IMALIA

Directors and Officers Liability Insurance

IMPORTANT INFORMATION

THIS POLICY

This Policy is an important document. The Policy wording and Schedule together set out the cover provided, the amount insured and the terms and conditions of your insurance. Please read it carefully and keep it in a safe place.

THE COVERHOLDER

Imalia Pty Ltd - ABN 41 147 857 878 (Imalia) holds an Australian Financial Service Licence (Licence No. 451867) and is authorised to arrange, issue and provide general advice on general insurance products to Australian residents.

Imalia Pty Ltd, is a Coverholder for certain Underwriters at Lloyd's and is referred to in the Policy as the "Coverholder". Imalia Pty Ltd has the authority to bind this Policy on their behalf.

CLAIMS MADE POLICY

This Policy is issued by Imalia Pty Ltd on a claims made and notified basis. This means that the Policy only covers Claims first made against you during the Period of Insurance and notified to Imalia Pty Ltd in writing during the Period of Insurance. The Policy does not provide cover for any Claims made against you during the Period of Insurance if at any time prior to the commencement of the Period of Insurance you were aware of facts which might give rise to those Claims being made against you.

YOUR DUTY OF DISCLOSURE

The Insurance Contracts Act 1984 (Cth) provides that before you enter into a contract of insurance you have a duty to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept and insure the risk and, if so, upon what terms. You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of insurance.

Your duty, however, does not require disclosure of any matter:

- That diminishes the risk to be undertaken by the insurer;
- That is of common knowledge;
- That your insurer knows, or in the ordinary course of its business, ought to know; or
- Where compliance with your duty of disclosure is waived by the insurer.

NON-DISCLOSURE

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a Claim or may cancel the contract. If your non-disclosure is fraudulent, the insurer may also cancel the contract from its beginning.

ABOUT LLOYD'S

Lloyd's is the world's specialist insurance and reinsurance market, bringing together an outstanding concentration of underwriting expertise and talent. Around 80 syndicates underwrite insurance at Lloyd's, covering all classes of business. Together they interact with thousands of brokers daily to create insurance solutions for businesses in over 200 countries and territories around the world.

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

This Policy is underwritten by certain Underwriters at Lloyd's (the Insurer).

GENERAL INSURANCE CODE OF PRACTICE

Imalia Pty Ltd and Underwriters at Lloyd's proudly support the General Insurance Code of Practice. The purpose of the Code is to:

- promote more informed relations between insurers and their customers;
- develop and improve customer confidence in the insurance industry;
- provide suitable mechanisms for the resolution of complaints and disputes; and
- commit insurers to rely upon higher standards of customer service.

The General Insurance Code of Practice outlines certain minimum standards of service that You should expect from insurers that have adopted the Code.

If You would like more information on the General Insurance Code of Practice, You can visit the website **www.codeofpractice.com.au**

HOW TO MAKE A CLAIM

It is Our aim to give You peace of mind by providing an efficient, effective and helpful claims service.

You must notify Us by contacting us on **cap@imalia.com.au** or **1300 302 952**

Office hours are 09.00 to 17.00 (EST) Monday to Friday excluding public holidays.

If it is not possible to notify Us within that time, You must notify Us as soon as reasonably possible.

POLICY CANCELLATION

You may cancel this Policy at any time by forwarding a written request to Us unless You have notified Us of a claim or event that may give rise to a claim. If You have notified Us of a claim or event that may give rise to a claim, the annual premium will be payable in full.

Who to notify in the event of cancellation of the Policy:

Contact Imalia by phone on **1300 302 952** or email **cap@imalia.com.au**

OVERDUE PREMIUM

Your Premium for this insurance must be paid within 7 days from the due date otherwise You are not entitled to make a claim and We may cancel Your insurance.

COSTS

The Premium payable by You will be stated on Your Schedule. The Premium is calculated taking into consideration a number of factors including the sums insured.

Premiums are subject to Commonwealth and State taxes and/or charges where applicable. They can include GST, stamp duty, and any other charges.

RENEWALS

Please note Your Policy duration is set out on Your Policy Schedule. When Your Policy is due for renewal We will contact You in writing about Your upcoming Policy renewal. We will do so at least twenty one (21) days before Your Policy ends. In the unlikely event that We do not wish to invite renewal We will still write to You confirming why We do not wish to invite renewal at least twenty one (21) days before Your Policy ends.

LANGUAGE

Unless otherwise agreed in writing the language of Your Policy and any communication throughout the duration of the Policy will be in English.

DISPUTE RESOLUTION PROCESS

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

How can we help You?

There are established procedures for dealing with complaints and disputes regarding Your policy or claim.

Complaints

If you have any concerns or wish to make a complaint in relation to this policy, our services or your insurance claim, please let us know and we will attempt to resolve your concerns in accordance with our Internal Dispute Resolution procedure. Please contact Imalia Pty Ltd in the first instance:

Carole-Anne Priest
Complaints Officer
Imalia Pty Ltd
cap@imalia.com.au or **0438630315**

We will acknowledge receipt of your complaint and do our utmost to resolve the complaint to your satisfaction within 10 business days.

If we cannot resolve your complaint to your satisfaction, we will escalate your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are:

Lloyd's Australia Limited
e: idraustralia@lloyds.com
p: (02) 8298 0783
a: Suite 1603 Level 16,
1 Macquarie Place,
Sydney NSW 2000

A final decision will be provided to you within 30 calendar days of the date on which you first made the complaint unless certain exceptions apply.

You may refer your complaint to the Australian Financial Complaints Authority (AFCA), if your complaint is not resolved to your satisfaction within 30 calendar days of the date on which you first made the complaint or at any time. AFCA can be contacted as follows:

p: 1800 931 678
e: info@afca.org.au
a: GPO Box 3
Melbourne VIC 3001
w: www.afca.org.au

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

How much will this procedure cost You?

This service is free of charge to policyholders.

Claims

In the event of a claim arising under this Insurance immediate notice should be given to:

Carole-Anne Priest
Imalia Pty Ltd
cap@imalia.com.au or **0438630315**

PRIVACY STATEMENT

Imalia Pty Ltd is bound by the National Privacy Principles and the obligations of the Privacy Act 1988 (as amended) (Cth) regarding the collection, use, disclosure and handling of personal information. We will protect the privacy of your personal information.

We collect personal information about you to enable us to provide you with relevant products and services, to assess your application for insurance and, if a contract is entered into, to enable us to provide, administer, and manage your Policy, and to investigate and handle and respond to any Claims under your Policy. We may disclose your information to third parties (who may be located overseas), such as certain Underwriters at Lloyd's including Reinsurers, professional advisers such as lawyers, accountants and other professional experts, claims adjusters, and others appointed by Imalia Pty Ltd or by certain Underwriters at Lloyd's to assist us and them in providing relevant products and services. We may also disclose your information to people listed as co-insured on your Policy and to your agents. By providing your personal information to us, you consent to us making these disclosures.

If you do not provide all or part of the information required, we may not be able to provide you with our products and services, consider your application for insurance, administer your Policy, assess or handle Claims under your Policy, or you may breach your Duty of Disclosure.

When you provide us with personal information about other individuals, we rely upon you to have made them aware of that disclosure and of the terms of the Imalia Pty Ltd Privacy Statement and to obtain their consent.

For a copy of the Imalia Pty Ltd Privacy Statement or to request access to your personal information, contact the Privacy Officer at Imalia Pty Ltd by email: cap@.imalia.com.au or by mail at the address shown on this Policy.

In consideration of the payment of the premium set forth in Item 5 of the **Schedule** and in reliance on the statements made and information contained within the **Proposal Form** and subject to the terms, conditions and limitations of this **Policy** and after the exhaustion of all other indemnification available to the **Assured** from any other source including any other policy of insurance, the **Underwriters** will:

1. INSURING CLAUSE

pay on behalf of the **Assured** all **Loss** arising from any **Claim** first made against them during the **Period of Insurance** and notified to the **Underwriters** during the **Period of Insurance** for any **Wrongful Act** committed by them solely in their capacity as a **Director or Officer**.

2. DEFINITIONS

All Definitions within this **Policy** shall have the same meaning whether expressed in the singular or the plural.

a) **Assured** means:
the **Director or Officer** named in Item 1 of the **Schedule**.

b) **Claim** means:
a written or oral notice received by the **Assured** of a demand from any party for monetary compensation or other relief, including but not limited to non pecuniary relief in respect of any actual or alleged **Wrongful Act**.

c) **Company** means:
any entity which is legally incorporated with limited liability and any **Subsidiary**, other than the following:

i. such entities which are incorporated and/or domiciled and/or registered in the **United States of America**;

ii. partnerships, limited liability partnerships and general partnerships;

iii. any **Exchange Traded Entity**.

d) **Defence Costs** means:

i. reasonable costs, fees and charges and expenses incurred in the investigation, defence, settlement of or Appeal from a **Claim** or circumstances notified with the prior and written consent of the **Underwriters** (such consent is not to be unreasonably withheld),

ii. the premium paid for financial or insurance instruments or bonds which are a condition of instituting an appeal to an award of civil damages against the **Assured** (but not any obligation to procure or provide such instruments or bonds).

Defence Costs does not mean remuneration payable to the **Assured** which includes salaries, wages, travel or accommodation expenses.

e) **Director** or **Officer** means:

i. the **Assured** while serving as a director or officer of a **Company** or a superannuation trustee of any **Employee** benefit plan or superannuation fund of a **Company**.

ii. in the event of the bankruptcy or death or incapacity of the **Assured**, his or her estate and heirs and legal representatives, but only in respect of any **Claim** against the **Assured** otherwise covered under this **Policy**.

Director or **Officer** does not mean any external auditor, liquidator, administrator, receiver, administrative receiver, legal, or other professional adviser of a **Company**.

f) **Employee** means:
any natural person who was, or is, or may hereafter be acting under a contract of service or apprenticeship with a **Company**.

Employee does not mean any consultant or sub-contractor or independent professional adviser or agent or **Director** or **Officer** or any natural person providing services to any entity except a **Company**.

g) **Employment Wrongful Act** means any actual or alleged:

i. discrimination or harassment of an **Employee** or of a prospective **Employee**; or

ii. wrongful dismissal, discharge or termination, either actual or constructive, of the employment of an **Employee**, or the demotion or the refusal to promote an **Employee**, or the refusal to employ a natural person as an **Employee**; or

iii. retaliatory action taken against an **Employee** proven to have arisen from that **Employee** exercising or attempting to exercise of his or her rights according to applicable law; or

iv. misleading representation or advertising relating to employment; or

v. employment related: denial of natural justice, invasion of privacy, defamation, wrongful infliction of emotional distress, discrimination on any legally prohibited basis.

h) **Exchange Traded Entity** means:
any entity who's **Securities** are publicly traded (wholly or in part) on a stock exchange in any jurisdiction

i) **Inquiry** means:
a formal administrative or formal regulatory investigation or examination by a governmental, regulatory, self regulatory, professional, trade, statutory or official body or institution, including a Royal Commission, commission of inquiry, judicial body that is empowered by law to investigate the affairs of an **Assured** in his/her insured capacity. Coverage does not apply with respect to routine investigations, inspection, compliance or similar reviews of an **Assured** conducted by any professional, statutory, self-regulatory or official body.

j) **Loss** means:

i. such sums as the **Assured** becomes legally liable to pay as a result of any judgment or order or award or settlement agreement reached in respect of a **Claim**.

ii. punitive, exemplary or aggravated damages, civil fines or pecuniary penalties awarded in a court of law other than where calculated by the multiplication of a lesser damages sum; or where the Insurer is legally prohibited from paying such damages or fines or penalties in the jurisdiction in which the **Claim** is determined.

iii. **Defence Costs**.

Loss does not mean:

iv. taxes or unemployment insurance contributions or superannuation plan contributions or salaries or wages, benefits, remuneration, sums payable pursuant to a financial support direction or superannuation fund contribution notice issued by any relevant regulatory authority;

v. any amount deemed uninsurable under law;

vi. any expenses of any **Assured** other than **Defence Costs**;

vii. fines or penalties which are uninsurable at law.

k) **Period of Insurance** means:
the period stated in Item 2 of the **Schedule**.

l) **Policy** means:
the **Proposal Form**, this wording, the **Schedule** and all Endorsements appended thereto.

m) **Pollution** means:
any actual or alleged or threatened discharge or release or escape or dispersal or disposal of pollutants or contamination of whatever kind or any direction or request that an **Assured** test for or monitor or clean up or remove or contain or treat or detoxify or neutralise or assess any pollutants.

n) **Proposal Form** means:
the written application for this **Policy** and any policy of which this **Policy** is a renewal as submitted to and accepted by the **Underwriters** and any written information submitted to and accepted by the **Underwriters** in connection with this **Policy**, all of which shall be deemed to form part of this **Policy**. The **Proposal Form** shall be the basis of this contract of insurance.

o) **Schedule** means:
the document so-entitled which is appended to this **Policy**.

p) **Securities** means:
any form of security providing an equity interest in a **Company** or a debt of a **Company**.

q) **Subsidiary** means:
any company in which a **Company** either directly or indirectly:

i. holds the majority of the voting rights; or

ii. holds more than half of the issued share capital; or

iii. has the right to remove or to appoint a majority of the board of directors.

r) **Underwriters** means:
Certain Lloyd's Underwriters and any other participating insurance companies.

s) **United States of America** means:
the United States of America and its respective states, localities, overseas territories and possessions.

t) **United States Claim** means any:

i. **Claim** brought in the jurisdiction and courts of the **United States of America**; or

ii. actual or attempted enforcement or upholding against the **Assured** by any court or arbitrator or tribunal outside the **United States of America** of any damages or compensatory or monetary awards or judgments or orders or settlements or costs or expenses made within the **United States of America**.

u) **Wrongful Act** means:

i. any actual or alleged or proposed act, error, misstatement, misleading statement, omission, neglect, libel, slander, breach of duty, breach of trust or breach of warranty of authority committed or attempted, or allegedly committed or attempted, by the **Assured** solely in the performance of their duties as **Directors** or **Officers**; or

ii. any **Employment Wrongful Act**.

iii. with respect to any **Subsidiary**, **Wrongful Act** only means **Wrongful Acts** committed or allegedly committed between the dates that any company falls within Definition q) i. to iii. inclusive.

3. LIMITS OF LIABILITY

a) The **Underwriters'** aggregate limit of liability for all Loss in respect of all **Claims** shall be the amount specified in Item 3 of the **Schedule**.

b) All **Claims** or series of **Claims** or **Loss** or series of **Losses** arising from or attributable to or which are causally connected with a single fact or circumstance or **Wrongful Act** or any related series of facts or circumstances or **Wrongful Acts** shall be considered as a single **Claim**.

c) Except as otherwise stated herein, if a **Claim** is made that gives rise to coverage both under this **Policy** and under any other **Directors'** and Officers' Liability Insurance issued by the **Underwriters**, the **Underwriters'** maximum aggregate limit of liability under all such policies combined for all **Loss** in respect of that **Claim** shall not exceed the largest single available aggregate limit of liability of any of those policies, including this **Policy**, as is in effect at the time such **Claim** is deemed to have been made.

d) Any cover provided by section 4. Extensions a) – d) shall form part of and not be in addition to the aggregate limit of liability specified in Item 3 of the **Schedule**.

4. EXTENSIONS

Subject to section 3. Limits of Liability, the **Underwriters** will pay on behalf of the **Assured** as a **Director** or **Officer**:

a) **Pollution Defence Costs**
Defence Costs, incurred in their defence of criminal or regulatory proceedings in respect of **Pollution** and which results from any **Wrongful Act** giving rise to a **Claim**.

b) **OH&S Defence Costs**
Defence Costs reasonably incurred in their defence of criminal or regulatory proceedings in respect of any actual or alleged breach of any occupational health and safety laws or regulations giving rise to a **Claim**.

c) **Fines & Penalties**
civil fines and civil penalties, if and to the extent allowed by law, which the **Assured** as a **Director or Officer** is ordered to pay by law as a result of any **Wrongful Act** giving rise to a **Claim**, other than those which are otherwise recoverable from or payable by a **Company**, or it is proven are against public policy or in breach of the laws or rules or regulations to which the **Underwriters** or the **Assured** (in their capacity as a director or officer) or a Company are subject, to pay. An aggregate limit of AUD250,000 or the amount specified in Item 3 of the Schedule (whichever is the smaller) shall apply to Claims under this extension. This limit shall be part of and not in addition to the aggregate limit of liability specified in Item 3 of the Schedule.

d) **Inquiry Costs**
costs and expenses incurred by the **Assured** (but not including remuneration, salaries, fees, wages, travel or accommodation expenses) in preparing for and attending an **Inquiry**, as and when they are incurred, provided that:

i. such costs and expenses were incurred with the prior written consent of the Underwriters which consent shall not be unreasonably withheld; and

ii. the notice requiring the Assured to attend the Inquiry is first served upon the Assured and reported to the Underwriters during the Period of Insurance.

The **Underwriters** agree to pay such reasonable costs and expenses arising out of an **Inquiry** whether or not there is an allegation of a **Wrongful Act** against the **Assured**. An aggregate limit of AUD500,000 or the amount specified in Item 3 of the Schedule (whichever is the smaller) shall apply to Claims under this extension. This limit shall be part of and not in addition to the aggregate limit of liability specified in Item 3 of the Schedule.

5. EXCLUSIONS

The **Underwriters** shall not be liable for **Loss** in connection with any **Claim** based upon, consequent upon, by reason of, arising out of, arising from, directly or indirectly resulting from, attributable to, in any way involving, or in connection with:

a) any legal or administrative or disciplinary, or regulatory proceedings which existed or were pending at the date stated in Item 4 of the **Schedule**, or any fact or circumstance or event in any way pertaining to such proceedings;

b) the **Assured**:

i. gaining any personal profit or advantage or receiving any remuneration to which he or she was or is not legally entitled;

ii. committing any dishonest or fraudulent act or omission or any wilful violation of law or by-law or duty imposed by any such law, regulation or by-law;

provided that this Exclusion shall only apply if such profit or advantage or remuneration or act or omission or wilful violation is established by admission or by a final and non-appealable adjudication in any proceeding, court or tribunal;

c) circumstance notified or **Claim** made under any insurance policy which was in force prior to the **Period of Insurance** or circumstance or **Claim** which was known about by the **Assured** prior to the **Period of Insurance**;

d) Excluded classes of business - No cover will be provided for Directors sitting on the following types of Companies

- Mining companies
- Pharmaceuticals/biopharma/life sciences
- Aviation
- Professional sports companies or associations
- Gambling companies, online gaming by referral only.
- Oil and gas companies
- Cannabis related entities
- Cryptocurrency
- Pornography
- Any risks with a USA listing

Risks with more than 30% USA Assets or revenue

e) superannuation programme or **Employee** benefit plan;

f) **Pollution**;

g) war, invasion, act of foreign enemy, hostilities or warlike operations (whether war has been declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power, martial law, riot or the act of any lawfully constituted authority;

h) Terrorism (including, without limitation, contemporaneous or ensuing loss or damage or legal liability caused by fire and/or looting and/or theft);

The burden of proving that any **Claim** does not fall within this Terrorism Exclusion shall be upon the **Assured**. For the purposes of this Exclusion, “Terrorism” means any act or acts of force or violence (whether threatened or actual) by any person or persons acting alone or on behalf of or in connection with any organisation, which is carried out for political, religious or ideological ends and is either directed towards the over-throwing or influencing of any Government de jure or de facto or to put the public or any part of the public in fear or jeopardy;

i) breach of professional duty or professional services provided by or on behalf of the **Assured** and/or a **Company** to a third party;

j) **United States Claim**;

k) damage to or destruction of any tangible property including the loss of use thereof whether or not it is damaged or destroyed;

l) bodily injury or sickness or disease or mental injury or mental anguish or death of any person provided that this Exclusion shall not apply to any **Claim** for an **Employment Wrongful Act** or for emotional distress in connection with a wrongful termination of employment or a **Claim** for discrimination or harassment by any **Employee**;

m) **Claim** made by or on behalf of a **Company** or by or on behalf of any director or officer of a **Company**;

n) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

n) offering of **Securities** of a **Company**;

o) any **Claim** for any **Wrongful Act** committed by the **Assured** in their capacity as a director or officer of any **Exchange Traded Entity**.

6. CLAIMS CONDITIONS

a) **Claims notification**

As a condition precedent to the liability of the **Underwriters** under this **Policy**, the **Assured** is required to:

i. give notice of any **Claim** to the **Underwriters** as soon as is reasonably practicable and in any event within 14 days after the end of the **Period of Insurance**. Any notice of a Claim must be given in writing by post or by facsimile or email to the address specified in Item 7 of the **Schedule** and shall include full details including, but not limited to, dates, locations and the names of persons involved;

ii. at their own cost, provide the **Underwriters** in a timely fashion with all information and assistance they reasonably require to allow them to investigate, defend, or resolve any **Claim** and to exercise any subrogation rights;

iii. furnish the **Underwriters** in a timely fashion with copies of all papers in connection with any **Claim** or circumstance notified;

b) **Related Claims**

All **Claims** based upon, related to or arising from or in consequence of the same or related facts or circumstances or **Wrongful Acts** shall for the purposes of this **Policy** be treated as one **Claim** made when the earliest of the **Claims** was notified.

c) **Defence Costs, settlement and allocation**

i. The **Underwriters** have the right but not the obligation to control the defence and settlement of any **Claim** and the appointment of lawyers to represent the **Assured**.

ii. The **Assured** shall not make any admission or give any offer or settlement or promise or indemnity to any party without the prior and written consent of the **Underwriters** (the consent of the **Underwriters** is not to be unreasonably withheld or delayed).

iii. The **Assured** must contest any **Claim** at trial unless mutually agreed by the **Underwriters** and legal counsel that the **Claim** should not be contested;

iv. **Defence Costs** which are advanced on behalf of the **Assured** prior to the resolution of a **Claim** shall be repayable by the **Assured** to the **Underwriters** in the event that the **Claim** is ultimately determined not to be covered under this **Policy**. The element of prior written consent necessary as a pre-condition to payment of **Defence Costs** shall not constitute a waiver of the right to claim re-payment of **Defence Costs** to which the **Assured** is not entitled.

v. If the **Assured** refuses to consent to any settlement recommended by the **Underwriters** or their legal representatives and elects to contest or to continue defence of a **Claim**, then the liability of the **Underwriters** for such **Claim** shall not exceed the amount for which the **Claim** could have been settled up to the date of such refusal;

vi. In the event that any **Claim** under this **Policy** gives rise both to **Loss** which is covered under this **Policy** and losses which are not so covered, the **Underwriters** and the **Assured** shall negotiate in good faith to agree a fair and proper basis for allocation taking into consideration the relative legal exposures of the various parties and that, in the event that the **Underwriters** and the **Assured** cannot agree on allocation, they shall submit the dispute to a mutually agreed upon legal counsel to determine an expeditious and fair and proper basis for allocation having regard to the relative legal exposures of the various parties. If legal counsel cannot be mutually agreed upon, then legal counsel is to be selected by the President of the Law Society for the State or Territory out of which this **Policy** was issued. The parties will be bound by the legal counsel's determination as to the fair and proper allocation. The costs of obtaining the determination will be shared by the **Assured** and the **Underwriters**.

vii. The **Assured** agrees that in the event of a **Claim**, the **Assured** will do nothing that may prejudice the **Underwriter's** position or their potential or actual rights of recovery.

viii. The **Underwriters** will have no obligation to pay **Loss**, including **Defence Costs**, or to defend or continue to defend any **Claim** after the applicable Limit of Liability with respect to such **Claim** has been exhausted by payment of **Loss** or it is determined that coverage is not available under this **Policy**.

d) **Priority of payments**

The **Underwriters** may pay **Defence Costs** and/or **Loss** as it becomes due under this **Policy** without regard to the potential for other future actual or potential payment obligations under the **Policy**.

e) **Presumptive indemnification**

If the **Assured** is unable to obtain satisfaction of a right to payment or indemnity against a **Company** for **Loss** arising out of a **Claim** solely by reason of the insolvency of the **Company**, then the **Underwriters** will provide such payment or indemnity against **Loss** to the extent that the **Company** could have granted it as legally permitted or required by law in the absence of such insolvency.

6. CLAIMS CONDITIONS (cont.)

f) **Subrogation**

i. All rights of recovery of the **Assured** or a **Company** shall be protected and maintained and subrogated to the **Underwriters** after the **Underwriters** have made any payment under this **Policy** and the **Underwriters'** rights will rank prior to uninsured losses in any recovery.

ii. The **Assured** shall execute all papers reasonably required and shall take all reasonable steps that may be necessary to secure any and all subrogation rights of the **Underwriters** including but not limited to an action against the **Assured's Company** for non payment of indemnity to the **Assured** by the **Assured's Company**.

SERVICE OF SUIT CLAUSE (AUSTRALIA)

The Underwriters accepting this Insurance agree that:

(i) if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;

(ii) any summons notice or process to be served upon the Underwriters may be served upon:
Lloyd's Underwriters' General Representative
in Australia

Suite 1603 Level 16
1 Macquarie Place
Sydney NSW 2000

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

(iii) if a suit is instituted against any of the Underwriters, all Underwriters participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

AUSTRALIA TERRORISM INSURANCE ACT 2003 NOTICE (NMA2984)

The Underwriters have treated this Insurance (or part of it) as an Insurance to which the Australia Terrorism Insurance Act 2003 (ATIA) applies.

ATIA and the supporting regulations made under the Act deem cover into certain policies and provide that the Terrorism Exclusion to which this Insurance is subject shall not apply to any "eligible terrorism loss" as defined in ATIA.

Any coverage established by ATIA is only in respect of any "eligible terrorism loss" resulting from a "terrorist act" which is a "declared terrorist incident" as defined in ATIA. The Terrorism Exclusion to which this Insurance is subject applies in full force and effect to any other loss and any act or event that is not a "declared terrorist incident".

All other terms, conditions, insured coverage and Exclusions of this Insurance including applicable limits and deductibles remain unchanged.

If any or all of the Underwriters have reinsured this Insurance with the Australian Reinsurance Pool Corporation, then any such Underwriters will not be liable for any amounts for which they are not responsible under the terms of ATIA due to the application of a "reduction percentage" as defined in ATIA which results in a cap on the Underwriter's liability for payment for "eligible terrorism losses".

7. GENERAL CONDITIONS

a) The parties insured hereby agree that:

i. information provided to the **Underwriters** regarding the **Assured** will be processed by the **Underwriters** for the purpose of providing insurance and handling actual or potential **Claims** and it is understood and agreed that such processing may necessitate providing such information to third parties. By accepting the terms of this **Policy**, the **Assured** assents to any such provision of information;

ii. the bankruptcy or insolvency of the **Assured** shall not relieve the **Underwriters** of their obligations or deprive the **Underwriters** of their rights under this **Policy**.

b) **Law and Jurisdiction**

This **Policy** shall be construed in accordance with the laws of Australia. In the event of any dispute arising out of or in connection with this **Policy**, each party agrees to submit to the jurisdiction of any Court of competent jurisdiction within Australia and to comply with all requirements necessary to enable such Court to properly hear the dispute and determine it.

c) **Other Insurance**

To the extent permitted by the Insurance Contracts Act 1984 (Cth), this **Policy** will cover **Loss** to the extent that the amount of such **Loss** is in excess of any indemnity or cover available to the **Assured** in respect of that **Loss** under any other policy of insurance entered into by the **Assured**. This provision will not apply to such other insurance which is written only as specific excess insurance over the limit of liability provided in this **Policy**.

d) **Cancellation**

This **Policy** may only be cancelled by the **Underwriters** if the **Assured** does not pay the premium when due. In the event of non-payment of premium, the **Underwriters** may cancel this **Policy** by delivering to the **Assured** or by mailing to the **Assured** by registered, certified or other first class mail, at the **Assured's** address as stated in Item 6 of the **Schedule**, written notice stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice. The **Period of Insurance** terminates at the date and hour specified in such notice, or at the date and time of surrender. The **Underwriters** shall have the right to the premium pro rated for that part of the **Period of Insurance** less a short term charge of twenty percent (20%) of the unexpired premium during which the **Policy** was in effect, unless there has been a **Claim** or circumstance notified under the **Policy** in which event the **Underwriters** shall be entitled to retain the entire premium.

e) **Assignment**

Assignment or transfer of any interest under this Policy shall not bind the Underwriters without their prior written consent.

f) **Takeover or Merger or Acquisition**

If during the **Period of Insurance** any **Company** is taken over or is merged with any other organisation or if any person or entity acquires more than fifty (50) percent of the voting share capital of any **Company** the coverage afforded by this **Policy** will continue in full force and effect until the end of the **Period of Insurance** with respect to **Claims** for **Wrongful Acts** committed or allegedly committed by the **Assured** before the effective date of such take over or merger or acquisition.

g) **Action Against the Underwriters**

Except as otherwise permitted by statute, no action shall be asserted against the **Underwriters** unless, as a condition precedent thereto, there has been full compliance with all terms of this **Policy**, nor until the **Assured's** liability for any **Claim** has been determined either by a final judgment in arbitral or judicial proceedings or by written agreement of the **Assured**, the claimant and the **Underwriters**.

h) **Insurer's Liability Several Not Joint**.

The liability of an insurer under this contract is several and not joint with any other insurer party to this contract. An insurer is liable only for the proportion of liability it has underwritten. Nor is an insurer otherwise to be 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 next to its stamp. This is subject always to the provision concerning "signing" below.

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 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 to be 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 Policyholder & Market Assistance, at the above address.

i) **Proportion of Liability**
Unless there is "signing" (see below), the proportion of liability under this contract underwritten by each 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 next to its stamp and is referred to as its "written line".
Where this contract permits, written lines, or certain written lines, may be adjusted ("signed"). In that case a Declaration is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each 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).
A definitive proportion (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of a Lloyd's syndicate taken together) is referred to as a "signed line". The signed lines shown in the Declaration will prevail over the written lines unless a proven error in calculation has occurred.
Although reference is made at various points 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.

j) **Confidentiality Clause**
It is a condition of this **Policy** that the **Assured** and/or any persons on their behalf shall not disclose the existence of this **Policy**, the Limits of Liability, the nature of the liability indemnified, or the premium payable under it, or provide a copy of the **Policy** to any third party, except to the extent that they are required to by law or the **Underwriters** consent to such disclosure in writing.

k) **Service of Suit Clause (Australia)**
The **Underwriters** hereon agree that:

i. In the event of a dispute arising under this **Policy**, the **Underwriters**, at the request of the **Assured**, will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court.

ii. Any summons notice or process to be served upon the **Underwriters** may be served upon;

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

who has authority to accept service and to enter an appearance on the **Underwriters'** behalf, and who is directed at the request of the **Assured** to give a written undertaking to the **Assured** that he will enter an appearance on the **Underwriters'** behalf.

If a suit is instituted against any one of the **Underwriters**, all of the **Underwriters** hereon will abide by the final decision of such Court or any competent Appellate Court.

l) **General Insurance Code of Practice**
This Certificate is Insurance Council of Australia's General Insurance Code of Practice compliant, apart from any Claims adjusted outside Australia. Underwriters at Lloyd's proudly support the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry.
Any enquiry or complaint relating to this Policy should be referred to the Coverholder shown above in the first instance. If this does not resolve the matter or you are not satisfied with the way a complaint has been dealt with, you should write to Lloyd's Underwriters' General Representative in Australia:

Suite 2, Level 21,
Angel Place, 123 Pitt Street,
Sydney, NSW 2000,

who will refer your dispute to the Complaints Department at Lloyd's. Complaints that cannot be resolved by the Complaints Department may be referred to the Financial Ombudsman Service (UK). Further details will be provided at the appropriate stage of the complaints process.