall not be aggregated and only the highest single level of Excess shall apply.

The amount of the Excess shall include Defence Costs unless otherwise specifically stated in the Schedule.

UNITED STATES OF AMERICA OR CANADA SUPPLEMENTARY PAYMENTS

In respect of any Claim judgement award payment or settlement pursuant to or made in any country or territory which operates under the laws of the United States of America or Canada or any order made anywhere in the world to enforce such judgement award or settlement either in whole or in part then all costs and expenses incurred in respect of any such Claim judgement award payment or settlement including the investigation and defence of such Claim shall be part of and not in addition to the Limit of Liability provided by this Policy.

GENERAL CONDITIONS

ALTERATION OF RISK

Any alteration in any material fact or otherwise regarding construction methods or procedures or any other information contained in or omitted from any underwriting information supplied to Us shall not prejudice this Policy which shall be held covered subject to immediate notification to Us as soon as the alteration or omission becomes known to You, and then subject to any variation in the terms and conditions which maybe agreed between You and Us.

CANCELLATION

- a) This Policy may be cancelled at any time at Your request by notifying Us in writing.
- b) We may also cancel this Policy on any grounds subject to the Insurance Contracts Act 1984 (Cth) where We have given You written notice of such cancellation in accordance with the Act.
- c) Our notice of cancellation takes effect at the earlier of the following times:
 - i. the time when another policy of insurance between You and Us or some other insurer, being a policy that is intended by You to replace this Policy, is entered into; or
 - ii. 4.00 PM on the third (3rd) business day after the day on which notice was given to You.
- d) In the event that You cancel the Policy, We will deduct a pro rata proportion of the premium for the unexpired Period of Insurance from the date of cancellation, plus twenty five percent (25%) and any government taxes or duties we cannot recover but always subject to a minimum premium being twenty five percent (25%) of the annual premium.
- e) In the event that you have made a Claim under the Policy and we have agreed to pay the Claim, no return of premium will be made for any unused portion of the premium.
- f) When the premium calculation is subject to reports of values, You must, in the event of cancellation, report the values and pay premium due up to the date of cancellation.

CLAIMS CONTROL

It is a condition precedent to liability under this Policy that notice in writing shall be given as soon as possible to Us of every Occurrence, Claim, writ, summons, impending proceedings, impending prosecution and/or inquest in respect of which there may arise a liability under this Policy.

You shall not without Our consent In writing make any admission, offer, promise or payment in connection with any Occurrence or Claim and if We so desire We shall be entitled to takeover and conduct in Your name the defence or settlement of any Claim and We may make such investigation, negotiation and settlement of any Claim or suit as We deem expedient.

You shall use Your best endeavours to preserve any property, Products, appliances, plant or other things which might prove necessary or useful by way of evidence in connection with any Claim and so far as may be reasonably practicable no alteration or repair shall be effected without Our consent until We shall have had the opportunity of inspection.

We shall be entitled to prosecute in Your name at Our own expense and for Our own benefit any Claim for indemnity for damages or otherwise.

We shall have full discretion in the conduct of any proceedings in connection with any Claim and You shall give all information and assistance as We may require In the prosecution, defence or settlement of any Claim.

In the event of an Occurrence, You shall promptly take at Your expense all reasonable steps to prevent other Personal Injury or Property Damage arising out of the same or similar conditions, but such expense shall not be recoverable under this Policy.

We shall be entitled to attend any inquest In respect of which there may arise liability under this Policy.

CROSS LIABILITIES

Where more than one party comprises the Insured each of the parties shall be considered as a separate and distinct unit and the word You/Your/Insured shall be considered as applying to each party in the same manner as if a separate policy had been issued to each of the said parties provided that nothing in this clause shall result in the increase of Our Limit of Liability In respect of any Occurrence or Period of Insurance.

DISCHARGE OF LIABILITIES

We may at any time pay to You in respect of all Claims against You arising directly or indirectly from the one source or original cause the amount of the liability or such other amount specified in respect thereof (after deduction of any sum or sums already paid by Us which sum or sums would reduce the amount of Our unfulfilled liability In respect thereof) or any lesser sum for which the Claim or Claims can be settled and upon such payment We shall relinquish conduct or control of and be under no further liability under the Policy in connection with such Claim or Claims except for costs charges or expenses In respect of the period prior to the date of such payment (whether or not pursuant to an order made subsequently) or incurred by Us or by You with Our written consent prior to the date of such payments.

GOVERNING LAW

This Policy will be governed in accordance with the laws of the Commonwealth of Australia. Any disputes arising out of this Policy will be subject to determination by any Court of competent jurisdiction within Australia according to the laws applicable to the jurisdiction.

HEADINGS

The headings in this Policy are for ease of reference only and shall not be deemed any part of the context or to affect the interpretation of this Policy.

INSPECTION AND PREMIUM ADJUSTMENT

We shall be permitted but not obligated to inspect Your property and operations at any time. Neither Our right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for Your benefit or others, to determine or warrant that such property or operations are safe. We may examine and audit Your books and records at any time during the Period of Insurance and extensions thereof and within three (3) years after the final termination of this Policy as far as they relate to the subject matter insured.

If the first or renewal premium for the Policy or part thereof shall have been calculated on estimates furnished by You, then You shall keep an accurate record containing all particulars relative thereto and shall at all times allow Us to Inspect such records. The Named Insured shall within thirty (30) days after the expiry of each Period of Insurance furnish to Us such particulars and intonation as We may require. The premium for such period shall thereupon be adjusted and any difference paid or allowed to You as the case may be subject to receipt and retention of any minimum premium charged by Us.

INSURANCE ARRANGED BY PRINCIPAL

If You enter into an agreement with any other party (who for the purpose of this clause is called the "Principal") pursuant to which the Principal has agreed to provide a policy of insurance which is intended to indemnify You for any loss or liability arising out of the performance of the said agreement then We will (subject to the terms and conditions of this Policy) only indemnify You for loss or liability not covered by the policy of insurance provided by the Principal.

OTHER INSURANCE

If You make a Claim under this Policy in respect of an Occurrence recoverable under this Policy which Occurrence is or maybe covered in whole or in part by any other insurance, then You must advise Us of the full details of such other insurance when making a Claim under this Policy.

Subject to the Insurance Contracts Act, 1984, We reserve the right to seek contribution from the other insurer(s).

REASONABLE CARE

You shall:

- a) take all reasonable precautions to:
 - i. prevent Personal Injury and Property Damage;
 - ii. prevent the manufacture, sale or supply of defective Products; and
 - iii. make reasonable endeavours to comply with all statutory obligations, by-laws or regulations imposed by any public authority in respect thereof for the safety of persons and property;
- b) 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.

SUBROGATION

In the event of payment under this Policy to or on behalf of You, We shall be subrogated to all Your rights of recovery against all persons and organisations and You shall execute and deliver instruments and papers and do all that is necessary to assist in the exercise of such rights.

GENERAL EXCLUSIONS

This Policy does not apply to, and We will not indemnify You for any actual or alleged liability in respect of:

ADVERTISING LIABILITY

Liability to pay compensation for Advertising Liability arising from:

- a) offences committed prior to the inception date of this Policy;
- b) offences made at Your direction with knowledge of the illegality or falsity thereof;
- c) breach of contract, other than misappropriation of advertising ideas under an implied contract;
- d) incorrect description of the price of the Products, goods or services;
- e) infringement of trade mark, service mark or trade name by use thereof as the trademark, service mark or trade name of the Products, goods or services sold, offered for sale or advertised, but this exception does not apply to titles or slogans;
- f) failure of the Products, goods or services to conform with advertised performance, quality, fitness or durability;
- g) any Insured whose Business is advertising, broadcasting, publishing or telecasting.

AIRCRAFT AND WATERCRAFT

Liability arising from the ownership, maintenance, possession, operation use or legal control by You of any Aircraft or Watercraft (other than Watercraft not exceeding eight (8) metres in length).

AIRCRAFT PRODUCTS

Liability arising out of the selling, leasing, hiring or manufacture and/or supply of parts and/or Products that are used in or affect the flying capabilities of Aircraft or any aerial device.

ASBESTOS

Liability to pay compensation for Personal Injury or Property Damage caused by or arising directly or indirectly out of or in connection with any mining, handling, processing, manufacture, sale, transportation, distribution, storage or use of asbestos, asbestos products or asbestos contained in any products or any installation, removal or treatment of asbestos material.

CONTRACTUAL LIABILITY

Liability assumed by You under any contract or agreement unless such liability:

- a) would have attached in the absence of such agreement; or
- b) is assumed by You under a warranty of fitness or quality, or is implied by law, in respect of Your Products.

CYBER LIABILITY

Liability caused by or arising from:

- a) the use or misuse of the internet or similar facility;
- b) any electronic transmission of data or other information;
- c) any computer virus or similar problem;
- d) the use or misuse of any internet address website or similar facility;
- e) any data or other information posted on a website or similar facility;
- f) any loss of data or damage to any computer system including, but not limited to, hardware or software;
- g) the functioning or malfunctioning of the internet or similar facility, or of any internet address, website or similar facility;
- h) any infringement, whether intentional or unintentional, of any intellectual property rights including, but not limited to, trademark, copyright or patent.

DAMAGE TO YOUR PRODUCTS

Liability to pay compensation for:

- a) physical Injury to or destruction or loss of Your Products or any part of those Products arising out of them or any part of them;
- b) loss of use of any tangible property caused by physical injury to or destruction or loss of Your Products or any part of those Products arising out of them or any part of them.

DEFAMATION, LIBEL AND SLANDER

Any liability to pay compensation arising out of the publication or utterance of defamatory, libellous or slanderous nature:

- a) made prior to the Policy commencing on the date stated in the Schedule, or
- b) made at Your direction with the knowledge of the falsity thereof.

ELECTRONIC DATA

Liability arising out of:

- a) communication, display, distribution or publication of Electronic Data; however, this Exclusion does not apply to Injury or Advertising Injury resulting from any of them.
- b) total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data;
- c) error in creating, amending, entering, deleting or using Electronic Data; or
- d) total or partial inability or failure to receive, send, access or use Electronic Data for any time or at all

from any cause whatsoever, regardless of any other contributing cause or event whenever it may occur.

FAULTY WORKMANSHIP

Any liability for the cost of re-performing, completing, correcting or improving any work done or undertaken by You.

FINES, PENALTIES AND/OR LIQUIDATED DAMAGES

Any liability for fines, penalties, liquidated damages and punitive aggravated or exemplary or multiple damages.

MOTOR VEHICLES

Liability to pay compensation for Personal Injury or Property Damage arising out of the ownership, possession, operation, use or legal control by You of any Vehicle.

- a) which is registered; or
- b) in respect of which insurance is required by virtue of any legislation relating to motor vehicles; or
- c) which is otherwise insured in respect of the same liability;

Provided that this Exclusion does not apply to Vehicles whilst being operated or used by You as a Tool of Trade solely on a contract site.

NORTH AMERICAN COMPANIES

Liability arising from or in connection with any company domiciled or registered in the United States of America or Canada or their territories or possessions.

NUCLEAR

Liability to pay compensation for Personal injury or Property Damage of whatsoever nature directly or indirectly caused or contributed to by or arising from ionising radiation, or contamination by radioactivity from nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this Exclusion combustion shall include any self-sustaining process of nuclear fission.

PATHOGENIC ORGANISM EXCLUSION

Liability for loss of destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising there from or any consequential loss or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from any pathogenic organism, which shall include but not be limited to mould or fungi or its spores bacteria yeasts mildew algae mycotoxins or any other metabolic products enzymes or protein secreted by the above whether toxic or otherwise.

POLLUTION

- a) liability to pay compensation for Personal Injury or Property Damage caused by or arising directly or indirectly out of the actual, alleged or threatened discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon any property, land, the atmosphere or any watercourse or body of water (including groundwater) but this Exclusion does not apply if the actual discharge, dispersal, release or escape:
 - i. is neither reasonably expected nor intended by You; and
 - ii. is the consequence of a sudden and instantaneous cause which takes place at a clearly identifiable point in time during the Period of Insurance;
- b) liability for any costs or expenses incurred in the preventing, removing, nullifying, or cleaning up any discharge, dispersal, release or escape as described in a above, unless such costs or expenses are consequent upon an unexpected, unintended sudden and instantaneous cause which takes place at a clearly identifiable point in time during the Period of Insurance and results in Personal Injury or Property Damage neither of which is otherwise excluded by this Policy;

Provided that Our total aggregate liability during any one Period of Insurance in respect of all Claims arising out of such Personal Injury or Property Damage or such costs or expenses shall not exceed the Limit of Liability stated in the Schedule.

PRODUCT RECALL AND REPAIR

Liability to pay compensation for damages claimed for the withdrawal, inspection, repair, replacement or loss of use of Your Products.

PROFESSIONAL LIABILITY

Liability to pay compensation for the rendering of or failure to render professional advice or service by You or error or omission connected therewith, but this Exclusion does not apply to:

- a) the rendering 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
- b) advice given where no fee is involved or where advice is given in connection with any of Your Products.

PROPERTY IN PHYSICAL OR LEGAL CONTROL

Liability to pay compensation for Property Damage to:

- a) property owned by You,
- b) property leased, rented or in Your physical or legal control.

This exclusion shall not apply to liability for Property Damage to premises which are leased or rented by You for the purpose of Your Business.

RETROACTIVE DATE

Arising from any act, error or omission occurring or committed, or allegedly committed or occurring, prior to the Retroactive Date specified in the Schedule.

TERRORISM

Injury to any person or Property Damage directly or indirectly caused by, resulting from or in connection with any:

- a) Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to such Injury or Property Damage;
- b) Action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

For the purposes of this Exclusion an Act of Terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) which from its nature or context is done for, or in connection with, political, religious, ideological or similar purposes or reasons with the intention to influence any government and/or to put the public, or any section of the public, in fear.

UNITED STATES OF AMERICA OR CANADA SEEPAGE POLLUTION AND/OR CONTAMINATION EXCLUSION

Notwithstanding the forgoing, however, in respect of any Claim, judgement, award, payment or settlement made in any country or territory which operates under the laws of the United States of America or Canada or any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part then this Policy does not cover any legal liability for:

- a) Personal Injury or Property Damage or loss of use of property directly or indirectly caused by seepage Pollution or contamination;
- b) the cost of removing nullifying or cleaning up seeping polluting or contaminating substances;
- c) fines or penalties in connection therewith.

WAR

Liability to pay compensation for Personal injury or Property Damage directly or indirectly caused by or in consequence of war, invasion, act of foreign enemy, sabotage or warlike operations, hostilities (with or without the declaration of war), civil war, rebellion, insurrection, military or usurped power.

WORKERS COMPENSATION LAW

- a) liability for Personal Injury to any person arising out of, or sustained in the course of, the employment of such person in Your service, or through the breach of any duty owed to that person, where You:
 - i. are indemnified or entitled to be indemnified (either in whole or in part) in respect for Claims for damages under a policy of insurance (which expression includes arrangements made by You to provide accident insurance for Your workers under a licence to self-Insure) arranged (whether required by law or not) in accordance with any workers' compensation legislation or accident compensation legislation; or
 - ii. would have been indemnified or entitled to be indemnified had You arranged a policy of insurance as required by such legislation;
- b) liability for Personal Injury to any person arising out of, or sustained in the course of, the employment of such person in Your service;
- c) liability for mental anguish suffered by any person arising out of, or in the course of, that persons employment by or service to You;
- d) liability for Personal Injury arising out of the harassment, libel, slander, defamation or humiliation of, or discrimination against, any person while in Your service or while employed by You;
- e) liability of a type in respect of which indemnity previously would have been provided under a policy of insurance arranged in accordance with any workers' compensation legislation or accident compensation legislation, but in respect of which indemnity has been withdrawn or reduced as a consequence of a change to the scope, terms, provisions, or requirements of such legislation made after the commencement of the current Period of Insurance; and
- f) any other liability imposed by the provisions of any workers compensation legislation or accident compensation legislation or Industrial award, agreement or determination or unemployment compensation legislation and benefits law legislation.

SURA Specialty Ltd ABN 34 125 318 247 acts as an agent for Certain Underwriters at Lloyd's and is authorised to arrange, enter into / bind and administer this insurance on their behalf.

SURA Specialty Ltd is an authorised representative of SURA Pty Ltd ABN 36 115 672 350 AFSL 294313.

Thank you for receiving this document electronically.

SURA Specialty Ltd supports positive initiatives for our environment.

S U R A SPECIALTY

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