

Market Organisers and Stallholders Public & Products Liability Insurance Australian Wording

Wording Document

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Important Information

Please read the following information

A. Your Duty of Disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance, and if so, on what terms.

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

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

- that diminishes the risk to be undertaken by the insurer;
- that is of common knowledge;
- that your insurer knows or, in the course of his business, ought to know;
- as to which compliance with your duty is waived by the insurer.

Non-disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim, or may cancel the contract.

If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning

B. Subrogation Agreements

Where another person would be liable to compensate you for any loss or damage otherwise covered by the insurance, but you have agreed with that person either before or after the loss or damage occurred

that you would not seek to recover any monies from that person, the Insurer will not cover you under the insurance for such loss or damage.

C. Privacy

Berkley Insurance Australia seeks at all times to comply with the Privacy Act 1988 and the Australian Privacy Principles therein. If we disclose personal information to you for any reason you must also act in accordance with and comply with the terms of the Privacy Act and the Australian Privacy Principles.

Purpose for collection of information

The information contained in this document and any other documents provided to us will be dealt with in accordance with our Privacy Policy.

Disclosure of Information that you provide to us

Berkley Insurance Australia will only use the information in accordance with the terms of the Privacy Policy. Without limiting the application of the Policy Berkley Insurance Australia may disclose personal information to other individuals or organisations in connection with your claim, including legal advisors, other parties, other lawyers, experts and witnesses, courts and tribunals and other organisations that need to be involved in the matter. By submitting your notification and continuing to deal with us you consent to Berkley Insurance Australia and these parties collecting, using and disclosing personal and sensitive information about you for these purposes. By signing the claim form you are consenting to the above.

You warrant to us that where you provide us with personal information that you have collected from other individuals:

- That the information has been collected in accordance with the Privacy Act 1988.
- That we are authorised to receive that information from you and to use it for the purpose of providing legal claims management services and advice.

- You, and the person who provided you with the information, are aware and have complied with the Privacy Act 1988 and have notified the person about whom the personal information is collected of the collection use and disclosure of such information.

By executing the claim form you are indemnifying Berkley Insurance Australia against any breach that arises directly or indirectly out of any act or omission of your part which does not accord with the conduct required under the Privacy Act 1988.

Direct Marketing

We do not disclose personal information that We collect to a third party for the purpose of allowing them to direct market their products and services unless You have given Us Your permission for Us to do this.

Cross Border

We will share Your personal information with the Berkley group of companies. Our data containing Your information is stored in our data centre using dedicated Berkley hardware and network. We may also use Saas, Cloud computing or other technologies from time to time and Your information may be stored outside Australia. We will not transfer personal information to a recipient in a foreign country unless We have appropriate protections in place as required by the relevant privacy laws. Your information will be stored on our data base for such period of time as required by law.

Renewal

Prior to Your Policy expiry We will inform You whether We intend to offer renewal of Your Policy and if so, on what terms and conditions. If We decide to offer renewal, You will receive a notice setting out the renewal terms, conditions and premium payable to renew the Policy. It is important to check the renewal terms before renewing Your Policy in order to check the Sums Insured reflecting Your Vehicle market values (less GST) are correct, the Excess(s), terms and conditions providing cover are sufficient and appropriate for Your insurance needs. During renewal, You still have to discharge Your Duty of Disclosure to Us.

Further information

If you would like further information, please review our full Privacy Policy on our website www.berkleyinaus.com.au or if you have any complaints or concerns over the protection of the information you have given to us or that we have collected from others, contact the National Head of Claims at the Sydney address listed below or alternatively send an email to australiacclaims@berkleyinaus.com.au.

Contact Details

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 Ph: 02 9275 8500
 Fax: 02 9261 2773
 Email: australia@berkleyinaus.com.au
 Web site: www.berkleyinaus.com.au

Contact Details

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Level 23, 31 Market Street Sydney NSW 2000 Ph: 02 9275 8500	Suite 5, Level 8 454 Collins Street Melbourne VIC 3000 Ph: 03 8319 4080	Level 7, 300 Ann Street Brisbane QLD 4000 Ph: 07 3220 9900	Suite 5, 531 Hay Street Subiaco WA 6008 Ph: 08 9380 8327	24 Divett Place Adelaide SA 5000 Ph: 08 8232 2767

Email: australia@berkleyinaus.com.au

Web site: www.berkleyinaus.com.au

Market Organisers & Stallholders Public & Products Liability Insurance Australian Wording

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Market Organisers & Stallholders Public & Products Liability Insurance Australian Wording

1. Policy Information

For information purposes only and does not form part of the policy.

This Policy has been prepared in accordance with your/your broker's instructions. Please read it carefully to ensure that it meets your requirements.

1.1 This Policy consists of:

- 1.1.1 the Insuring Clause which explains the basis on which the cover is provided;
- 1.1.2 the Schedule which shows who is the Insured, the Business being covered and other Policy particulars such as the Period of Insurance, the Limits of Indemnity and certain amounts for which the Insured may be responsible;
- 1.1.3 the General Policy Definitions;
- 1.1.4 Sections 1 and 2 of the Policy which give precise details of the cover being provided;
- 1.1.5 the General Policy Extensions which extend the cover provided within the individual Sections;
- 1.1.6 the General Policy Exceptions and General Policy Conditions which incorporate terms that apply to the whole Policy;

- 1.1.7 any Endorsement(s) which might apply to the Policy or individual Sections and which incorporate cover amendments, extensions, limitations and such like.

Immediate notice should be given to the Insurer of any changes which may affect the insurance provided by this Policy.

Alterations in the cover required after issue of the Policy will be confirmed by separate Endorsement(s) which you should file with the Policy. You should refer to these Endorsement(s) and the Policy to ascertain precise details of cover currently in force.

Your insurance broker will be able to provide any help or information that you might require.

2. Insuring Clause

In consideration of the Insured having agreed to pay the premium shown in the Schedule and on the basis of any information provided in connection with the Proposal the Insurer will indemnify the Insured on and subject to the terms (including without limitation the Conditions and the Exceptions) of this Policy against the events set out in the Sections operative (specified herein) and occurring in connection with the Business during the Period of Insurance or any subsequent period for which the Insurer agrees to accept payment of the Premium.

Each Section of the Policy the Schedule and any Endorsement(s) and the General Policy Definitions Conditions Exceptions and Extensions shall be read as one document.

Any word or expression given a specific meaning in

- 2.1** the Schedule any Policy Endorsement(s) or this Insuring Clause and the General Policy Definitions Conditions Exceptions and Extensions shall have the same meaning throughout the Policy;
- 2.2** an individual Section or any Section Endorsement(s) shall have only the same meaning throughout such Section or Section Endorsement(s).

The Proposal made by the Insured is the basis of and forms part of this Policy.

3. General Policy Definitions

Applicable to the whole Policy wherever these words appear starting with a capital letter.

3.1 Insured shall mean the person(s) or corporate body (ies) named as such in the Schedule of this Policy

3.2 Proposal shall mean any information provided by the Insured in the proposal form and/or in connection with this Policy and any declaration made in connection therewith

3.3 Business shall mean the Insured's business as described in the Schedule.

3.3.1

3.4 Employee shall mean

3.4.1 any person under a contract of service or apprenticeship with the Insured

3.4.2 any labour master or labour only sub-contractor or person supplied or employed by them

3.4.3 any self-employed person

3.4.4 any person under a contract of service or apprenticeship with another employer who is hired to or borrowed by the Insured

3.4.5 any person engaged under a work experience government training or similar scheme

while working for the Insured in connection with the Business

3.5 Bodily Injury shall mean

3.5.1 death illness or disease

3.5.2 physical or mental injury mental anguish or shock

but not defamation libel slander deceit or injurious falsehood discrimination harassment or advertising injury

3.6 Damage shall mean loss of or damage to

3.7 Property shall mean material and/or tangible property

3.8 Pollution or Contamination shall mean

3.8.1 the discharge dispersal release or escape of smoke vapours soot fumes acids alkalis toxic chemicals liquids or gases waste materials or other irritants contaminants or pollutants into or upon

buildings or structures or of water or land or the atmosphere and

3.8.2 all Damage to Property or Bodily Injury directly or indirectly caused by or arising from such pollution or contamination as described in a) above

3.9 Product Supplied shall mean any product or item (including containers packaging or labelling) sold supplied erected repaired altered treated installed processed manufactured tested serviced hired out stored transported or delivered by or through the Insured in the course of the Business in or from the Territorial Limits.

3.10 Territorial Limits shall mean the Commonwealth of Australia.

3.11 Excess shall mean the total amount payable by the Insured or any other person entitled to indemnity in respect of any Damage to Property arising out of any one occurrence or series of occurrences arising out of any one original source or cause before the Insurer shall be liable to make any payment.

If any payment made by the Insurer shall include the amount for which the Insured or any other person entitled to indemnity is responsible such amount shall be repaid to the Insurer forthwith.

3.12 Contractual Liability shall mean liability which attaches by virtue of a contract or agreement but only to the extent to which it would not have attached in the absence of such contract or agreement.

3.13 Compensation shall mean all sums which the Insured shall be legally liable to pay as compensation other than fines or penalties punitive exemplary or aggravated damages or any additional damages resulting from the multiplication of compensatory damages.

3.14 Principal shall mean any person employer firm company ministry or authority for whom the Insured is carrying out a contract or agreement for the performance of work.

- 3.15 Period of Insurance** shall mean the period specified in the Schedule and/or such other period(s) as may be agreed by the Insurer.
- 3.16 Limit of Indemnity** shall mean the limit as specified in the Schedule and is the maximum amount payable by the Insurer.
- 3.17 Act of Terrorism** means the actual or threatened
- 3.17.1 use of force or violence against persons or Property
 - 3.17.2 commission of an act dangerous to human life or Property or
 - 3.17.3 commission of an act that interferes with or disrupts an electronic or communication system undertaken by any person or group whether or not acting on behalf of or in connection with any organisation government power authority or military force when any of the following applies:
 - 3.17.4 the reasonably apparent intent or effect is to intimidate or coerce a government or business or to disrupt any segment of the economy
 - 3.17.5 the reasonably apparent intent or effect is to cause alarm fright fear of danger or apprehension of public safety in one or more distinct segments of the general public or to intimidate or coerce one or more such segments or
 - 3.17.6 the reasonably apparent intent or effect is to further political ideological religious or cultural objectives or to express support for (or opposition to) a philosophy ideology religion or culture
- 3.18 Policy** shall mean and include
- 3.18.1 all information provided to the Insurer as part of the Proposal for issuance renewal or amendment of or to the insurance set out in this document
 - 3.18.2 all terms (including without limitation the Conditions and the Exceptions) and Limits of Indemnity set out in this document
 - 3.18.3 the Schedule notices and other documents attaching from time to time
 - 3.18.4 all endorsements incorporated in and issued from time to time for incorporation in this document all of which shall be read together and constitute the contract of insurance
- 3.19 Schedule** shall mean the Schedule for the time being in force
- 3.20 Insurer** shall mean Berkley Insurance Company (trading as Berkley Insurance Australia) ABN 53 126 559 706.
- 3.21 Section** shall mean each individual section of this Policy

- 3.22 Endorsement** shall mean any endorsement(s) which might apply to this Policy ("Policy Endorsement") or individual Section ("Section Endorsement") and which incorporate cover amendments, extensions, limitations and such like
- 3.23 Exceptions** shall mean the General Policy Exceptions and the Section Exceptions
- 3.24 Extensions** shall mean the General Policy Extensions and the Section Extensions
- 3.25 Conditions** shall mean the General Policy Conditions
- 3.26 Premium** shall mean the amount payable by the Insured specified as such in the Schedule

References in this Policy to any statute, statutory provision, directive or other legislation include a reference to that statute statutory provision directive or legislation as amended extended consolidated or replaced from time to time (whether before or after the date of this Policy) and include any order regulation instrument or other subordinate legislation made under the relevant statute statutory provision directive or legislation.

4. Section 1 – Public Liability

The Cover

The Insurer will indemnify the Insured in respect of compensation arising out of the following occurrences

- 1 accidental Bodily Injury to any person
- 2 accidental Damage to Property
- 3 obstruction trespass nuisance or interference with any right of way air light or water or other easement
- 4 wrongful arrest wrongful detention false imprisonment or malicious prosecution

and which occur during the Period of Insurance within the Territorial Limits and arise from and in the course of the Business

Limit of Indemnity

The liability of the Insurer under this Section for Compensation in respect of any one occurrence or series of occurrences arising out of or attributable to any one cause or event shall not exceed the Limit of Indemnity in the Schedule

Unless otherwise stated herein or endorsed hereon any costs and expenses in respect of which an indemnity is provided by this Section will be payable in addition to the Limit of Indemnity

4.1 Section Exceptions

The Insurer shall not provide indemnity against liability

- 4.1.1 in respect of Bodily Injury to any Employee arising out of and in the course of employment by the Insured in the Business
- 4.1.2 caused by or arising from the ownership possession or operation by or on behalf of the Insured of any
 - a) airlines, aircraft, aerodromes, airports, and/or other aviation risks, spacecraft, launch sites and/or other space risks
 - b) hovercraft or watercraft other than hand propelled watercraft or other watercraft not exceeding 8 metres in length
 - c) mechanically propelled vehicle
 - i) for which compulsory insurance or security is required under any legislation governing the use of the vehicle
 - ii) where indemnity is provided

- by any other insurance
- 4.1.3 caused by or arising from any Product Supplied after it has ceased to be in the custody or under the control of the Insured or any Employee other than food or drink for consumption on the Insured's premises
- 4.1.4 in respect of Damage to Property
 - a) belonging to the Insured
 - b) in the custody or under the control of the Insured or any Employee other than personal effects (including vehicles and their contents) of any visitor director partner or Employee of the Insured
 - c) being that part of any Property on which the Insured or any Employee or agent of the Insured is or has been working where the Damage arises out of such work
- 4.1.5 for the Excess specified in the Schedule other than in respect of Damage to premises (including their fixtures and fittings) leased or rented to the Insured

5. Section 2 – Products Liability

The Cover

In the event of accidental

- 1 Bodily Injury to any person
- 2 Damage to Property

occurring during the Period of Insurance anywhere within the Territorial Limits and caused by any Product Supplied, the Insurer will indemnify the Insured in respect of Compensation arising out of such event.

Limit of Liability

The liability of the Insurer for Compensation shall not exceed the amount stated as the Limit of Indemnity in the Schedule

Unless otherwise stated herein or endorsed hereon any costs and expenses in respect of which an indemnity is provided by this Section will be payable in addition to the Limit of Indemnity

Section Exceptions

5.1 Recall, Repair or Replacement

The Insurer shall not provide indemnity against liability in respect of Damage to or the costs or expenses of recalling repairing replacing altering removing rectifying reinstating or making any refund in respect of any Product Supplied caused by or arising from

- 5.1.1 a defect in or the harmful nature or the unsuitability of such Product Supplied
- 5.1.2 an error or fault in connection with the sale supply or presentation of such Product Supplied

5.2 Product Supplied under the Insured's Control

The Insurer shall not provide indemnity against liability caused by or arising from any Product Supplied whilst in the custody or under the control of the Insured or any Employee

5.3 Aviation and Aerospace Products

The Insurer shall not provide indemnity against liability caused by or arising from any Product Supplied which to the knowledge of the Insured is for

- 5.3.1 use in or on any aircraft or aero spatial device
- 5.3.2 aviation or aero spatial purposes
- 5.3.3 use in the safety or navigation or marine craft of any sort

5.4 Export to USA or Canada

The Insurer shall not provide indemnity against liability caused by or arising from any Product Supplied which to the knowledge of the Insured is for use in or supply to the United States of America or Canada

5.5 Section Excess

The Insurer shall not provide indemnity against liability or the Excess specified in the Schedule

5.6 Australian Standards

The Insurer shall not provide indemnity against liability caused by or arising from any product that does not comply with Australian Standards.

5.7 Excluded Products

The Insurer shall not provide indemnity against liability caused by or arising from

- (a) Second hand mechanical & electrical goods and toys;
- (b) Medicines, potions, oils, fragrances & beauty products;
- (c) Any Insured providing goods that could be described as hazardous, flammable or dangerous which includes but is not limited to:
 - Products that have been dispensed, or have been repackaged into smaller containers for retail sales;
 - Products sold in containers exceeding 5 litres or 5kg;
 - Explosive tools, fireworks, flammable liquid or bulk pool chemicals;
 - Products intended to be used in connection with the navigation, safety or controls of vehicles, aircraft or watercraft;
 - Parts for motor vehicles;
 - Medical equipment;
 - Guns &/or ammunition;
 - Bicycles;
 - Model aircraft, drones;
 - Knives, swords or spears;
 - Power tools;
 - Motorised vehicles;
 - Animal feed intended for animals other than pets ; or
 - Self-balancing motorised boards and scooters.

6. General Policy Extensions

Applicable to the whole Policy except where indicated.

These General Policy Extensions are subject otherwise to the terms (including without limitation the Conditions and the Exceptions) of this Policy.

6.1 Claimants' Costs and Expenses

The Insurer will provide indemnity against legal liability for all costs and expenses recoverable by any claimant in connection with any claim to which the indemnity expressed in Sections 1 or 2 applies

6.2 Defence Costs and Expenses

The Insurer will provide indemnity in respect of all

- 6.2.1 costs incurred with the Insurer's written consent of legal representation at any
- a) coroner's inquest or other inquiry in respect of any death
 - b) proceedings in any court in respect of any act or omission causing or relating to any occurrence
- 6.2.2 other costs and expenses incurred with the Insurer's written consent in relation to any matter which may be the subject of indemnity under Sections 1 or 2

6.3 Costs of Court Attendance

In the event of any of the under-mentioned persons attending court as a witness at the request of the Insurer in connection with a claim in respect of which the Insured is entitled to indemnity under this Policy the Insurer will reimburse the Insured at the following rates per day for each day on which attendance is required

- 6.3.1 any director or partner of the Insured AUD 650
- 6.3.2 any Employee AUD 250

6.4 Indemnity to Other Persons

The Insurer will also indemnify as if a separate Policy had been issued to each

- 6.4.1 the legal personal representatives of the Insured or any other person entitled to indemnity under this Policy but only in respect of liability incurred by the Insured or such other person
- 6.4.2 under Section 1 any Principal but only to the extent required by the contract or agreement for work

- 6.4.3 any owner of plant hired to the Insured but only to the extent required by the conditions of the contract or agreement of hire

- 6.4.4 at the request of the Insured

- a) any officer or member of the Insured's catering social sports educational medical dental and welfare organisations and fire security first aid and ambulance services in their respective capacity as such but not any medical or dental practitioner in respect of medical or dental services provided

- b) any director partner or Employee of the Insured while acting in connection with the Business in respect of liability for which the Insured would be entitled to indemnity under this Policy if the claim for which indemnity is being sought had been made against the Insured

provided always that

- i) any persons specified above shall as though they were the Insured be subject to the terms (including without limitation the Conditions and the Exceptions) of this Policy insofar as they can apply
- ii) nothing in this General Policy Extension shall increase the liability of the Insurer to pay any amount exceeding the Limit of Indemnity of the operative Section(s) regardless of the number of persons claiming to be indemnified

6.5 Cross Liabilities

If the Insured comprises more than one party the Insurer will under Sections 1 and 2 provide indemnity to each such Insured in the same manner and to the same extent as if a separate Policy had been issued to each of them

Provided that nothing in this General Policy Extension shall increase the liability of the Insurer to pay any amount exceeding the Limit of Indemnity of the operative Section(s) regardless of the number of persons claiming to be indemnified

7. General Policy Exceptions

Applicable to the whole Policy except where indicated.

7.1 Radioactive Contamination

The Insurer shall not provide indemnity against any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from

- 7.1.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- 7.1.2 the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

7.2 War and Similar Risks

The Insurer shall not provide indemnity under Sections 1 or 2 in respect of any liability of whatsoever nature directly or indirectly caused or occasioned by or happening through or in consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection Act of Terrorism or military or usurped power or confiscation or nationalisation or requisition or destruction of or Damage to Property by or under the order of any government or public authority or any action taken in controlling preventing suppressing or in any way relating to any of the above.

7.3 Contractual Liability

The Insurer shall not provide indemnity

- 7.3.1 under Section 1 against Contractual Liability unless the sole conduct and control of claims is vested in the Insurer but the Insurer shall not in any event provide indemnity in respect of liquidated damages or liability under any penalty clause
- 7.3.2 under Section 2 against Contractual Liability other than liability arising out of a condition or warranty of goods implied or imposed by statute

7.4 Pollution or Contamination

The Insurer shall not indemnify the Insured under Sections 1 or 2

- 7.4.1 for liability arising from Pollution or Contamination unless caused by a sudden

identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance

- 7.4.2 for the cost of removing nullifying or cleaning up seeping polluting or contaminating substances unless the Pollution or Contamination is caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance

provided always that

- i) all Pollution or Contamination which arises out of such incident shall be deemed to have occurred at the time such incident takes place
- ii) the liability of the Insurer for all Compensation under Sections 1 and 2 payable in respect of all Pollution or Contamination which is deemed to have occurred during Period of Insurance shall not exceed in the aggregate the Limit of Indemnity for Section 1 (or Section 2 if Section 1 is not operative)

7.5 Advice for a Fee

The Insurer shall not indemnify the Insured under Section 1 or 2 in respect of liability caused by or arising from advice design or specification provided by or professional services rendered by or on behalf of the Insured for a fee.

7.6 Total Asbestos Exclusion

The Insurer shall not indemnify the Insured in respect of liability directly or indirectly arising out of resulting from in consequence of or in any way involving asbestos or any materials containing asbestos in whatever form or quantity.

7.7 Cyber Liability Exclusion

The Insurer shall not indemnify the Insured in respect of liability directly or indirectly arising out of

- 7.7.1 alteration of, or Damage to or
- 7.7.2 a reduction in functionality availability or operation of a computer system or programme hardware data information repository microchip integrated circuit

or similar device in computer equipment or non-computer equipment as a result of the Insured's "e-activities"

For the purpose of this exclusion, "e-activities" means any use of or Business undertaken by the Insured or by any person persons partnership firm or company acting for or on behalf of the Insured in connection with electronic networks including the internet and private networks intranets extra-nets electronic mail worldwide web and similar medium

7.8 Jurisdiction

The Insurer shall not indemnify the Insured under this Policy in respect of any action for Compensation commenced by a third party in any court situated in any country other than within the Territorial Limits.

8. General Policy Conditions

Applicable to the whole Policy except where indicated.

8.1 Material Change

Any material change in the Business or any other act or omission on the part of the Insured which materially increases the exposure of risk of the Insurer under this Policy shall result in the Policy being cancelled ab initio unless such change act or omission has been agreed by the Insurer in writing.

8.2 Premium Adjustment

If the Premium is based on estimates an accurate record containing all particulars relative thereto shall be kept by the Insured. The Insured shall at all times allow the Insurer to inspect such record and shall supply such particulars as the Insurer may require within one month from the expiry of the Period of Insurance and the Premium shall thereupon be adjusted by the Insurer from time to time. At the request of the Insurer the Insured shall supply an auditor's certificate in support of such particulars.

If the Insured fails to supply such particulars within the period stated the Insurer shall be entitled to make a reasonable estimate of such particulars and adjust the Premium accordingly.

8.3 Reasonable Care

The Insured shall take all reasonable care:

- 8.3.1 to prevent any event which may give rise to a claim under this Policy
- 8.3.2 to maintain the premises plant and everything used in the Business in proper repair
- 8.3.3 in the selection and supervision of Employees
- 8.3.4 to comply with all statutory and other obligations and regulations imposed by any authority
- 8.3.5 to make good or remedy any defect or danger which becomes apparent and take such additional precautions as the circumstances may require

8.4 Claims (Notice in Writing from the Insured)

The Insured or their legal personal representatives shall give notice in writing to the Insurer as soon as possible after any event which may give rise to liability under this Policy with full particulars of such

event. Every claim notice letter or writ or process or other document served on the Insured shall be forwarded to the Insurer immediately on receipt. Notice in writing shall also be given immediately to the Insurer by the Insured of any impending prosecution inquest or fatal inquiry in connection with any such event.

Notice of any Claim will be provided in writing to:

National Head of Claims
australiacclaims@berkleyinaus.com.au
Berkley Insurance Australia
PO Box Q296
QVB NSW 1230

8.5 Claims (Conduct and Control)

No admission offer promise payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Insurer.

The Insurer shall be entitled if it so desires to take over and conduct in the name of the Insured the defence or the settlement of any claim and to prosecute in the name of the Insured for its own benefit any claim for indemnity or damages or otherwise against all other parties or persons. The Insurer shall have full discretion in the conduct of any proceedings and in the settlement of any claim against the Insured and the Insured shall give all such information and assistance as the Insurer may require.

8.6 Claims (Contribution)

If at the time of any event to which this Policy applies there is or but for the existence of this Policy there would be any other insurance covering the same liability the Insurer shall not be liable under this Policy except in respect of any Excess beyond the amount which would be payable under such other insurance had this Policy not been effected.

8.7 Claims (Discharge of Liability)

The Insurer may at any time at its sole discretion under Sections 1 and 2 pay to the Insured the Limit of Indemnity (less any sum or sums already paid in respect or in lieu of Compensation) or any lesser sum for which the claim or claims against the Insured can be settled and the Insurer shall not be under any further liability in respect of such claim or claims except for other costs and expenses for which the Insurer may be responsible incurred prior to such payment

provided always that :

in the event of a claim or series of claims resulting in the liability of the Insured to pay a sum in excess of the Limit of Indemnity the Insurer's liability under Sections 1 and 2 for costs and expenses shall not exceed an amount being in the same proportion as the Insurer's payment to the Insured bears to the total payment made by or on behalf of the Insured in settlement of the claim or claims.

8.8 Disputes

Any dispute concerning the interpretation of the terms of this Policy shall be resolved in accordance with the law and submit to the jurisdiction of the territory in which this Policy is issued.

8.9 Conditions Precedent to Liability

The following conditions are precedent to liability under this Policy and if they are breached no cover will be provided under this Policy

- 8.9.1 the Insured must observe and fulfil the terms of this Policy insofar as they relate to anything to be done or complied with by the Insured
- 8.9.2 the Insured must pay to the Insurer all Premiums due to the Insurer together with all taxes (General Insurance Tax) due on the Premiums
- 8.9.3 all statements answers and information supplied to the Insurer by or on behalf of the Insured in connection with this Policy must be truthful and complete.

8.10 Cancellation

The Insurer may cancel this Policy or any part thereof by giving 30 days' notice by recorded delivery letter to the last known address of the Insured and in such case the Insured shall be entitled to the return of a proportionate part of the Premium in respect of the unexpired Period of Insurance or if the Premium has been based wholly or partly upon estimates the Premium shall be adjusted in accordance with General Policy Condition 2 except that if a claim or incident has been notified in the current Period of Insurance no refund of Premium shall be made.