

S U R A SPECIALTY



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IMPORTANT INFORMATION

ABOUT SURA SPECIALTY

SURA Specialty Pty Ltd ABN 34 125 318 247 (SURA Specialty) has developed this Public and Products 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. SURA Specialty acts as an agent for the Insurer and not for You.

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:

Level 14/ 141 Walker Street
North Sydney, NSW 2060
PO Box 1813
North Sydney, NSW 2059

Telephone: 02 9930 9500

ABOUT THE INSURER

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 & Pools: 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.

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 Australian Financial Complaints Authority (AFCA). The AFCA 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.afca.org.au or contact them:

Australian Financial Complaints Authority

PO Box 3
Melbourne, VIC, 3001
Telephone: 1800 931 678
Email: info@afca.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.

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

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 will protect Your information using physical, technical, and administrative security measures to reduce the risks of loss, misuse, unauthorised access, disclosure and alteration. Some of the safeguards that We use are firewalls and data encryption, physical access controls to Our data centres, and information access authorisation controls.

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 where it is reasonably necessary for, or directly related to, the functions, services or activities we provide to you. When we transfer Your information to other countries, including countries which may not have data protection laws that provide the same level of protection that exists in Australia, We will protect the information as described in this Privacy Policy.

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.

We will notify you as soon as possible if Your personal information is involved in a data breach that is likely to result in serious harm to You.

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 will 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.

1. COVERAGE

1.1 WHAT WE COVER

Subject to the terms, exclusions, conditions, limitations, definitions and the Limit of Liability that apply to this Policy, We will pay to or on behalf of You all sums which You become legally liable to pay by way of compensation and all costs awarded against You in respect of:

- i. Personal Injury
- ii. Property Damage
- iii. Advertising Liability

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

1.2 DEFENCE COSTS

With respect to the cover provided by this Policy and in addition to the Limit of Liability, if We agree to cover You We will:

- 1.2.1 pay all Defence Costs;
- 1.2.2 pay expenses incurred by You for first aid to others at the time of Personal Injury caused by an Occurrence (other than medical expenses prohibited by Section 126 of the Health Insurance Act 1973);
- 1.2.3 pay all legal expenses incurred by You with Our prior written consent for Your representation:
 - (i) at any coroner's inquest or other fatal accident inquiry; or
 - (ii) in a court of summary jurisdiction or an indictment in a higher court, arising out of any alleged breach of a statutory duty resulting in Personal Injury and/or Property Damage which may be the subject of indemnity under this Policy.

Provided that:

- (iii) if a payment exceeding the Limit of Liability has to be made to dispose of a Claim, Our liability to pay Defence Costs and the expenses arising under this clause 1.2 will be limited to such proportion thereof as the Limit of Liability bears to the amount paid to dispose of the Claim;
- (iv) if the amount paid or incurred by Us for Defence Costs and the expenses arising under this clause 1.2 exceeds the share We are obliged to pay under (iii), You will upon demand pay Us the excess amount;
- (v) We will not be obliged to pay any Defence Costs and the expenses arising under this clause 1.2 after the Limit of Liability has been exhausted by payments of Claims, judgements and/or settlements.

2. LIMIT OF LIABILITY

- 2.1 Our maximum liability to pay compensation and all costs awarded against You in respect of all Personal Injury and/or Property Damage and/or Advertising Liability caused by or arising out of any one Occurrence will not exceed the Limit of Liability.
- 2.2 Notwithstanding clause 2.1, Our aggregate liability to pay compensation and all costs awarded against You in respect of all Personal Injury and/or Property Damage happening during the Period of Insurance caused by or arising out of Your Products will not exceed the Limit of Liability.
- 2.3 Provided further that Our liability to pay Defence Costs and all costs awarded against You in connection with Claims made and/or actions instituted within the United States of America or Canada and their respective territories and protectorates or any other territory coming within the jurisdiction of the courts of these countries, will be included within the Limit of Liability and will not be payable by Us in addition to the Limit of Liability.

3. DEDUCTIBLE

- 3.1 The amount of the Deductible is payable by You within 14 days of the date of notification by You of each Occurrence, unless We agree in writing to extend this period.
- 3.2 Should indemnity not apply in respect of any Occurrence, then We will return any Deductible paid by You in relation to such Occurrence.
- 3.3 Where We have elected to pay all or part of the Deductible in respect of any Occurrence, You will, within 14 days from the date of being notified of such payment, reimburse Us for such payment.

4. EXCLUSIONS

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

4.1 ADVERTISING LIABILITY

Advertising Liability caused by or resulting from:

- i. statements made at Your direction with the knowledge that such statements are false;
- ii. failure of performance of contract, but this exclusion will not apply to Claims for unauthorised appropriation of advertising ideas contrary to an implied contract;
- iii. any incorrect description of Your Products or services;
- iv. any mistake in the advertised price of Your Products or services;
- v. failure of Your Products or services to conform with advertised performance, quality, fitness or durability;
- vi. any Insured whose Business is advertising, broadcasting, publishing or telecasting.

4.2 AIRCRAFT

Personal Injury and/or Property Damage arising directly or indirectly out of or in connection with the ownership, possession, maintenance, repair, operation or use of any Aircraft or hovercraft by You or on Your behalf.

Provided that this exclusion 4.2 does not apply to Personal Injury and/or Property Damage caused by or arising out of the internal cleaning of any stationary Aircraft by You or on Your behalf, but only where such Aircraft are not owned, operated or used by You.

4.3 AIRCRAFT PRODUCTS

Personal Injury and/or Property Damage arising directly or indirectly out of or in connection with Your Products that are used with Your knowledge:

- i. as Aircraft component parts used for maintaining an Aircraft in flight or moving upon the ground;
- ii. for incorporation into the hull, controls or machinery of an Aircraft.

4.4 AIRCRAFT REFUELLING

Personal Injury and/or Property Damage caused by or arising out of the refuelling of Aircraft by You or on Your behalf.

4.5 ASBESTOS

- 4.5.1 Personal Injury arising directly or indirectly out of or in connection with any actual or alleged:
 - i. inhalation or ingestion of any asbestos fibre(s) or asbestos in any form whatsoever by any person(s);
 - ii. exposure or fear of exposure of any person(s) to asbestos fibre(s) or asbestos in any form whatsoever;
 - iii. presence or existence of asbestos fibre(s) or asbestos in any form whatsoever.
- 4.5.2 Property Damage arising directly or indirectly out of or in connection with:
 - i. any actual or alleged discharge, dispersal, release, seepage, migration, escape or movement of asbestos fibre(s) or asbestos in any form whatsoever into or upon land, the atmosphere or any water course or body of water;
 - ii. any actual or alleged exposure to asbestos fibre(s) or asbestos in any form whatsoever;
 - iii. any actual or alleged presence or existence of asbestos fibre(s) or asbestos in any form whatsoever;
 - iv. any of Your Products that contain asbestos fibre(s) or asbestos in any form whatsoever.

4.6 CONTRACTUAL LIABILITY

Any liability assumed by You under any contract or agreement except to the extent that such liability would have been implied by law in the absence of such contract or agreement. Provided that this exclusion 4.6 does not apply to:

- 4.6.1 liability assumed by You under any lease of real or personal property, other than any liability arising from Your failure to effect property insurance if required under such lease;
- 4.6.2 liability assumed by You under a warranty of fitness or quality as regards Your Products;
- 4.6.3 liability assumed by You under any contract (other than a lease of real or personal property) entered into by You that does not exceed a contract value of \$200,000;
- 4.6.4 those written contracts or agreements specified in the Schedule.

4.7 DEFAMATION

Any liability caused by or arising out of the publication of defamatory or disparaging material and/or the utterance of defamatory or disparaging statements:

- 4.7.1 made prior to the inception date of this Policy;
- 4.7.2 made by You or at Your direction with knowledge of the falsity or in deliberate disregard thereof;
- 4.7.3 made by any Insured whose Business is advertising, broadcasting, publishing or telecasting.

4.8 ELECTRONIC DATA AND/OR CYBER LIABILITY

4.8.1 Personal Injury and/or Property Damage and/or Advertising Liability caused by or arising out of:

- i. the communication, display, distribution or publication of Electronic Data, Provided that this exclusion does not apply to Personal Injury and/or Advertising Liability.
- ii. the total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data;
- iii. any error in creating, amending, entering, deleting or using Electronic Data;
- iv. the total or partial inability or failure to receive, send, access or use Electronic Data for any time at all;
- v. the receipt or transmission of Electronic Data that contains a computer virus or other malicious or damaging computer program or code;
- vi. any unauthorised interference with Electronic Data;
- vii. the access to or disclosure of any Electronic Data that includes any person's and/or organisation's confidential, personal or sensitive information, including but not limited to patents, trade secrets, processing methods, customer lists, financial information, credit card history, health information or any other type of non-public information.

4.9 EMPLOYERS LIABILITY

4.9.1 Personal Injury to any of Your workers or employees.

Provided that if You:

- i. are required by law to insure or otherwise fund, whether through self insurance, statutory fund or other statutory scheme, all or part of any common law liability (whether limited or not) for such Personal Injury; or
- ii. are not required to so insure or otherwise fund such common law liability by reason only that the Personal Injury is to a person who is not Your worker or employee within the meaning of the relevant workers'

compensation law or the Personal Injury is not a Personal Injury which is subject to such law;

then this exclusion 4.9.1 does not apply to the extent that Your liability would not be covered under any such fund, scheme, policy of insurance or self insurance arrangement had You complied with Your obligations pursuant to such law.

4.9.2 Any liability imposed:

- i. by any workers' compensation law to pay compensation to any person employed or deemed to be employed by You; or
- ii. by the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement in respect to any person employed or deemed to be employed by You.

4.10 EMPLOYMENT PRACTICE

Any liability in connection with any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination directly or indirectly related to the employment or prospective employment of any person by You or on Your behalf.

4.11 EXPORTS TO USA AND/OR CANADA

Personal Injury and/or Property Damage caused by or arising out of Your Products knowingly exported by You to the United States of America and/or Canada.

4.12 FINES, PENALTIES, LIQUIDATED DAMAGES, AGGRAVATED, PUNITIVE OR EXEMPLARY DAMAGES

4.12.1 Fines, penalties and/or liquidated damages;

4.12.2 Aggravated damages, punitive damages, exemplary damages and/or any additional damages resulting from the multiplication of compensatory damages. Except in respect of aggravated damages, punitive damages or exemplary damages awarded within the Commonwealth of Australia for defamation.

4.13 HIGH HAZARD PRODUCTS

Personal Injury and/or Property Damage arising directly or indirectly out of or in connection with:

- 4.13.1 any of Your Products that are Aircraft, hovercraft or fireworks;
- 4.13.2 any of Your Products that are:
 - i. veterinary products which are required to be prescribed and administered by a qualified veterinarian;
 - ii. ammunition, blasting explosives (other than fertiliser, fuel or ammonium nitrate) or detonators for explosives;
 - iii. medicines which are required to be prescribed by a registered medical practitioner;
 - iv. herbicides, insecticides, defoliant or stockfeed;
 - v. tobacco;
 - vi. blood and/or blood components as defined within the Therapeutic Goods Act 1989.

Provided that this exclusion 4.13.2 only applies to those goods or products that have been manufactured, imported or exported by You;
- 4.13.3 the manufacture, storage or use of fireworks by You;
- 4.13.4 the manufacture of ammunition, blasting explosives (other than fertiliser, fuel or ammonium nitrate), herbicides, insecticides or defoliant by You;
- 4.13.5 any of Your Products that are Vehicles (other than trailers).
Provided that this exclusion 4.13.5 only applies to Vehicles (other than trailers) that have been manufactured, imported or exported by You.

4.14 LOSS OF USE

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

- 4.14.1 a delay in or lack of performance by You or on Your behalf of any contract or agreement;
 - 4.14.2 the failure of Your Products to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by You.
- Provided that this exclusion 4.14.2 does not apply to the loss of use of other tangible property resulting from the sudden, unexpected and unintended physical damage to or destruction of Your Products after such Products have been put to use by any person or organisation other than You.

4.15 POLLUTION

- 4.15.1 Personal Injury and/or Property Damage caused by or arising out of the discharge, dispersal, release, seepage, migration or escape of Pollutants into or upon land, the atmosphere, or any water course or body of water.

Provided that this exclusion 4.15.1 does not apply if the discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended and takes place in its entirety at a specific time and place;
- 4.15.2 Any costs and expenses incurred in the removing, nullifying or clean-up of Pollutants.

Provided that this exclusion 4.15.2 does not apply to clean-up, removal or nullifying expenses only, which are consequent upon a sudden, identifiable, unexpected, unintended happening taking place in its entirety at a specific time and place which results in Personal Injury and/or Property Damage;
- 4.15.3 The actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants caused by any of Your Products that have been discarded, dumped, abandoned or thrown away by others.

4.16 PRODUCT DEFECT

Property Damage to Your Products if the damage is attributed to any defect in them or to their harmful nature or unsuitability.

4.17 PRODUCT RECALL, WITHDRAWAL, REMOVAL, REINSTALLATION, MODIFICATION, INSPECTION, REPAIR, REPLACEMENT, DISPOSAL OR LOSS OF USE

Liability for damages, costs or expenses for the recall, withdrawal, removal, reinstallation, modification, inspection, repair, replacement, disposal or loss of use of Your Products or of any property of which Your Products form a part, if such products or property are withdrawn from the market or from use because of any known or suspected defect, deficiency, inadequacy or dangerous condition in them.

4.18 PROFESSIONAL LIABILITY

Personal Injury and/or Property Damage caused by or arising out of the rendering of or failure to render professional advice or service by You or any error or omission connected therewith.

Provided that this exclusion 4.18 only applies where such professional advice or service is given for a fee and constitutes advice or service within the professional capacity of a accountant, auditor, architect, building or land surveyor, engineer, legal practitioner, medical practitioner or other health service provider, real estate agent, veterinary practitioner, or holder of an Australian financial services license including an authorised representative thereof.

4.19 PROPERTY IN PHYSICAL OR LEGAL CONTROL

Property Damage to:

- 4.19.1 property owned by You;
- 4.19.2 property leased or rented to You;
- 4.19.3 property in Your physical or legal control.

Provided that exclusions 4.19.2 and 4.19.3 do not apply to Property Damage to:

- i. premises or part of premises (including landlord's fixtures and fittings) which are leased or rented to You;
- ii. premises (including the contents of such premises) not owned by You or leased or rented to You but temporarily occupied by You for the purpose of carrying out work in connection with the Business;

- iii. any Vehicle (not belonging to or used by You) whilst such Vehicle is in a car park owned or operated by You, provided that You do not operate the car park for reward;
- iv. property of Your employees;
- v. any customer's Vehicle (not belonging to or leased or rented by You) whilst being driven by You in connection with the repair, maintenance or servicing of such Vehicle by You.

Provided that Our maximum liability under this clause v. to pay compensation and all costs awarded against You in respect of Property Damage caused by or arising out of any one Occurrence will not exceed \$200,000.

This clause v. does not provide indemnity in respect of Property Damage to any customer's Vehicle where the driver of any customer's Vehicle does not hold a current driving licence appropriate for the customer's Vehicle and/or where such driver is under the age of 25 years and/or where such driver has had their driving licence suspended or cancelled within the past three years;

- vi. any other property not specified within clauses i. to v. inclusive, which is in Your physical or legal control.

Provided that Our maximum liability under this clause vi. to pay compensation and all costs awarded against You in respect of Property Damage caused by or arising out of any one Occurrence shall not exceed \$200,000.

4.20 RADIOACTIVITY

Personal Injury and/or Property Damage arising directly or indirectly out of or in connection with:

- 4.20.1 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 4.20.1 only, "Combustion" shall include any self-sustaining process of nuclear fission;
- 4.20.2 the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof.

Provided that exclusions 4.20.1 and 4.20.2 do not apply to low level radioactive radiation, such as measurement and control technology used in the medical sector, and used away from the place where such are made or produced.

4.21 TERRITORIAL LIMITS

4.21.1 Claims made and/or actions instituted within the United States of America or Canada or any other territory coming within jurisdiction of the courts of the United States of America or Canada;

4.21.2 Claims and actions to which the laws of the United States of America or Canada apply.

Provided that exclusions 4.21.1 and 4.21.2 do not apply to such Claims and actions arising from the temporary presence outside Australia of any person who is normally resident in Australia and who is not performing any manual or supervisory work whatsoever whilst in the United States of America or Canada or any other territory coming within the jurisdiction of the courts of the United States of America or Canada.

4.22 TERRORISM

Personal Injury and/or Property Damage arising directly or indirectly out of or in connection with any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

4.22.1 any Act of Terrorism; or

4.22.2 any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

4.23 VEHICLES

Personal Injury and/or Property Damage caused by or arising out of any Vehicle that You own, use or operate:

4.23.1 which is registered or which is required under any legislation to be registered; or

4.23.2 in respect of which compulsory liability insurance or statutory indemnity is required by virtue of any legislation (whether or not that insurance is effected).

Provided that exclusions 4.23.1 and 4.23.2 do not apply to:

- i. Personal Injury where that compulsory liability insurance or statutory indemnity does not provide indemnity, and the reason or reasons why that compulsory liability insurance or statutory indemnity does not provide indemnity do not involve a breach by You of legislation relating to Vehicles; and/or
- ii. Property Damage caused by or arising out of the loading or unloading of goods or property to or from any stationary Vehicle;
- iii. Property Damage caused by or arising out of the delivery or collection of goods or property to or from any stationary Vehicle;
- iv. Property Damage caused by or arising out of the use

of any tool or plant forming part of or attached to or used in connection with any Vehicle (excluding whilst the Vehicle is being used to transport or cart goods or property, but not whilst the Vehicle is being used to lift and/or lower any goods or property);

- v. Property Damage (except for Property Damage to any customer's Vehicle) caused by or arising out of Your use of any customer's Vehicle (not belonging to or leased or rented by You) for the sole purpose of being test driven by You in connection with the repair, maintenance or servicing of such Vehicle by You.

Provided that Our maximum liability under this clause v. to pay compensation and all costs awarded against You in respect of Property Damage caused by or arising out of any one Occurrence shall not exceed \$250,000. This clause v. does not provide indemnity in respect of Property Damage where the driver of any customer's Vehicle does not hold a current driving licence appropriate for the customer's Vehicle and/ or where such driver is under the age of 25 years and/or where such driver has had their driving licence suspended or cancelled within the past three years;

- vi. the indemnity provided under clause v. of exclusion 4.19 of this Policy.

4.24 WAR

Personal Injury and/or Property Damage arising directly or indirectly out of or in connection with war, invasion, acts of foreign enemies, hostilities or war-like operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, confiscation or nationalisation or requisition or destruction or damage to property by or under the order of any government or public or local authority.

4.25 WATERCRAFT

Personal Injury and/or Property Damage caused by or arising out of:

4.25.1 any Watercraft that exceeds 10 meters in length that You own, use or operate;

Provided that this exclusion 4.25.1 does not apply to:

- i. Watercraft whilst being used by You for Business entertainment where such Watercraft are not owned or operated by You;
- ii. floating jetties and/or floating pontoons and/or pontoons and/or buoys.

4.25.2 any work performed by You or on Your behalf on or within any Watercraft that exceed 10 metres in length, but only in respect of any contract entered into by You for such work which exceeds a contract value of \$50,000.

4.26 WELDING

Personal Injury and/or Property Damage caused by or arising out of arc or flame cutting, flame heating, arc or gas welding, thermal or oxygen cutting or heating, grinding, the use of welding equipment or other related heat producing or spark producing operations, unless such activity is conducted in strict compliance with Australian Standard AS 1674.1-1997 (Safety in welding and allied processes, Part 1: Fire precautions) issued by Standards Australia, or with any replaced or amended version thereof.

4.27 WORKMANSHIP

The cost of performing, completing, correcting or improving any work undertaken by You.

5. DEFINITIONS

When used in this Policy, its Schedule and its Endorsements the following definitions apply. Where any word is defined every derivative of that word has a corresponding meaning. References to the singular also includes the plural and vice versa.

5.1 Advertising Liability means:

Advertising Liability arising out of one or more of the following in the Advertisement of Your Products or services:

- i. defamation;
- ii. infringement of copyright, trademark, title or slogan;
- iii. unfair competition, misappropriation of advertising ideas or style of doing business;
- iv. invasion of privacy committed or alleged to have been committed in any Advertisement and arising out of any advertising activities conducted by You or on Your behalf, in the course of carrying out Your Business.

For the purposes of the definition of "Advertising Liability", "Advertisement" means:

Any manner of communication given to the public including by way of any form of print media, publication, telecommunication, radio or television broadcast, electronic mail, internet, world wide web or exhibit.

5.2 Act of Terrorism means:

- i. an act which is deemed by the government of the country where such act occurred to be an Act of Terrorism; or
- ii. an act, including but not limited to the use of force or violence and/or 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, 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.

5.3 Aircraft means:

Any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space other than model aircraft.

5.4 Business means:

- 5.4.1 the Business specified in the Schedule;
- 5.4.2 the ownership of premises by You and/or the tenancy of premises by You in order to conduct Your Business specified in the Schedule;
- 5.4.3 the provision and management of canteens, social, sports and welfare organisations for the benefit of Your employees;
- 5.4.4 the provision by You of first aid, fire and ambulance services which are incidental to Your Business specified in the Schedule;
- 5.4.5 participation at any exhibitions or trade shows;
- 5.4.6 construction, demolition (excluding any use of explosives), alteration, addition, fit out, maintenance or repair of or to any buildings owned or leased by You and provided that the total cost of all work performed does not exceed \$2,000,000 during the Period of Insurance unless We agree in writing to amend this sum for any specific contract or project prior to such work commencing.

5.5 Claim means:

- 5.5.1 the receipt by You of any written or verbal notice of a demand for compensation made by a third party against You; or
- 5.5.2 any writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim or third or similar party notice served upon You.

5.6 Deductible means:

The Deductible specified in the Schedule, which is the amount that You must first bear in respect of any compensation and Defence Costs payable under this Policy in respect of each Occurrence.

5.7 Defence Costs means:

The costs incurred by Us in the investigation, defence, reporting or negotiation for settlement of any Claim or in anticipation of any potential Claim, and/or the reimbursement of the reasonable costs incurred by You (but excluding loss of earnings) in the defence of any Claim with Our written consent. Defence Costs do not include any costs of the party that is claiming against You.

5.8 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.

5.9 Limit of Liability means:

The applicable Limit of Liability specified in the Schedule and all relevant sub-limits as specified in this Policy.

5.10 Occurrence means:

- 5.10.1 an event, including continuous or repeated exposure to substantially the same general conditions; or
- 5.10.2 any event, or any series of events, consequent upon or attributable to one source or original cause shall be deemed to be one Occurrence;

which in either case results in Personal Injury and/or Property Damage and/or Advertising Liability, neither expected nor intended from Your standpoint.

For the purposes of this clause 5.10, Advertising Liability arising out of or in connection with the same injurious material and/or act (regardless of the frequency or repetition thereof, the number and kind of media used, or the number of claimants) shall be deemed to be one Occurrence.

5.11 Period of Insurance means:

The period specified in the Schedule.

5.12 Personal Injury means:

- 5.12.1 bodily injury (which expression includes death, disease or illness), disability, shock, fright, mental anguish or mental injury;
- 5.12.2 false arrest, wrongful detention, false imprisonment or malicious prosecution;
- 5.12.3 wrongful entry or eviction or other invasion of the right of privacy;
- 5.12.4 the publication of defamatory or disparaging material and/or the utterance of defamatory or disparaging material;
- 5.12.5 assault and battery not committed by You or at Your direction unless reasonably committed for the purpose of preventing or eliminating danger to persons or property.

5.13 Policy means:

This document and each Schedule or endorsement issued by Us in connection with this Policy.

5.14 Pollutants means:

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

5.15 Property Damage means:

- 5.15.1 physical damage to or loss or destruction of tangible property including any resulting loss of use of that tangible property;

- 5.15.2 loss of use of tangible property which has not been physically damaged or destroyed provided such loss of use is caused by physical damage to or destruction of other tangible property.

5.16 Schedule means:

Any Schedule, renewal Schedule or endorsement Schedule issued by Us in connection with this Policy for the applicable Period of Insurance.

5.17 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.

5.18 Watercraft means:

Any vessel, craft or thing made or intended to float on or in or travel on or through water.

5.19 We, Our, Us means:

SURA Specialty acting under a binder as an agent of certain Underwriters at Lloyd's.

5.20 You, Your, Yours, Insured means:

Each of the following is deemed to be an Insured under this Policy to the extent set forth:

- 5.20.1 the person(s), companies, organisations and/or any other entities specified in the Schedule as the named Insured;
- 5.20.2 all the subsidiary companies (now or hereafter constituted) of the named Insured specified in the Schedule, provided that their places of incorporation are within Australia or any Territory of Australia;
- 5.20.3 every director, executive officer, employee, partner, shareholder or voluntary worker of the named Insured specified in the Schedule or of a company designated in paragraph 5.20.2 above, but only whilst acting within the scope of their duties in such capacity;
- 5.20.4 every principal, in respect of the liability of such principal arising out of the performance by the named Insured specified in the Schedule or by a company designated in paragraph 5.20.2 above of any contract or agreement for the performance of work for such principal, to the extent required by such contract or agreement, but subject always to the indemnity provided by this Policy and the Limit of Liability;
- 5.20.5 every office bearer or member of social and sporting clubs, canteen and welfare organisations and first aid, fire and ambulance services formed with Your consent or by a company designated in paragraph 5.20.2 above (other than an Insured designated in paragraph 5.20.4 or 5.20.6) in respect of Claims arising from their duties connected with the activities of any such club, organisation or service;

5.20.6 each partner, joint venturer, co-venturer or joint lessee of the named Insured specified in the Schedule but only:

- i. with respect to liability incurred in connection with activities undertaken by or for the purpose of the partnership, joint venture, co-venture, joint lease and
- ii. provided the partnership, joint venture, co-venture, joint lease has been notified to Us within 60 days of formation and has been endorsed on the Schedule;

And subject always to the indemnity provided by this Policy and the Limit of Liability.

5.20.7 any director or senior executive of the named Insured specified in the Schedule or by a company designated in paragraph 5.20.2 above, in respect of private work undertaken by Your employees for such director or senior executive.

You, Your, Yours, Insured does not include the interest of any other person, company, organisation and/or any entity other than as described in 5.20.1 to 5.20.7 above.

5.21 Your Products means:

Any goods, products or property after they have ceased to be in Your possession or under Your control which are, or are deemed by law to have been manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, altered, repaired, serviced, treated, renovated, sold, supplied, distributed, imported or exported by You or on Your behalf including labels, packaging or any container thereof, the design, specification or formula of the goods, products or property and directions, instructions or advice given or omitted to be given in connection with such goods, products or property.

6. CONDITIONS

6.1 ADJUSTMENT OF PREMIUM

6.1.1 If the first or renewal premium for this Policy or any part thereof will have been calculated on estimates furnished by You, You will within 30 days after the expiry of each Period of Insurance furnish to Us such matters, particulars and information relevant to this Policy as We may reasonably require. The premium for the said period will thereupon be adjusted and any difference paid by or allowed to You as the case may be.

Provided that the adjusted premium will not be less than the minimum premium charged by Us;

6.1.2 You will keep a record of all matters, particulars and information requested by Us and will on reasonable notice, allow Us or Our nominee to inspect and make copies of such records.

6.2 CANCELLATION

6.2.1 You may cancel this Policy by giving Us notice in writing to that effect, provided that such cancellation will take effect from the date Your notice is received by Us or any other date if mutually agreed.

6.2.2 We may cancel this Policy in any of the circumstances set out in the Insurance Contracts Act 1984 (Cth).

6.2.3 After cancellation by You, We will refund to You the proportionate part of the premium applicable to the unexpired Period of Insurance.

6.2.4 After cancellation by Us, a refund of premium will be allowed pro rata to the unexpired Period of Insurance;

6.2.5 When the premium is subject to adjustment, cancellation will not affect Your obligation to supply to Us such information as is necessary to permit the premium adjustment to be calculated and to pay the amount of the adjustment applicable up to the date of cancellation.

6.3 CLAIMS

6.3.1 You will not, without Our consent in writing, make any admission, offer, promise, or payment in connection with any Occurrence or Claim and We if We so desire will be entitled to take over and conduct in Your name the defence or settlement of any Claim;

6.3.2 You will use Your 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 will be effected without Our consent until We will have had an opportunity of inspection;

6.3.3 We will be entitled to prosecute in Your name at Our expense and for Our benefit any claim for indemnity or damages or otherwise;

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

6.4 DISCHARGE OF LIABILITIES

We may at any time pay to You or on Your behalf for all Claims made against You for any one Occurrence:

6.4.1 the Limit of Liability, after deducting any amounts already paid as compensation; or

6.4.2 any lower amount for which the Claim or Claims may be settled.

Upon such payment We will relinquish conduct or control of and be under no further liability under this Policy in connection with such Claims or Defence Costs and the expenses arising under clause 1.2 of this Policy except for costs, charges and expenses that We agreed to pay prior to such payment.

6.5 DUE OBSERVANCE

If You fail to comply with any term, condition or provision of this Policy, We may refuse to indemnify You in relation to any Claim or make any payment pursuant to the terms of this Policy, but in any event Our rights will be subject to the provisions of Section 54 of the Insurance Contracts Act 1984 (Cth).

6.6 HEADINGS

The headings and titles of paragraphs in this Policy are included for descriptive purposes only and do not form part of this Policy for the purposes of its construction or interpretation, except for the headings contained in the "Definition" section of this Policy.

6.7 INSPECTION OF PROPERTY

- 6.7.1 We will be permitted but not obligated to inspect Your property and operations at any time;
- 6.7.2 Neither Our right to make, nor any failure to make, nor the making of any inspection, nor any report thereof, will be used by You or others in any action or proceeding involving Us;
- 6.7.3 We may examine and audit Your books and records at any time during the Period of Insurance and within three years thereafter but such examination and audit will be restricted to matters which in Our opinion are relevant to this Policy.

6.8 INSURANCE CONTRACTS ACT 1984

Nothing contained in this Policy will be construed to reduce or waive either Your or Our privileges, rights or remedies available under the Insurance Contracts Act 1984 (Cth).

6.9 JOINT INSURED

Where more than one party comprises the Insured each of the parties will be considered as a separate and distinct unit and the word "Insured" will 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 Our total liability as a consequence thereof does not exceed the Limit of Liability applicable to this Policy.

6.10 JURISDICTION

All disputes arising out of or under this Policy will be subject to determination by any Court of competent jurisdiction within Australia according to the law applicable to that jurisdiction.

6.11 NOTICES

Notice in writing will be given by You as soon as possible to Us of:

- 6.11.1 every Occurrence, Claim, impending prosecution, inquest and all information in relation thereto which may result in a claim under this Policy, whether or not You believe any liability that may incur in respect thereof may fall below the Deductible, if any, and
- 6.11.2 every change materially varying any of the facts or circumstances existing at the commencement of this Policy that will come to Your knowledge during the Period of Insurance.

Any notice given in writing by Us to the first named Insured in the Schedule will be deemed to be notice given to each of the parties comprising the Insured.

Service of notices by Us will be effective immediately on receipt by the first named Insured of a facsimile transmission sent from Us, or in the case of notices by post, three business days after having been posted by Us.

6.12 OTHER INSURANCE

As soon as is reasonably practical, but within 15 days after entering into any other contract of insurance, You will notify Us of, and will give Us full details of, any such other insurance which provides indemnity, in full or in part as provided for in this Policy.

6.13 PAYMENT OF PREMIUM

You will pay promptly to Us the premium, any adjustments of premium and other amounts charged for this Policy and any renewal, extension or endorsement to this Policy.

6.14 REASONABLE CARE

You will:

- 6.14.1 exercise reasonable care that only competent employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition;
- 6.14.2 take all reasonable precautions to
- i. prevent Personal Injury and/or Property Damage and/or Advertising Liability;
 - ii. prevent the manufacture, sale or supply of defective goods, products or property;
 - iii. comply and ensure that Your employees, servants and agents comply with all statutory obligations, by-laws or regulations imposed by all relevant Public Authorities for the:
 - a) safety of persons or property;
 - b) disposal of waste products;
 - c) handling, storage or use of inflammable liquids or substances, gases or toxic chemicals;
- 6.14.3 at Your own expense take reasonable action to trace, recall or modify any of Your Products containing any defect or deficiency of which You have knowledge or have reason to suspect, including (but not limited to) any of Your Products subject to governmental or statutory ban.

6.15 SUBROGATION

In the event of a payment under this Policy to You or on Your behalf We will, subject to the Insurance Contracts Act 1984, be subrogated to all Your rights of recovery against all persons and organisations and You will execute and deliver instruments and papers and do all that is necessary to assist Us in the exercise of such rights.

6.16 TERRITORIAL LIMITATIONS

This Policy applies World-Wide subject to exclusions 4.11 and 4.21.

6.17 WORDS - GENDER

6.17.1 Words importing persons will include corporations and other legal entities;

6.17.2 The singular includes references to the plural and vice versa and any gender includes reference to all other genders.

SURA Specialty Pty 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 Pty 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 Pty Ltd supports
positive initiatives for our
environment.

S U R A SPECIALTY

NSW

LEVEL 14, 141 WALKER STREET
NORTH SYDNEY NSW 2060
TELEPHONE. 02 9930 9500

TASMANIA

LEVEL 1, SUITE 6
175 COLLINS STREET
HOBART TAS 7000
TELEPHONE. 03 6231 7700

VICTORIA

LEVEL 9, 99 WILLIAM STREET
MELBOURNE VIC 3000
TELEPHONE. 03 8823 9400