

 **PRORISK**  
The background of the entire page is a low-angle photograph of several modern skyscrapers with glass facades, reaching towards a clear sky. The buildings are framed by a white border that has rounded corners on the right side.

# Public and Products Liability Insurance Policy

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## IMPORTANT INFORMATION

### THE INSURER

The **ProRisk** Public & Products Liability Insurance Policy is issued by Professional Risk Underwriting Pty Ltd ABN 80 103 953 073 AFSL 308076 ("**ProRisk**") on behalf of the **Underwriters**.

### HOW TO CONTACT US

**We** can be contacted by telephone or in writing at:

Level 3, 100 Wellington Parade  
East Melbourne  
VIC, 3002

Email: [enquiries@prorisk.com.au](mailto:enquiries@prorisk.com.au)  
Phone: (03) 9235 5255  
Fax: 1800 633 073

**Your** Insurance Broker will arrange this insurance for **You**. If **You** have any questions about **Your** cover, or **You** wish to contact **ProRisk**, please contact **Your** Insurance Broker for assistance.

### THIS POLICY

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

**Your** insurance broker has arranged this **Policy** for **You**. If **You** have any questions about **Your** cover, or **You** wish to contact **ProRisk**, please contact **Your** insurance broker for assistance.

### YOUR DUTY OF DISCLOSURE

Section 21 of the Insurance Contracts Act 1984 provides that before **You** enter into a contract of general insurance with an insurer, **You** have a duty to disclose to the insurer every matter that **You** know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, upon what terms. **You** have the same duty to disclose those matters to the insurer before **You** renew, extend, vary or reinstate a contract of general insurance.

**Your** duty, however, does not require disclosure of a matter:

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

### NON-DISCLOSURE

If **You** fail to comply with **Your** duty of disclosure, **We** may be entitled to reduce their liability under the contract in respect of a claim or may cancel the contract. If **Your** non-disclosure is fraudulent, **We** may also have the option of avoiding the contract from its beginning.

### WAIVER OF RIGHTS OF SUBROGATION

This **Policy** provides that **You** must not, without **Our** prior written consent, enter into any contract or agreement which excludes, limits or prejudices any right of recovery which **You** may have in respect of any claim covered by this **Policy**. Further, **You** must not do anything or fail to do anything which excludes, limits or prejudices **Our** rights of subrogation.

### PRIVACY COLLECTION STATEMENT

**ProRisk** is bound by the obligations of the Privacy Act 1988 (as amended) regarding the collection, use, disclosure and handling of personal information.

**We** collect personal information about **You** and about other individuals to enable **Us** to provide **You** with relevant products and services, to assess **Your** application for insurance and, if a contract is entered, to enable **Us** to provide, administer, and manage the **Policy**, and to investigate and handle any claims under the **Policy**. **We** may disclose personal information **We** collect to third parties (who may be located in the United Kingdom and other countries outside Australia). These include the insurer, lawyers, claims adjusters, and others appointed by **ProRisk** to assist **Us** in providing relevant products and services.

**We** may also disclose **Your** information to people listed as co-insured on the **Policy** and to **Your** agents. By providing **Your** personal information to **Us**, **You** consent to **Us** making these disclosures.

If **You** do not provide all or part of the information required, **We** may not be able to provide **You** with **Our** products and services, consider **Your** application for insurance,

administer the **Policy**, assess or handle claims under the **Policy**. Your Duty of Disclosure may require **You** to provide personal information to **Us**.

When **You** provide **Us** with personal information about other individuals, **We** rely upon **You** to have made them aware of that disclosure, and to ensure that they are aware of the matters set out in this **ProRisk** Privacy Statement and **ProRisk's** Privacy Policy and have consented to the disclosure.

Further information about **ProRisk's** collection, use, disclosure and handling of personal information is set out in its Privacy Policy, available on its website at [www.prorisk.com.au](http://www.prorisk.com.au) To obtain a hard copy of our Privacy Policy or to request access to or correction of or to update personal information, contact the Privacy Officer at **ProRisk** by email: [enquiries@prorisk.com.au](mailto:enquiries@prorisk.com.au) or by mail at the address shown on the **Policy**.

## GENERAL INSURANCE CODE OF PRACTICE

**ProRisk** and the **Underwriters** proudly support the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry. A copy of the Code can be obtained from [www.codeofpractice.com.au](http://www.codeofpractice.com.au).


This **Policy** and the **Schedule** are Insurance Council of Australia's General Insurance Code of Practice compliant, apart from any claims adjusted outside Australia.

## COMPLAINTS HANDLING

Any enquiry or complaint relating to this Insurance should be referred to **ProRisk** in the first instance. **We** have a complaints handling and internal dispute resolution process to assist **You**, and information about our complaints handling procedures is available upon request. If this does not resolve the matter or **You** are not satisfied with the way a complaint has been dealt with, **You** should write to the Complaints Department of the **Underwriters**:

The Complaints Manager  
Swiss Re International SE Australia Branch  
Level 36, Tower Two, International Towers Sydney  
200 Barangaroo Avenue, Sydney NSW 2000  
Telephone: (02) 8295 9500  
Email: [complaints\\_anz@swissre.com](mailto:complaints_anz@swissre.com)

Complaints that cannot be resolved by the Complaints Department of the **Underwriters** may be referred to the:

Australian Financial Complaints Authority  
 GPO Box 3  
Melbourne VIC 3001

Email: [info@afca.org.au](mailto:info@afca.org.au)  
Telephone: 1800 931 678  
Further details will be provided at the appropriate stage of the complaints process.

## AUSTRALIA TERRORISM INSURANCE ACT 2003 NOTICE (NMA2984)

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

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

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

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

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

## COOLING-OFF PERIOD

If **You** want to return your insurance after your decision to buy it, **You** may cancel it and receive a full refund. To do this **You** may notify your broker

electronically or in writing within 21 days from the date the **Policy** commenced.

This cooling-off right does not apply if **You** have made or are entitled to make a claim. Even after the cooling-off period ends, **You** still have cancellation rights. However, your broker may deduct certain amounts from any refund for administration costs or any non-refundable taxes.

If your **Policy** is for an event that will start and finish within the 21 day cooling-off period, **You** can only exercise your right before the event starts or the expiry of the cooling-off period, whichever is the earlier. For example, for travel insurance, the commencement of the journey is the event.

## PUBLIC AND PRODUCTS LIABILITY POLICY WORDING

In consideration of the payment of the **Premium** and in reliance on the contents of the **Proposal** and any other information submitted by or on the **Your** behalf, **We** will indemnify **You** in accordance with the terms of this **Policy**.

### 1. INSURING CLAUSE

Subject to all the terms of this **Policy**, **We** agree to indemnify **You** during the **Insurance Period** against **Your** legal liability to pay compensation, including claimants' costs, fees and expenses, for **Injury** or **Damage** first happening during the **Insurance Period** as a result of an **Occurrence** in connection with **Your Business**.

### 2. CROSS LIABILITIES

Each person named as the **Insured** is separately indemnified in respect of claims made by any of them against any other of them, subject to **Our** total liability not exceeding the **Limit of Indemnity**.

### 3. DEFENCE COSTS AND EXPENSES

Where indemnity is or would be available under this **Policy**, **We** will pay in addition to the **Limit of Indemnity**:

- 3.1 the reasonable costs and expenses incurred by **You** with **Our** prior consent in the investigation, defence or settlement of any claim made or which might be made against **You**, including:
  - 3.1.1 the investigation of any circumstances of which **You** shall become aware which might reasonably be expected to give rise to a claim being made against **You**;
  - 3.1.2 representation at any inquest, inquiry or other proceedings in respect of matters which have a direct relevance to such claim; and
  - 3.1.3 representation and defence of any proceedings brought **You** or any Principal in respect of breach or alleged breach of any statute relating to occupational health and safety, provided that **We** will not pay the costs of any appeal unless Senior Counsel to be appointed by **Us** shall advise that in his or her opinion, such appeal is likely to succeed.

- 3.1.5 the reasonable expenses of immediate emergency medical assistance to third parties in respect of Injury for which **You** may have a legal liability to the injured person.

Provided that if the total amount, inclusive of compensation, defence costs and expenses, required to dispose of any claim or series of claims arising out of one **Occurrence** exceeds the **Limit of Indemnity** then **Our** liability under this clause shall be limited to that proportion of those costs and expenses as the **Limit of Indemnity** bears to the total amount required to dispose of the claim.

#### 4. INDEMNITY TO OTHERS

The indemnity granted under the Insuring Clause extends to:

- 4.1 at **Your** request, any party who enters into an agreement with **You** for any purpose of the **Business**, but only to the extent required by such agreement to grant indemnity and only to the extent that such liability would have attached to **You** in the absence of the agreement;
- 4.2 at **Your** request, any person or firm for their liability arising out of the performance of a contract to provide labour only services to **You**;
- 4.3 **Principals** in their business capacity for their liability arising out of the performance of the **Business** or in their private capacity arising out of their temporary engagement of the **Employees**;
- 4.4 **Your Employees** and shareholders but only whilst acting within the scope of their duties in their respective capacities as such;
- 4.5 the officers, committee and members of **Your** canteen, social, sports, and welfare organisations, and **Your** medical, first aid, and fire fighting services in their respective capacities as such; and
- 4.6 the personal representatives of the estate of any person indemnified under this clause in respect of liability incurred by such person,

provided always that all such persons shall observe, fulfil and be subject to the terms, conditions and exclusions of this **Policy** as though they were the **Insured**.

#### 5. LIMIT OF INDEMNITY

**Our** liability to indemnify **You** for each claim under this **Policy** or series of such claims arising out of one **Occurrence** shall not exceed the **Limit of Indemnity**.

#### 6. VICARIOUS LIABILITY

The indemnity granted under the Insuring Clause extends to **Your** liability arising out of the conduct of a contractor, consultant or agent that is engaged by **You**. Such contractors, consultants or agents, however, are not covered by this **Policy**.

#### 7. EXCLUSIONS

This **Policy** does not cover liability for or caused by, arising directly or indirectly out of, or in connection with:

##### 7.1 Aircraft and Watercraft

The ownership, possession or use by **You** or on **Your** behalf of any aircraft, spacecraft, watercraft or hovercraft (other than watercraft not exceeding five metres in length and then only while on inland waterways).

##### 7.2 Asbestos or Silica

asbestos or asbestosis, or silica or silicosis, or any actual or alleged asbestos or silica related **Injury** or **Damage** in any way relating to or arising out of the use, presence, existence, detection, decontamination, treatment, removal, elimination or avoidance of asbestos or silica.

##### 7.3 Assault or Battery

assault or battery committed by **You** or at the **Your** direction, unless it was committed for the purpose of preventing or eliminating danger to persons or property.

##### 7.4 Aviation Products

any **Product** or part thereof which **You** know or ought to know is intended to be incorporated into the structure, machinery, electrics, electronics or controls of any aircraft or spacecraft.

## 7.5 Contractual Liability

liability assumed by **You** under any liquidated damages, penalty or forfeiture clause, express warranty, contract, agreement or guarantee other than to the extent that such liability would have attached to **You** in the absence of such assumption of liability.

## 7.6 Cyber Liability

- 7.6.1 **Your** intranet, extranet or internet operations, email and electronic communication;
- 7.6.2 the total or partial destruction, distortion, erasure, corruption, alteration, misuse, misrepresentation or misappropriation or other use of electronic data;
- 7.6.3 an error in creating, amending, entering, deleting or using electronic data;
- 7.6.4 the total or partial inability or failure to receive, send, access or use electronic data for any time or at all;
- 7.6.5 due to any cause whatsoever, regardless of any other contributing cause or event whenever it may occur.

## 7.7 Damage to Products

**Damage** to any **Product** or part thereof.

## 7.8 Deliberate Acts

the deliberate, conscious or intentional disregard by **Your** technical or administrative management of the need to take all reasonable precautions to prevent **Injury** or **Damage**.

## 7.9 Employment Liability

- 7.9.1 liability for **Injury** to any **Employee**. Provided that if **You** are:
  - a) 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 in amount or not) against liability for any such **Injury**; or

- b) not required to so insure or otherwise fund such liability by reason only that the **Injury** is to a person who is not an **Employee** or worker within the meaning of the relevant workers compensation law or the **Injury** is not an **Injury** which is subject to such law,

then this **Policy** will respond to the extent that **Your** liability would not be covered under any such **Policy** of insurance, self insurance arrangement, fund or scheme had **You** complied with its obligations pursuant to such law.

- 7.9.2 any other liability imposed by any workers compensation law.
- 7.9.3 any other liability imposed by the provision of any industrial award, agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award, agreement or determination, or any such contract of employment or workplace agreement.

## 7.10 Employment Practices

### 7.11 Faulty Workmanship

the cost of re-performing, correcting or improving any work undertaken by **You**.

### 7.12 Fines, Penalties and Punitive Damages

awards or damages of a punitive or exemplary nature whether in the form of fines, penalties, multiplication of compensation awards or damages or aggravated damages or in any other form whatsoever.

### 7.13 Libel and Slander

the publication or utterance of a libel or slander:

- a) made prior to the commencement of the **Insurance Period**;
- b) made by **You** or at **Your** direction with knowledge of its falsity; or
- c) related to publishing, advertising, broadcasting or telecasting activities conducted by **You** or on the **Your** behalf.

#### 7.14 Loss of use

loss of use of tangible property, which has not been physically damaged or lost or destroyed, resulting from:

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

#### 7.15 Motor Vehicles

the ownership, possession or use of any motor vehicle or trailer by **You** or on **Your** behalf, other than liability:

- a) arising out of unregistered vehicles which are not required to be registered, and in respect of which liability insurance is not in force;
- b) caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer;
- c) arising beyond the limits of any carriageway or thoroughfare and caused by the loading or unloading of any motor vehicle or trailer;
- d) for **Damage** to any bridge, weighbridge, road or anything beneath caused by the weight of any motor vehicle or trailer or the load carried thereon; or
- e) for **Damage** to any motor vehicle or trailer temporarily in **Your** custody or control for the purpose of parking,

provided that no indemnity is provided for any liability which is compulsorily insurable under any legislation or for which the government or other authority has accepted responsibility.

#### 7.16 Pollution

**Pollution**, or the actual, alleged or threatened discharge, release or escape of pollutants, or the containment, clean up, removal, treatment or monitoring of such pollutants.

#### 7.17 Product Guarantee

costs incurred in the repair, reconditioning, modification or replacement of any **Product** or part thereof and/or any economic loss consequent upon the necessity for such repair, reconditioning, modification or replacement.

#### 7.18 Professional Liability

the rendering of or failure to render professional advice or service, but this exclusion does not apply to the rendering of or the failure to render first aid or medical services to **Employees** on **Your** premises by medically qualified persons employed by **You**.

#### 7.19 Property in Physical or Legal Control

**Damage** to property owned, leased or hired by or under hire purchase or on loan to **You** or otherwise in **Your** care, custody or control, but this exclusion shall not apply to liability for **Damage** to:

- a) premises or the contents thereof temporarily occupied by **You** for work therein or thereon but no indemnity is provided for **Damage** to that part of the property on which **You** are working and which arises out of such work;
- b) clothing and personal effects belonging to **Your Employees** and visitors;
- c) premises tenanted by **You** to the extent that **You** would be held liable in the absence of any specific agreement; or
- d) other property temporarily in **Your** physical or legal control up to a maximum of AUD\$100,000 any one **Occurrence** and in the aggregate during the **Insurance Period**.

#### 7.20 Radioactive Contamination and Explosive Nuclear Assemblies

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

#### 7.21 Recall

costs or expenses arising out of the recall of any **Product** or part thereof.



## 7.22 Recovery Rights

any claim or claims where and to the extent that **You** have, without **Our** prior consent, granted a waiver of any recovery rights whether by express term or by reason of an assumption of liability under contract.

## 7.23 Sexual Molestation

sexual molestation, sexual harassment, sexual assault, rape, or the consequences thereof.

## 7.24 USA

claims and actions:

- a) instituted within the United States of America or its dominions or protectorates; or
- b) to which the laws of the United States of America or its dominions or protectorates apply.

Provided that this exclusion does not apply to claims and actions arising from the presence of a **Principal** or **Employee** who is usually resident outside the

United States of America whilst travelling on **Your** behalf in the course of the **Insured's Business**.

## 7.25 War and Terrorism

war, **Terrorism**, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, or any action taken in controlling, preventing, suppressing or in any way relating to war or **Terrorism**.

## 7.26 Sanctions Limitation

**We** will not be liable under this **Policy** to provide any cover nor make any claim or pay any other benefit to the extent that the provision of such cover, payment of such claim or provision of such other benefit would expose **Us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any jurisdiction applicable to **Us**.

## GENERAL CONDITIONS

### 8.1 Cancellation

8.1.1 This **Policy** may be cancelled by **Us** in accordance with the provisions of the Insurance Contracts Act 1984.

8.1.2 **You** may cancel this **Policy** at any time by giving notice in writing to **Us**. In the event of cancellation by the **Insured**, **Our** cancellation rates will apply.

### 8.2 Claims Handling

8.2.1 No admission, offer, promise or payment shall be made or given by **You** or on **Your** behalf nor shall any costs be incurred by **You** without **Our** written consent, and **We** shall be entitled to take over and conduct, in **Your** name, the defence or settlement of any claim or to prosecute in **Your** name any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings in the defence or settlement of any claim.

8.2.2 You shall at all times and without charge give **Us** such information and co-operation as **We** may reasonably require.

### 8.3 Claims Notification

You shall give to **Us** immediate notice in writing of:

- a) any claim made against **You** which may fall within the scope of this **Policy**;
- b) the receipt of notice, whether written or oral, from any person or entity of their intention to make such a claim against **You**;
- c) any circumstances of which **You** shall become aware which might reasonably be expected to give rise to such a claim being made against **You**, giving reasons for the anticipation of such claim;
- d) any other circumstances which might give rise to a claim under this **Policy**.

Notice under clauses a) to d) shall be given to **ProRisk** at the address stated in the **Schedule**.

#### 8.4 Consideration

- 8.4.1 The indemnity provided by **Us** under this **Policy** is in consideration of the payment of the **Premium**.
- 8.4.2 The **Premium** is the amount due to **Us** and any commission allowed by **Us** is to be regarded as remuneration of **ProRisk**.

#### 8.5 Discharge of Liability

- 8.5.1 In the event of a claim or series of claims under this **Policy**, **We** may at any time pay to **You** the amount of the **Limit of Indemnity** remaining under this **Policy**, or any lesser amount for which such claim or claims can be settled, less any sums already paid. Upon such payment being made, **We** shall relinquish the conduct and control of and be under no further liability in connection with such claims or costs and expenses incurred after the date of such relinquishment.
- 8.5.2 If **We** exercise the option in clause 8.5.1, and the total amount required to dispose of any claim or series of claims exceeds the Limit of Indemnity, then **We** will pay under clause 5 the reasonable costs and expenses incurred up to the date of relinquishment in such proportion as the amount of the indemnity available under this **Policy** bears to the total amount which in **Our** opinion at the time of relinquishment will be necessary to dispose of the claim.

#### 8.6 Due Observance

**Our** liability to provide indemnity under this **Policy** is conditional upon **Your** observance of the Terms and Conditions of this **Policy**, and that of any other person entitled to indemnity under this **Policy**.

#### 8.7 Enforceability

To be enforceable, this **Policy** must have a **Schedule** attached to it which has been signed by an authorised officer of **ProRisk**.

#### 8.8 Fraud

If any claim under this **Policy** is in any respect fraudulent, **We** will have no liability in respect of such claim.

#### 8.9 Goods and Services Tax

- 8.9.1 The **Premium** includes an amount for GST.
- 8.9.2 **Our** liability to **You** in respect of a claim or series of claims under this **Policy** is calculated less any input tax credit to which **You** are entitled for any acquisition which is relevant to the claim, or to which **You** would have been entitled had it made a relevant acquisition. **You** must inform **Us** of the extent to which **You** are entitled to an input tax credit, and any GST liability arising from **Your** provision of incorrect advice is payable by **You**.

#### 8.10 Governing Law

This **Policy** is governed by the laws of Australia.

#### 8.11 Excess

- 8.11.1 **We** shall only be liable for that part of each claim or series of such claims arising out of any one **Occurrence** under this **Policy** which exceeds the amount of the **Excess** stated in the **Schedule**. **You** shall retain the **Excess** for **Your** own account and shall not insure it elsewhere.
- 8.11.2 The **Excess** shall include defence costs and expenses covered under clause 3 unless otherwise stated in the **Schedule**.

#### 8.12 Material Changes to Risk

- 8.12.1 **You** shall throughout the **Insurance Period** give notice as soon as reasonably practicable of any material change in any fact, activity or circumstance as described in the **Proposal**.
- 8.12.2 In the event of **Us** being at any time entitled to cancel or avoid this **Policy** by reason of **You** failing to give notice in accordance with clause 8.12.1, **We** may at **Our** election, instead of cancelling or avoiding this **Policy**, give notice in writing to **You** that any claim which has arisen or may arise which is related to such facts, activities or circumstances shall be excluded from indemnity under this **Policy**.

### 8.13 Service of Suit

**We** agree that:

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

8.13.2 Any summons, notice or process to be served upon **Us** may be served upon **Us** at the following address:

General Counsel  
Professional Risk Underwriting Pty Ltd  
Level 3, 100 Wellington Parade  
EAST MELBOURNE VIC 3002

8.13.3 If a suit is instituted against **Us**, **We** will abide by the final decision of any such Court or any competent Appellate Court.

### 8.14 Subrogation

8.14.1 If **We** grant indemnity under this **Policy**, then **We** shall become subrogated to all **Your** rights of recovery, before as well as after any payment by **Us** to the extent of such payment, and **You** shall take all reasonable steps to preserve such rights, and to assist **Us** in the exercise of such rights.

8.14.2 Notwithstanding clause 8.14.1, if any payment is made or may be made under this **Policy**, **We** agree not to exercise **Your** rights of subrogation against any **Principal** or **Employee** of **Yours** unless the claim is brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of the **Principal** or **Employee**.

## 8. DEFINITIONS

**Business** means the business conducted by **You** as stated in the **Schedule**, and includes:

- a) property ownership and office occupation by **You** for the purposes of the **Business**; and
- b) a canteen, social or sporting club or first aid, fire or ambulance service, provided by **You** and incidental to the **Business**.

**Damage** means:

- a) loss or destruction of or physical damage to tangible property, including any resulting loss of use of that property; and
- b) loss of use of tangible property which has not been lost, destroyed or physically damaged, where the loss of use arises out of an **Occurrence**.

**Employee** means any person employed by **You** under a contract of service or apprenticeship, and any person deemed at law to be employed by **You** whether pursuant to any workers' compensation law or otherwise.

**Employment Practices** means any actual or alleged wrongful or unfair dismissal or unlawful termination denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination directly or indirectly related to employment or prospective employment by **You** of any person or persons.

**Excess** means the amount stated in the **Schedule** as the **Excess**.

GST, input tax credit, and acquisition have the meaning given to those words in A New Tax System (Goods and Services Tax) Act 1999 (as amended).

**Injury** means:

- a) bodily injury, sickness, disease, disability, shock, loss of amenities, discomfort, disfigurement, malformation, fright, mental anguish, mental injury or death of or to any person;
- b) the effects of false arrest, false imprisonment, wrongful detention or malicious prosecution;
- c) the effects of wrongful entry, wrongful eviction;
- d) the effects of libel, slander, humiliation or violation of personal rights; and
- e) the effects of assault and battery committed for the purpose of protecting persons and/or property.

**Insurance Period** means the period stated in the **Schedule** as the **Insurance Period** unless terminated earlier.

**Insured** means the person or entity named as the **Insured** in the **Schedule** and:

- a) any subsidiary company of the **Insured** (and its subsidiaries);
- b) any other entity controlled by the **Insured** and over which the **Insured** assumes active management; and
- c) any joint venture in which the **Insured** has an interest, subject to **Our** the prior agreement.

**Limit of Indemnity** means the amount stated in the **Schedule** as the Limit of Indemnity.

**Occurrence** means an event, including continuous or repeated exposure to substantially the same general conditions, which results in **Injury** or **Damage** neither expected nor intended from the standpoint of the **Insured**. A series or number of events having the same original cause or attributable to the one source shall constitute one Occurrence.

**Our** means **Underwriters** and **ProRisk** on behalf of **Underwriters**.

**Policy** means this policy wording, any endorsements to it, the **Schedule**, the **Proposal** and any other documents that **We** issue to **You** and advise **You** that they form part of the policy.

**Pollution** means any pollution or contamination of the atmosphere or of any water, land or other tangible property.

**Premium** means the amount stated in the **Schedule** as the Premium.

**Principal** means, where the **Insured** is an individual, that individual, where the **Insured** is a firm, a partner of that firm, or where the **Insured** is a company, any director or executive officer of that company.

**Product** means any physical property after it has left **Your** custody or control, which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by **You** or on **Your** behalf, but shall not include food or drink supplied by **You** or on **Your** behalf primarily to **Your Employees** as a staff benefit.

**Proposal** means the written proposal bearing the date stated in the **Schedule** together with any supplementary information submitted to **ProRisk** by **You** or on **Your** behalf. The proposal shall be construed as incorporated into and forming part of this **Policy**.

**ProRisk** means Professional Risk Underwriting Pty Ltd ABN 80 103 953 073 AFSL 308076.

**Schedule** means the current **Schedule** to this **Policy** issued by **ProRisk**.

**Terrorism** means an act, including but not limited to the use of force or violence and or the threat thereof, of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, committed for political, religious, ideological or similar purposes including the intention to influence any government and or to put the public or any section of the public in fear.

**Underwriters** means Swiss Re International SE Australia Branch (ABN 38 138 873 211).

**Us** and **We** means **Underwriters** and **ProRisk** on behalf of **Underwriters**.

**You** and **Your** means the person or entity named as the **Insured** in the **Schedule**.