



# LLOYD'S

## Public Liability Insurance Policy Wording

In consideration of the payment to US of the premium and in reliance on the written proposal, declaration and any other underwriting information provided, which shall be deemed to be incorporated into and to be the basis of this POLICY, WE will indemnify the INSURED as follows.

### 1. INSURING CLAUSES

#### 1. Public and Products Liability

Subject to the POLICY terms, WE will indemnify the INSURED for all sums that the INSURED shall become legally liable to pay as DAMAGES in respect of PERSONAL INJURY or PROPERTY DAMAGE happening during the INSURANCE PERIOD within the TERRITORY and caused by an OCCURRENCE in connection with the BUSINESS OF THE INSURED.

#### 2. Indemnity Limit

OUR maximum liability in respect of any claim, or any series of claims, arising out of one OCCURRENCE, or in the aggregate during the INSURANCE PERIOD in respect of an OCCURRENCE involving the INSURED'S PRODUCTS, shall not exceed the INDEMNITY LIMIT stated in the SCHEDULE, or the sub-limit in any applicable Automatic Coverage Clause.

All PERSONAL INJURY or PROPERTY DAMAGE in respect of continuous or repeated exposure to substantially the same general conditions shall be construed as arising out of one OCCURRENCE. Provided that:

2.1 immediately that WE have paid the INDEMNITY LIMIT in respect of any judgement or settlement, OUR liability in relation to DEFENCE COSTS shall cease;

2.2 if a payment exceeding the INDEMNITY LIMIT has to be made to dispose of a claim, OUR liability in relation to DEFENCE COSTS shall be limited to the same proportion as

the INDEMNITY LIMIT bears to the amount required to dispose of the claim

#### 3. Defence Costs

In addition to the applicable INDEMNITY LIMIT or sub-limit, WE will pay DEFENCE COSTS necessarily and reasonably incurred in relation to a claim against the INSURED for which there is cover under this POLICY (irrespective of whether or not the INSURED is found legally liable). Subject always to maximum amount payable being the limit stated in the SCHEDULE.

#### 4. Deductible

The amount shown in the SCHEDULE, or in any applicable Automatic Coverage Clause, as the DEDUCTIBLE, shall be borne by the INSURED in respect of each and every claim, or series of claims arising out of one OCCURRENCE.

### 2. AUTOMATIC COVERAGE CLAUSES

The Automatic Coverage Clauses are subject to the Insuring Clauses and all other POLICY terms and conditions.

The following sub-limits are included in, are not in addition to and may be less than the INDEMNITY LIMIT in the SCHEDULE.

#### 1. Business Advice or Service

Notwithstanding Exclusion 19 (Professional Liability), WE will indemnify the INSURED in respect of PERSONAL INJURY or PROPERTY DAMAGE arising out of an error or omission in:

1.1 advice or services rendered by the INSURED without charge;

1.2 professional medical advice by MEDICAL PERSONS employed by the INSURED to provide first aid and other medical services on the INSURED'S premises. Provided that:

1.3 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and

1.4 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

#### 2. Goods On Hook

WE will indemnify the INSURED for all sums which the INSURED shall become legally liable to pay for Damage to property being lifted or lowered or moved or carried by any crane(s) owned, hired, or otherwise the responsibility of the INSURED;

Provided that:

2.1 for the purpose of this Automatic Coverage Clause "Damage" means: physical injury to or destruction of tangible property which occurs during the INSURANCE PERIOD;

2.2 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and

2.3 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

#### 3. Innkeepers Liability

WE will indemnify the INSURED for all sums which the INSURED shall become legally liable to pay as DAMAGES as provided for under the Innkeeper's Act 1962 and any amendments thereafter;

Provided that:

3.1 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and

3.2 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

#### 4. Landlord's Liability

WE will indemnify the INSURED in respect of PERSONAL INJURY or PROPERTY DAMAGE arising from the INSURED'S legal ownership, but not physical occupation, of any premises.



Coverholder at

LLOYD'S

## 5. Lost or Stolen Keys

WE will indemnify the INSURED for costs reasonably and necessarily incurred in altering or replacing locks and their keys or combinations where keys or combinations giving access to properties, for which the INSURED is responsible but doesn't own, hire, lease or rent, are lost, stolen or believed on reasonable grounds to have been duplicated without proper authority;

Provided that:

- 5.1 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and
- 5.2 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

## 6. Mechanical Plant Liability

Notwithstanding Exclusion 24 (Vehicles), WE will indemnify the INSURED in respect of PERSONAL INJURY or PROPERTY DAMAGE:

- 6.1 arising from loading or unloading any VEHICLE used by or on behalf of the INSURED but not in the INSURED'S care, custody or control;
- 6.2 arising from any VEHICLE while it is being operated for its specialised function or purpose, and not as a VEHICLE;
- 6.3 relating to the operation or ownership of a car-park so as to cause damage to VEHICLES within it (other than to VEHICLES belonging to, or used by or on behalf of the INSURED);
- 6.4 relating to any bridge, viaduct, weigh bridge, road or anything beneath the VEHICLE caused by vibration or by the weight of any VEHICLE and/or its load;

Provided that:

- 6.5 any designated weight restrictions were not exceeded;
- 6.6 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and
- 6.7 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

## 7. Product Withdrawal Costs

Notwithstanding Exclusion 26 (Withdrawal or Repair of Products), WE will indemnify the INSURED for up to 80% of those costs reasonably incurred in the withdrawal or recall from use in New Zealand of the INSURED'S PRODUCTS which have the same defect as a product that has already given rise to a claim in respect of which the INSURED is entitled to indemnity under Insuring Clause 1 (Public and Products Liability).

Provided that:

- 7.1 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and
- 7.2 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

## 8. Property in Care Custody or Control

Notwithstanding Exclusion 20 (Property Owned), but subject to Exclusion 7 (Defective Materials, Design & Workmanship), WE will indemnify the INSURED in respect of PROPERTY DAMAGE to property, including employees' property, where the liability arises while the property is in the care, custody or control of the INSURED;

Provided that:

- 8.1 real property, property owned by or premises leased or rented to or by the INSURED is excluded;
- 8.2 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and
- 8.3 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

## 9. Punitive or Exemplary Damages

Notwithstanding Exclusion 10 (Fines, Penalties, etc) and Definition 3 (Damages), WE will indemnify the INSURED in respect of punitive or exemplary damages awarded for PERSONAL INJURY in New Zealand;

Provided that:

- 9.1 any liability arising from trespass to the person, assault, battery, false imprisonment, malicious prosecution, sexual harassment or sexual abuse is excluded;
- 9.2 any award of punitive or exemplary damages by any Court outside New Zealand is excluded;
- 9.3 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and
- 9.4 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE. **10. Tenant's Liability**

Notwithstanding Exclusion 20 (Property Owned), WE will indemnify the INSURED in respect of PROPERTY DAMAGE to premises (including landlord's fixtures and fittings) leased or rented, but not owned, by the INSURED.

## 11. Underground Services

WE will indemnify the INSURED in respect of PERSONAL INJURY or PROPERTY DAMAGE in New Zealand to existing underground services, cables, pipes or equipment;

Provided that:

- 11.1 prior to the commencement of any work, the INSURED inquired of the relevant authority, corporation or company as to the location of such services;
- 11.2 the INSURED took all reasonable precautions to prevent PERSONAL INJURY or PROPERTY DAMAGE;
- 11.3 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and

11.4 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

## 12. Vehicle and Watercraft Service / Repair Liability

Notwithstanding Exclusions 20 (Property Owned) and 24 (Vehicles), WE will indemnify the INSURED in respect of PERSONAL INJURY or PROPERTY DAMAGE in New Zealand arising from the service or repair by the INSURED of any VEHICLE, and/or WATERCRAFT not exceeding 10 metres in length, and/or its internal combustion engine, accessories or fittings;

Provided that:

- 12.1 the VEHICLE or WATERCRAFT is not owned, hired, leased, or rented by the INSURED, and is in the care, custody or control of the INSURED for the purposes of the service or repair;
- 12.2 the cost of rectifying defective workmanship in respect of the actual part or parts worked on is excluded;
- 12.3 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and
- 12.4 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the SCHEDULE.

## 13. Vibration and Removal of Support

WE will indemnify the INSURED in respect of PERSONAL INJURY or PROPERTY DAMAGE in New Zealand arising from vibration, or removing, weakening or interfering with, the support of land or buildings;

Provided that:

- 13.1 the land or buildings are not owned or occupied by the INSURED;
- 13.2 the PERSONAL INJURY or PROPERTY DAMAGE arises from the actions of the INSURED;
- 13.3 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the SCHEDULE as the sub-limit; and
- 13.4 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the Schedule

**14. Visits to Countries Outside** the Policy Territory Notwithstanding Exclusions 14 (North American Countries) and 15 (North American Exports), and the TERRITORY referred to in Insuring Clause 1 (Public and Products Liability), WE will indemnify the INSURED in respect of PERSONAL INJURY or PROPERTY DAMAGE in any country outside of the TERRITORY arising solely out of the actions of non-resident directors, executives and salespersons temporarily visiting these countries in the course of the BUSINESS OF THE INSURED;

Provided that:

- 14.1 the INSURED has no premises, branch or subsidiary operation in the country being visited;
- 14.2 any work performed in, on, or in connection with, the manufacture, assembly, repair, servicing, maintenance, amendment, alteration or enhancement to any of the INSURED'S PRODUCTS is excluded;
- 14.3 the ownership, possession, control, or maintenance or use of any VEHICLE or WATERCRAFT is excluded;
- 14.4 the INDEMNITY LIMIT, inclusive of DEFENCE COSTS, any one INSURANCE PERIOD shall be the INDEMNITY LIMIT in the SCHEDULE for visits to the NORTH AMERICAN COUNTRIES.

### 15. Warrant of Fitness

WE will indemnify the INSURED for all sums that the INSURED shall become legally liable to pay as DAMAGES in respect of claims made against the INSURED during the INSURANCE PERIOD and arising out of a negligent act, error or omission, in connection with the Business, by any licensed, qualified vehicle certifier employed by the INSURED;

Provided that:

- 15.1 For the purpose of this Automatic Coverage Clause the "Business" means:
  - (a) the inspection and certification of VEHICLES for the issuing of a warrant of fitness or other inspection certificate as may be required by law; and (b) 'pre-purchase' or vehicle appraisal services.
- 15.2 the maximum amount payable under this Automatic Coverage Clause is the amount specified in the Schedule as the sub-limit;
- 15.3 the DEDUCTIBLE applicable to this Automatic Coverage Clause is the amount specified in the Schedule;
- 15.4 the coverage under this Automatic Coverage Clause does not extend to include the valuation of any vehicle, motorcycle, watercraft, motor and / or accessory of any type whatsoever;
- 15.5 it is warranted that the INSURED and their employees are licensed and qualified to issue warrant of fitness or other inspection certificates as may be required by law.

## 3. DEFINITIONS

In this POLICY, including any endorsements, unless specifically stated to the contrary:

- 1. Aircraft** means any machine, craft or thing made or intended to fly or move in or through the atmosphere or space.
- 2. Business of the Insured** means:
  - 2.1 The business stated in the SCHEDULE, which shall include:
    - (a) the provision and management of lunch room facilities, social, sports, welfare and similar organisations for the benefit of the INSURED'S employees;

- (b) Fire Brigade, first aid, medical and ambulance services.
- 2.2 Any other activity that the INSURED may undertake provided that the INSURED gives prior written notice to US and obtains OUR acknowledgement of coverage within 60 days of any new activity commencing.
- 3. Damages** means any amount payable as compensation, including interest.
- 4. Deductible** means the amounts specified in the SCHEDULE.
- 5. Defence Costs** means:
  - 5.1 Any legal costs, disbursements, witnesses costs, assessors or adjusters costs or experts costs incurred by US, or by the INSURED with OUR prior written consent;
  - 5.2 Any first aid expenses incurred by the INSURED arising from a PERSONAL INJURY.
- 6. Indemnity Limit** means the amount specified in the SCHEDULE.
- 7. Insurance Period** means the period specified in the SCHEDULE.
- 8. Insured** means:
  - 8.1 The INSURED(S) named in the SCHEDULE.
  - 8.2 All subsidiaries incorporated in New Zealand, and any other organisation under the sole control of a named INSURED and which it actively manages:
    - (a) as at the commencement of the INSURANCE PERIOD;
    - (b) acquired or taken control of during the INSURANCE PERIOD, provided that a named INSURED gives written notice to US and obtains OUR acknowledgement of coverage within 60 days of acquisition or taking control.
  - 8.3 Every director, officer, employee, partner or shareholder of an INSURED designated in paragraphs 8.1 and 8.2 whilst acting within the scope of their duties as such, except in respect of any liability under the Companies Act.
  - 8.4 Every principal, in respect of its vicarious liability arising solely out of the performance, by an INSURED as defined under paragraph 8.1, 8.2 or 8.3, of any contract of work for such principal, but always subject to the terms of this POLICY.
  - 8.5 Every office bearer or member of social and sporting clubs formed with the consent of the INSURED (other than an INSURED designated in paragraph 8.4 or 8.6) in respect of claims arising from the duties connected with the activities of any such club.
  - 8.6 Each joint venture, co-venture or joint lessee of a named INSURED but only with respect to liability incurred as a joint venture, co-venture or joint lessee, provided that a named INSURED gives written notice to US and obtains OUR written acknowledgement of coverage for such joint venture, co-venture or joint lease.
- 9. Insured's Products** means any goods, products, including labels, instructions for use and advice and property after they have ceased to be in the possession of or under

the control of the INSURED, manufactured, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed by the INSURED (including any container, other than a VEHICLE).

- 10. Medical Persons** means any legally qualified medical practitioner, legally qualified registered nurse, dentist or first aid attendant.
- 11. North American Countries** means the United States of America and Canada, including those territories to which the legal jurisdiction of the United States of America or Canada extends or applies.
- 12. Occurrence** means an event, including continuous or repeated exposure to substantially the same general conditions, which results in PERSONAL INJURY or PROPERTY DAMAGE that is neither expected nor intended from the standpoint of the INSURED.
- 13. Personal Injury** means:
  - 13.1 Bodily injury (including resulting death, illness or care), disability, shock, fright, mental anguish or mental injury;
  - 13.2 false arrest, wrongful detention, false imprisonment or malicious prosecution or humiliation;
  - 13.3 wrongful entry or eviction or other invasion of the right of privacy;
  - 13.4 assault and battery, provided that this was not committed by or at the direction of the INSURED except for the purpose of preventing or eliminating danger to persons or property;
  - 13.5 trespass to the person;
  - 13.6 defamation.
- 14. Policy** means this document, the SCHEDULE and any endorsements issued by US.
- 15. Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.
- 16. Property Damage** means:
  - 16.1 physical injury to or destruction or loss of tangible property including resulting loss of use, or;
  - 16.2 loss of use of tangible property which has not been physically injured or destroyed.
- 17. Schedule** means the Schedule issued by US.
- 18. Territory** means worldwide, unless otherwise stated in the SCHEDULE, and subject to Exclusions 14 (North American Countries) and 15 (North American Exports), and the limitations to New Zealand only in Automatic Coverage Clauses 8 (Product Withdrawal Costs), 10 (Punitive or Exemplary Damages), 12 (Underground Services), 13 (Vehicle and Watercraft Service / Repair Liability) and 14 (Vibration and Removal of Support).
- 19. Vehicle** means any type of machine on wheels or on self-laid tracks made or intended

to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine, and includes its accessories, tools, specialised equipment and spare parts.

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

**21. We/Us/Our/Ourselves** means certain Underwriters at Lloyd's.

## 4. EXCLUSIONS

WE shall not indemnify the INSURED for any claim in respect of or alleging:

### 1. Aircraft and Watercraft

PERSONAL INJURY or PROPERTY DAMAGE arising out of the ownership, possession, control, operation, use, service or repair, loading or unloading by the INSURED of any:

- 1.1 aircraft or hovercraft;
- 1.2 watercraft exceeding 10 metres in length.

### 2. Aircraft Products

PERSONAL INJURY or PROPERTY DAMAGE arising out of any of the INSURED'S PRODUCTS which, with the INSURED'S knowledge were, or were intended to be, incorporated into the structure, machinery or controls of any AIRCRAFT or aerial device.

### 3. Asbestos

Any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by asbestos in whatever form or quantity.

### 4. Building Defects Exclusion

PERSONAL INJURY or PROPERTY DAMAGE arising out of:

- 4.1 the failure or alleged failure of any building or structure to meet or conform to the requirements of the New Zealand Building Code contained in the First Schedule of the Building Regulations 1992 or any applicable New Zealand Standard (or amended or substituted Regulation or Standard) in relation to leaks, water penetration, weatherproofing, moisture, or any effective water exit or control system; or
- 4.2 Mould, fungi, mildew, rot, decay, gradual deterioration, micro-organisms, bacteria, protozoa or any similar or like forms, in any building or structure.

### 5. Contractual Liability

Liability arising from the actions of contractors engaged by the INSURED or Liability assumed by the INSURED under any contract or agreement except to the extent that the INSURED would have been liable even if there had been no contract in existence.

But this Exclusion shall not apply to liability pursuant to any:

- 5.1 lease or hire of real or personal property;
- 5.2 representation or warranty of fitness or quality in respect of the INSURED'S PRODUCTS, or a representation or warranty that work performed by or on behalf of the INSURED will be done in a workmanlike manner;
- 5.3 contracts or agreements specified in the SCHEDULE or agreed to by US in writing.

### 6. Defamation

- 6.1 where a statement is made at the INSURED'S direction knowing of its defamatory nature;
- 6.2 which results from or is related to advertising, broadcasting or telecasting activities by or on behalf of the INSURED.

### 7. Defective Materials, Design & Workmanship Liability for the cost of:

- 7.1 rectifying, repairing or replacing defective materials;
- 7.2 remedying any defect in any design, plan or specification;
- 7.3 remedying defective workmanship;
- 7.4 correcting or improving any work undertaken by the INSURED.

### 8. E-Commerce

8.1 PERSONAL INJURY or PROPERTY DAMAGE arising, directly or indirectly, out of, or in any way involving the INSURED'S "Internet Operations". This Exclusion does not apply to PERSONAL INJURY or PROPERTY DAMAGE arising out of any material which is already in print by the manufacturer in support of its product, including but not limited to product use and safety instructions or warnings, and which is also reproduced on its site. For the purposes of this Exclusion "Internet Operations" means the following:

- (a) use of electronic mail systems by the INSURED or the INSURED'S employees, including part-time and temporary staff, contractors and others within the INSURED'S organisation;
- (b) accessthroughtheINSURED'Snetworkto the world wide web or a public internet site by the INSURED'S employees, including part-time and temporary staff, contractors and others within the INSURED'S organisation;
- (c) accesstotheINSURED'Sintranet(meaning internal company information and computing resources) which is made available through the world wide web for customers of the INSURED or others outside the INSURED'S organisation; and
- (d) the operation and maintenance of the INSURED'S website. Nothing in this Exclusion shall be construed to extend coverage under this POLICY to any liability which would not have been covered in the absence of this Exclusion.

8.2 PROPERTY DAMAGE to computer data or programs and their storage media arising directly or indirectly out of or caused by, through or in connection with:

- (a) the use of any computer hardware or software;
- (b) the provision of computer or telecommunication services by the INSURED or on the INSURED'S behalf;
- (c) the use of computer hardware or software belonging to any third party, whether authorised or unauthorised including damage caused by any computer virus.

### 9. Failure to Insure

Any breach of an obligation to insure property.

### 10. Fines, Penalties, etc

Liability arising for any fines, penalty, performance warranty or liquidated damages, punitive and/or exemplary damages.

### 11. Insured's Products

PROPERTY DAMAGE to the INSURED'S PRODUCTS.

### 12. Jurisdiction

Any claim:

- 12.1 first brought against the INSURED in any country outside of the countries specified in the SCHEDULE under Jurisdiction.
- 12.2 brought in a Court of Law within the jurisdiction of the countries specified in the SCHEDULE to enforce a judgement of a Court of Law outside the jurisdiction of the countries specified in the SCHEDULE whether by way of reciprocal agreement or otherwise; or
- 12.3 in which proper law to be applied to the issuers or any of them is that of a country other than the countries specified in the SCHEDULE.

### 13. Loss of Use

Loss of use of tangible property which has not been physically damaged or destroyed resulting from:

- 13.1 a delay in or lack of performance by or on behalf of the INSURED of any contractor agreement; or
- 13.2 the failure of the INSURED'S PRODUCTS to meet the level of performance, quality, fitness or durability that has been warranted or represented expressly or impliedly by the INSURED.

### 14. North American Countries

PERSONAL INJURY or PROPERTY DAMAGE happening in or instituted against the INSURED in the NORTH AMERICAN COUNTRIES, including any liability from or based on a settlement or arbitration in, or a judgement or order of a court in the NORTH AMERICAN COUNTRIES.

### 15. North American Exports

Liability arising from any of the INSURED'S PRODUCTS knowingly exported by the INSURED (or exported by the INSURED'S agents or distributors with the INSURED'S knowledge) to the NORTH AMERICAN COUNTRIES, including any liability arising from or based on a settlement or arbitration in, or a judgement or order of a court in the NORTH AMERICAN COUNTRIES.

## 16. Offshore Gas or Oil Platforms

Liability arising from work performed on or about any offshore gas or oil platform.

## 17. Personal Injury to Employees

17.1 PERSONAL INJURY arising directly or indirectly out of or in the course of employment with the INSURED;

17.2 An obligation on the INSURED under any accident or workers compensation legislation or any industrial award, employment contract, agreement or determination.

## 18. Pollution

PERSONAL INJURY or PROPERTY DAMAGE, including costs and expenses incurred in the prevention, removing, nullifying or clean-up, arising out of the discharge, dispersal, release or escape of POLLUTANTS into or on land, the atmosphere, or any watercourse or body of water, unless the discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended from the standpoint of the INSURED and takes place in its entirety at a specific time and place.

## 19. Professional Liability

An error or omission in professional advice or service.

## 20. Property Owned

PROPERTY DAMAGE to any property owned by, or in the care, custody or control of the INSURED.

## 21. Radioactivity

PERSONAL INJURY or PROPERTY DAMAGE directly or indirectly caused by, contributed to or arising from:

21.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this Exclusion only combustion shall include any self-sustaining process of nuclear fission;

21.2 nuclear weapons material.

## 22. Sanctions Limitation and Exclusion Clause

any claim or any benefit to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose US to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

## 23. Terrorism

Loss, damage, death, injury, illness, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss. For the purpose of this Exclusion an "Act of Terrorism" means an act, including but not limited to the use of force or violence and/or threat, 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, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This POLICY also excludes loss, damage, death, injury, illness, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

## 24. Vehicles

PERSONAL INJURY or PROPERTY DAMAGE arising out of the ownership, possession, repair, operation, control, maintenance or use by or on behalf of the INSURED of any VEHICLE except where indemnity is granted by the following Automatic Coverage Clauses in Section 2 of this policy: 6 Mechanical Plant Liability, and 12 Vehicle and Watercraft Service/Repair Liability, and 15 Warrant of Fitness, but in no circumstances shall indemnity be provided for liability arising from the use of or driving of any VEHICLE which is:

24.1 required by legislation to be registered and/or licensed and/or insured, and/or

24.2 being operated while in an unsafe condition, and/or

24.3 being operated by any person who is under the influence of any alcoholic liquor or who has taken any intoxicating substance or drug, and/or

24.4 is being driven by or in the charge of any person who is not legally allowed to drive in New Zealand, and/or

24.5 being driven by or in the charge of any person who is not driving according to the conditions of his or her driver licence, and/or

24.6 insured, or in respect of which the INSURED is insured under any other policy, even if the other insurance is not collectable because of a breach of condition or applicable exclusion.

## 25. War

Any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, or expropriation including lawful seizure, resumption, confiscation, nationalisation, destruction or PROPERTY DAMAGE by or under the order of any Government or public or local authority.

## 26. Withdrawal or Repair of Products

The recall (including making any refund on the price paid), repair, withdrawal, inspection, removal, altering, treating, modification, replacement or loss of use of the INSURED'S PRODUCTS or any property of which such products form a part, or of work undertaken by or for the INSURED, if such products, property or work are withdrawn from the market or from use, because of any defect or deficiency which the INSURED knew or has reason to suspect or because of any Government or statutory ban, order or notice.

## 5. CONDITIONS

### 1. Cancellation

1.1 The INSURED may cancel this POLICY at any time by giving notice to US. WE shall refund to the INSURED the amount of the unexpired premium already paid on a pro rata basis, less 15% cancellation costs, subject to any minimum premium applicable.

1.2 WE may cancel this POLICY by sending at least 30 days' notice to the INSURED in accordance with Conditions 13.2 and 13.3. WE will refund the amount of any unexpired premium already paid on a pro rate basis.

### 2. Claims

2.1 The INSURED shall not (without the prior consent in writing of OURSELVES) make any admission, offer, promise or payment in connection with any OCCURRENCE or claim. WE shall be entitled to take over and conduct in the name of the INSURED the defence or settlement of any claim, and the prosecution of any available counterclaim. WE shall have full discretion in the conduct of any proceedings in connection with any claim or available counterclaim.

2.2 The INSURED shall use its best endeavours to preserve all property, products, appliances and plant and all other things which may assist in the investigation or defence of a claim or in the exercise of rights of subrogation and so far, as may be reasonably practicable no alteration or repair shall be effected without the written consent of OURSELVES until WE shall have had an opportunity of inspection and authorised such repairs.

2.3 In the event of an OCCURRENCE, or the likelihood of an OCCURRENCE, the INSURED shall promptly take at its own expense all reasonable steps to prevent PERSONAL INJURY or PROPERTY DAMAGE from arising or continuing out of the same or similar conditions, but such expense shall not be recoverable from US.

2.4 The INSURED shall give all information, co-operation and assistance as US may require in the prosecution, defence or settlement of any claim, including any available counterclaim.

### 3. Claims Notification

The INSURED shall advise US in writing as soon as practicable and provide all information to US of any:

3.1 OCCURRENCE or circumstances, which might give rise to a claim under this POLICY;

3.2 notice of claim, writ, summons, proceedings, impending prosecution or inquest which might give rise to a claim under this POLICY; Regardless of whether the INSURED believes that:

(a) a claim will not in fact proceed;

(b) any claim which, should it proceed, would fall below the applicable DEDUCTIBLE;

(c) any claim which, should it proceed, would be groundless.

3.3 Notice of any CLAIM or loss shall be given to US in writing via:

- (i) Your insurance broker (email or letter); or
- (ii) The Sage Partners Ltd office for for the attention of the Claims Manager.

#### 4. Complaints Procedures

Any enquiry or complaint relating to this POLICY should be referred to US 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 General Representative in New Zealand, c/o Hazelton Law, Level 3, 101 Molesworth Street, PO Box 5639, Wellington, New Zealand.

For the purpose of this clause only "You" means the INSURED.

#### 5. Conditions Precedent

Compliance by or on behalf of the INSURED with Conditions 2 (Claims), 3 (Claims Notification), 8 (Discharge of Liabilities) and 11 (Inspection of Property) is a condition precedent to OUR liability to make any payment under this POLICY.

#### 6. Constructive Notice / No Waiver

- 6.1 Except as provided by statute, notice to any agent or broker or knowledge possessed by any agent, broker or other person shall not constitute notice to US.
- 6.2 The terms of this POLICY shall not be waived or changed, except by OUR written agreement.

#### 7. Cross Liability / Joint Insureds

If more than one legal entity is INSURED under this POLICY, each entity is covered in the same manner as though WE had issued them with a separate POLICY. If there is a claim against more than one entity in respect of the same OCCURRENCE, only one DEDUCTIBLE and one INDEMNITY LIMIT shall apply, regardless of the number of entities indemnified. Where the INDEMNITY LIMIT is insufficient to fully indemnify all INSURED entities, it will apply in priority to the named INSURED.

The coverage under this Condition does not apply to entities which are insured under this POLICY by Definition 8.4 or 8.6.

#### 8. Discharge of Liabilities

At any time, WE shall be entitled to pay to the INSURED the balance of indemnity available up to the applicable INDEMNITY LIMIT or such lesser sum for which the claim can be settled. Upon such payment, WE shall be under no further liability to the INSURED under this POLICY, except for DEFENCE COSTS already incurred up until the time of payment.

#### 9. Fraud

If any answers or statements in support of any claim, or in any information provided to obtain, amend or renew this insurance, are false in any way, WE shall not provide any indemnity to the INSURED under this POLICY.

#### 10. Government Goods & Services Tax

Where, on receiving any indemnity payment under this POLICY, the INSURED is liable to pay tax under section 5(13) of the Goods and Services Tax Act 1985 (or any substitute), WE will indemnify the INSURED for the cost of that tax. The indemnity under this clause is in addition to the applicable INDEMNITY LIMIT.

#### 11. Inspection of Property

WE shall be permitted, but not obligated to, inspect the INSURED'S property and operations at any reasonable time.

#### 12. Material Change

The INSURED shall give notice to US of any material change to any of the facts or circumstances existing at the commencement of the INSURANCE PERIOD and obtain OUR acknowledgement of coverage within 60 days of such material change. WE shall be entitled to charge an additional premium.

#### 13. Notices by Us

- 13.1 Any notice given in writing by US to the first named INSURED in the SCHEDULE, or to the broker through which the INSURED arranged this POLICY with US, shall be deemed to be notice to each INSURED;
- 13.2 Any notices by US may be effected by sending a letter to the last known contact address;
- 13.3 Any such notice shall be deemed to have been received seven business days after the date of posting.

#### 14. Other Insurance

If the INSURED is entitled to indemnity under any other insurance, this POLICY shall operate in excess of such other insurance, even if the other insurance policy has another insurance condition to similar effect.

#### 15. Policy Disputes

This POLICY shall be governed by the laws of New Zealand whose courts shall have jurisdiction in relation to any dispute.

#### 16. Subrogation

- 16.1 If WE make any payment under this POLICY to or on behalf of the INSURED, whether in respect of any judgment, settlement, DAMAGES or DEFENCE COSTS WE shall be subrogated to all the INSURED'S rights of recovery.
- 16.2 The INSURED shall execute all papers and do all that is necessary to assist US in the full exercise of such rights, including prosecuting proceedings in the name of the INSURED at OUR expense.
- 16.3 If the INSURED effects any recovery in respect of the claim, it shall account to US for the full amount received.

#### 17. Words

Words importing persons shall include companies and other legal entities. The singular includes reference to the plural and vice versa, and reference to any gender includes all other genders.

#### 18. Several Liability Notice

The subscribing Underwriters' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.