

Schedule of Insurance

Class of Policy:	Sports Liability Insurance	Policy No:	ATCSL00126
The Insured:	Basketball States & Territories Associations	Invoice No:	9999964485
		Our Ref:	BASKETSTAT

COMBINED LIABILITY INSURANCE

Insurer: Certain Underwriters at Lloyd's of London

Binder Number: B087516Y135021

Issued by: ATC Insurance Solutions Pty. Ltd. as agent for the Insurer

Insured: Australian Capital Territory Basketball Inc.
New South Wales Basketball Association Limited
Basketball Northern Territory
Queensland Basketball Ltd
Basketball South Australia Inc. & SA Country Basketball Council Inc.
Basketball Tasmania Incorporated.
Basketball Victoria Inc. & Basketball Victoria Country
Western Australian Basketball Federation Inc.

including their affiliated Leagues, Associations, Centres, Clubs and all Registered Members, Players, Voluntary Workers, Umpires/Referees, Coaches, trainers, Officials and Employees, Members of the Board of Management and Executives and including non-affiliated clubs as declared, Affiliated Women's National Basketball League and South East Australian Basketball League Teams, and financial Institutions and other corporations having an insurable interest herein and subsidiary and/or related corporations (as defined under the Australian Corporations Law) now existing or hereafter constituted or acquired and social and sports clubs (including their committees and officers from time to time) and the trustees of superannuation funds and/or welfare organizations associated with the named insured; all for respective interests, rights and liabilities and to the extent that they are not more specifically insured.

Policy Period: **From:** 1st September 2016
To: 1st September 2017
at 4:00pm local standard time

Policy Wording: Sports Combined Liability Policy v1.2 (dated 22nd July 2014)

Sport: Principally Administration, Promotion, Organisation, Participation and Control of Basketball including Sanctioned Training Sessions and Training Camps, School Promotions and Competitions, charity activities, coaching, umpiring / referring, the rendering of First Aid, provision of food and drink, publication of newsletters, sale of merchandise, property owners or property occupiers of stadiums and other properties, social activities including awards presentations, fundraising BBQ's and other gatherings and other activities carried out by Basketball States & Territories its member associations and / or clubs in the course of conducting or promoting basketball. Various training methods for the athletes participating in basketball, including but are not limited to; weight / resistance training, circuit training, interval training, running etc. Any members, coaches and umpires are paid for their services. And any other activity incidental thereto

Address/Situation: Various

Estimated Turnover/Participants: \$26,906,255 / 265,867

Policy Territory: Worldwide excluding USA and Canada

Class of Policy: Sports Liability Insurance	Policy No: ATCSL00126
The Insured: Basketball States & Territories Associations	Invoice No: 9999964485
	Our Ref: BASKETSTAT

LIMITS OF INDEMNITY

Meaning of terms: 'Not Included' means that this section is not included in this quotation/placement.

Sum Insured:

Section 1

Professional Indemnity \$10,000,000 each and every Occurrence and in the aggregate

Retroactive date Date Insured registered as a business or 5 years prior to inception, whichever the lessor

Section 2

Public Liability \$20,000,000 each and every Occurrence

Products Liability \$20,000,000 each and every Occurrence and in the aggregate

Excess: \$250 each and every claim

Special Provisions and Endorsements:

Participant to Participant Extension

It is hereby noted and agreed that General Exclusion 3.13 is removed from this policy.

Molestation/Sexual Abuse (Defence Costs only – up to \$250,000 any one claim and in the aggregate, arising during the Policy Period) – Claims Made Basis

This Policy will indemnify the Insured by this extension against their legal liability to pay costs, fees and expenses incurred in defending a claim first made against the Insured and notified during the Period of Insurance as stated in the Schedule, from any claim or claims arising out of or in any way connected with actual, threatened or perceived sexual assault, sexual harassment or molestation of any child or disabled person up to a maximum of \$250,000 any one claim and in the aggregate, arising during the Period of Insurance as stated in the Schedule. An Excess of \$2,500 will apply to each and every claim made under this extension.

North American Conditions

This Policy is subject to the following additional terms and exclusions in respect of any claim, judgement, award, payment or settlement made in any country or territory which operates under the laws of the United States of America or Canada (or any order made anywhere in the world to enforce such judgement, award or settlement either in whole or in part)

Punitive and exemplary damages exclusion

Regardless of any other provision of this insurance, this insurance does not apply to punitive or exemplary damages

Industries, seepage, pollution and contamination exclusion

This Insurance does not cover any liability for:

- Injury or loss of or damage to or loss of use of property directly or indirectly caused by seepage, pollution or contamination

Class of Policy: Sports Liability Insurance	Policy No: ATCSL00126
The Insured: Basketball States & Territories Associations	Invoice No: 9999964485
	Our Ref: BASKETSTAT

- The cost of removing nullifying or cleaning-up seeping, polluting or contaminating substances
- Fines penalties punitive or exemplary damages

Costs Inclusive

It is understood and agreed that notwithstanding anything contained herein to the contrary all costs and expenses incurred in the defence or settlement of any claim shall be considered as part of and not in addition to the Limit under this insurance stated in the Schedule.

Workers Compensation

This Policy shall not apply to any claim or claims:-

Arising out of any obligation for which the Insured and any Company as their Insurer may be held liable under any workers’ compensations, unemployment compensation or disability benefits law or any similar law provided, however, that this exclusion does not apply to liability of others assumed by the Insured under contract or agreement.

Disputes

Any dispute concerning the interpretation of the terms conditions limitations and/or exclusions contained herein is understood and agreed by both the Insured and the Insurers to be subject to English Law. Each party agrees to submit to the jurisdiction of any Court or competent jurisdiction within England or Wales and to comply with all requirements necessary to give such Courts jurisdiction. All matters arising hereunder shall be determined in accordance with the law and practice of such Court.

Excess

An Excess of AUD 5,000 will apply for each and every claim.

Sum Insured

Section 1

Professional Indemnity	\$5,000,000	each and every Occurrence and in the aggregate
------------------------	-------------	--

Section 2

Public Liability	\$10,000,000	each and every Occurrence
------------------	--------------	---------------------------

Products Liability	\$10,000,000	each and every Occurrence and in the aggregate
--------------------	--------------	--

Additional General Condition

It is hereby noted that the following General Condition is added to this Policy:

4.13 Several Liability Notice – LSW 1001

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

In all other respects, the policy is unaltered.

Class of Policy: Sports Liability Insurance
The Insured: Basketball States & Territories Associations

Policy No: ATCSL00126
Invoice No: 9999964485
Our Ref: BASKETSTAT

THE UNDERWRITER: Certain Underwriters at Lloyds of London

This Schedule and Endorsements and Policy Wording shall be read together as one Contract.
Marginal notes and Headings are used for identification and do not form part of the Policy Wording.



Signed: _____
for and on behalf of ATC Insurance Solutions Pty. Ltd.
acting as agent for the Underwriter as specified above.

Date: 30 September 2016

TAX INVOICE

This document becomes a Tax Invoice for GST when payment is made. Where your broker issues you a Tax Invoice, which included an amount for this supply of insurance, your payment is made against the broker's invoice and this document does not become a Tax Invoice.

If you are registered for GST purposes, your input tax credit entitlement is or is based on the GST amount shown above. Please note that in accordance with the GST law relating to insurance premiums the GST amount may be less than 1/11th of the total amount payable.

OUR CONTRACT WITH YOU

The terms of cover are contained in this Policy, the Schedule and any attachments to the Schedule.

You should keep all of the Policy documents in a safe place.

YOUR DUTY OF DISCLOSURE

Before You enter into an insurance contract, You have a duty to tell Us anything that You know, or could reasonably be expected to know, may affect Our decision to insure You and on what terms.

You have this duty until We agree to insure You.

You have the same duty before You renew, extend, vary or reinstate an insurance contract

You do not need to tell Us anything that:

- reduces the risk We insure You for; or
- is common knowledge; or
- We know or should know as an insurer; or
- We waive Your duty to tell Us about.

If You do not tell Us something

If You do not tell Us anything You are required to, We may cancel Your contract or reduce the amount We will pay You if You make a claim, or both. If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

CANCELLATION

You may cancel your policy at any time by writing to us at Level 9, 499 St Kilda Road, Melbourne, 3004 and advising us that

Class of Policy: Sports Liability Insurance
The Insured: Basketball States & Territories Associations

Policy No: ATCSL00126
Invoice No: 9999964485
Our Ref: BASKETSTAT

you wish to cancel your policy. The cancellation will take effect from the date we receive such notice in writing. We will be entitled to retain premium which applies for the time on risk and an amount for our expenses subject to minimum premium provisions and any relevant government taxes and/or charges.

We may cancel your policy in any of the circumstances set out in, and in the manner allowed by, the *Insurance Contracts Act 1984*. We will advise you in writing if the Policy is cancelled by us.

COMPLAINTS & DISPUTE RESOLUTION

We are committed to dealing with any complaint about Our products or services, promptly and fairly.

If You or a Covered Person have a complaint, please first try to resolve it by speaking to the relevant member of Our staff.

If the complaint relates to the insurance cover, We have an internal disputes resolution process and suggest you contact Our Internal Dispute Resolution Officer on (03) 9258 1777 or by writing to Us.

We will acknowledge receipt of the complaint within three working days and, provided We have sufficient information, will complete the review within 15 working days. If this is not possible, We will agree a new timeframe for responding to You or the Covered Person. In any case, We will provide an update every ten working days.

If the matter is still not resolved, You or a Covered Person may then contact:

Lloyd's Underwriters' General Representative in Australia
Level 9, 1 O'Connell Street,
Sydney,
NSW 2000

Lloyd's Australia offers a no cost complaint resolution service to You (and Covered Persons) which is independent and impartial. Lloyd's will advise You on how to proceed with Your complaint. If Lloyd's is unable to assist, they will promptly advise You or the Covered Person.

If You or a Covered Person are still not satisfied with the final decision, You or the Covered Person may wish to contact the Financial Ombudsman Service. This is a free independent external disputes resolution service provided to customers to review and resolve complaints where We have been unable to satisfy Your or the Covered Person's concerns.

For further details, please contact:

Financial Ombudsman Service
GPO Box 3 Melbourne VIC 3001
Telephone: 1300 78 08 08
Website: www.fos.org.au
Email: info@fos.org.au

PRIVACY

In this statement "we", "us" and "our" means Lloyd's and ATC Insurance Solutions (ATC) as its agent.

We are bound by the requirements of the Privacy Act 1988 (Cth), the Privacy Amendment (Private Sector) Act 2000 (Cth) and the Privacy Amendment (Enhancing Privacy Protection) Act 2012. This sets out standards on the collection, use, disclosure and handling of personal information.

Our Privacy Policy is available at www.atcis.com.au or by calling us on the number below.

We, and our agents, need to collect, use and disclose your personal information in order to consider your application for insurance and to provide the cover you have chosen, administer the insurance and assess any claim. You can choose not to provide us with some of the details or all of your personal information, but this may affect our ability to provide the cover, administer the insurance or assess a claim.

Class of Policy: Sports Liability Insurance
The Insured: Basketball States & Territories Associations

Policy No: ATCSL00126
Invoice No: 9999964485
Our Ref: BASKETSTAT

We may disclose your personal information to third parties (and/or collect additional personal information about you from them) who assist us in providing the above services and some of these are likely to be overseas recipients in the United Kingdom. These parties which include our related entities, distributors, agents, insurers, claims investigators, assessors, lawyers, medical practitioners and health workers, and federal or state regulatory authorities, including Medicare Australia and Centrelink will only use the personal information for the purposes we provided it to them for (unless otherwise required by law).

Information will be obtained from individuals directly where possible and practicable to do so. Sometimes it may be collected indirectly (e.g. from your representatives or co-insureds). If you provide information for another person you represent to us that:

You have the authority from them to do so and it is as if they provided it to us;

You have made them aware that you will or may provide their personal information to us, the types of third parties we may provide it to, the relevant purposes we and the third parties we disclose it to will use it for, and how they can access it. If it is sensitive information we rely on you to have obtained their consent on these matters. If you have not done or will not do either of these things, you must tell us before you provide the relevant information.

You are entitled to access your information and request correction if required. You may also opt out of receiving materials sent by us by contacting ATC on (03) 9258 1777 or write to us at the address given on page 1.



Sports Combined Liability Insurance

Policy Wording

Dated 22 July 2014

Issued by ATC Insurance Solutions Pty Ltd ("ATC") (ACN 121 360 978, AFS Licence No. 305802) acting under a binder as an agent of certain underwriters at Lloyd's of London ("Lloyd's")

Document number
WRD079

TABLE OF CONTENTS

Important Information

• About the insurer	3
• About ATC	3
• Duty of disclosure	3
• Change in circumstances	4
• Renewal procedure	4
• Dispute resolution	4
• Privacy	5
• Claims Management	5
• Preventing the Underwriters' rights to recovery	6
• Claims made and notified basis	6
• Statutory right to notify facts and circumstances	6

Section 1 - Professional Indemnity Policy

Section 1.1 Insuring Clauses	7
Section 1.2 Limit of Indemnity and Excess	7
Section 1.3 Definitions	7
Section 1.4 Automatic Extensions	8
Section 1.5 Specific Exclusions	11

Section 2 – Public & Products Liability Policy

Section 2.1 Insuring Clauses	13
Section 2.2 Limit of Indemnity and Excess	13
Section 2.3 Definitions	13
Section 2.4 Automatic Extensions	16
Section 2.5 Specific Exclusions	18

General Exclusions	22
---------------------------	----

General Conditions	26
---------------------------	----

Claims Conditions	29
--------------------------	----

IMPORTANT INFORMATION

About the insurer

This insurance is underwritten by certain Underwriters at Lloyd's.

Lloyd's is a party to the General Insurance Code of Practice. You can access the Code at www.codeofpractice.com.au.

About ATC

This insurance is issued by ATC acting under a binder as an agent of certain Underwriters at Lloyd's. We act on behalf of and in the interests of certain Underwriters at Lloyd's.

Our contact details are:

Address: Level 9, 499 St Kilda Road, Melbourne, VIC, 3004
Telephone: (03) 9258 1777
Facsimile: (03) 9867 5540
Website: www.atcis.com.au
Email: info@atcis.com.au

Your duty of disclosure

Before you take out an insurance policy with us, the *Insurance Contracts Act 1984* requires you to tell us every matter that is known to you that:

- you know to be a matter relevant to our decision whether to accept the risk and, if so, on what terms, or
- a reasonable person in the circumstances could be expected to know to be a matter relevant to our decision.

Therefore, before you enter (or renew, extend, vary or reinstate) an insurance policy with us you must:

- give us complete and honest answers
- tell us everything you know, and
- tell us everything that a reasonable person in the circumstances could be expected to know and tell us.

Who needs to disclose

You are answering questions on behalf of both yourself and anyone else you want to be covered by this insurance. The duty of disclosure applies to you and everyone else insured by the Policy.

How long does the duty of disclosure last

The duty to disclose continues right up to the commencement date of the insurance or the date it is renewed.

What we do not need to be told

You do not need to tell us about any matter that:

- diminishes our risk
- is of common knowledge
- we know or, in the ordinary course of business, ought to know, or
- we say we do not need to know.

Failure to disclose

We can reduce the amount we pay under this insurance for a claim or even cancel the insurance cover if you or anyone else insured under the Policy fail to comply with the duty of disclosure.

If a non-disclosure is fraudulent, we may treat Your Policy as if it never existed and pay you nothing.

Change in circumstances

You shall throughout the Period of Insurance give notice as soon as reasonably practicable of any material change in any fact, activity or circumstance as described in the proposal. We are entitled to refuse to cover the additional exposure, activity or circumstance and no cover will be provided under this insurance in relation to any material change in any fact, activity or circumstance to those described in the proposal unless we agree to provide cover in writing and you have paid any additional premium we require to cover the additional risk. If the nature of the change in circumstances entails a substantially different risk, whether in type or degree, from that previously envisaged the Insurer may in its absolute discretion refuse to cover the additional risk. We are entitled to cancel this insurance by reason you failing to give notice in accordance with this condition.

Renewal procedure

This insurance is not automatically renewable. Before this insurance expires we will advise you, via your intermediary, of whether we intend to offer renewal, any information we require to do so and if so on what terms. This document also applies for any offer of renewal we may make, unless we tell you otherwise.

It is important that you check the terms of any renewal offer before renewing to satisfy yourself that the details are correct. In particular, check the Limit of Indemnity and Excess(es) applicable and to ensure the levels of cover are appropriate for you.

Please note that you need to comply with your duty of disclosure before each renewal (see above).

Dispute resolution

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 speaking to the relevant member of our staff.

If the complaint relates to the insurance cover, we have an Internal Disputes Resolution process and suggest you contact our Internal Dispute Resolution Officer on (03) 9258 1777 or by writing to us at the address given above. We will acknowledge receipt of your complaint within three working days and provided we have sufficient information will complete the review within 15 working days. Otherwise, we will agree a new timeframe for responding to you. In any event, we will provide you with an update every 10 working days.

If the matter is still not resolved, you may then contact:

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

Telephone: (02) 9223 1433

who will refer your dispute to Policyholder & Market Assistance Department at Lloyd's.

Complaints that cannot be resolved by Policyholder & Market Assistance may be referred to the Financial Ombudsman Service (UK). Further details will be provided at the appropriate stage of the complaints process.

Privacy

In this statement "we", "us" and "our" means Lloyd's and ATC acting under a binder as its agent.

We are bound by the requirements of the Privacy Act 1988 (Cth), the Privacy Amendment (Private Sector) Act 2000 (Cth) and the Privacy Amendment (Enhancing Privacy Protection) Act 2012. This sets out standards on the collection, use, disclosure and handling of personal information.

Our Privacy Policy is available at www.atcis.com.au or by calling us on the number below.

We, and our agents, need to collect, use and disclose your personal information in order to consider your application for insurance and to provide the cover you have chosen, administer the insurance and assess any claim. You can choose not to provide us with some of the details or all of your personal information, but this may affect our ability to provide the cover, administer the insurance or assess a claim.

We may disclose your personal information to third parties (and/or collect additional personal information about you from them) who assist us in providing the above services and some of these are likely to be overseas recipients in the United Kingdom. These parties, which include our related entities, distributors, agents, insurers, claims investigators, assessors, lawyers, medical practitioners and health workers, and federal or state regulatory authorities, including Medicare Australia and Centrelink, will only use the personal information for the purposes we provided it to them for (unless otherwise required by law).

Information will be obtained from individuals directly where possible and practicable to do so. Sometimes it may be collected indirectly (e.g. from your representatives or co-insureds). If you provide information for another person you represent to us that:

- you have the authority from them to do so and it is as if they provided it to us; and
- you have made them aware that you will or may provide their personal information to us, the types of third parties we may provide it to, the relevant purposes we and the third parties we disclose it to will use it for, and how they can access it. If it is sensitive information we rely on you to have obtained their consent on these matters. If you have not done or will not do either of these things, you must tell us before you provide the relevant information.

You are entitled to access your information and request correction if required. You may also opt out of receiving materials sent by us by contacting ATC on (03) 9258 1777 or write to us at the address given above.

Claims Management

In the event of a claim please contact us using the details above.

Claims will be managed on our behalf by Proclaim Management Solutions Pty Ltd. Proclaim are an independent claims management company based in Melbourne. They can be contacted as follows:

Address: Locked Bag 32012, Collins St. East VIC 8003

Telephone: (03) 9660 5200
Website: www.proclaim.com.au

However, please contact ATC in the first instance so that we can assist.

Preventing the Underwriters' right to recovery

The Underwriter's liability to indemnify you for loss or damage under this Policy may be excluded or limited if you enter into a contract that excludes or limits the Underwriter's rights or ability to recover compensation in respect of that loss or damage from any other person or entity.

Claims made and notified basis

Section 1 of this insurance operates on a "claims made and notified basis". This part provides cover for Claims made against the insured and notified to us during the Period of Insurance.

Statutory right to notify facts and circumstances

If the Insured gave the insurer notice in writing of facts that might give rise to a Claim against the Insured as soon as reasonably practicable after becoming aware of those facts, but before the Period of Insurance expired, the insured may have rights under section 40(3) of the *Insurance Contracts Act 1984* to be indemnified in respect of any Claim subsequently made against the Insured arising from those facts even though the Claim is made after the Period of Insurance expired. Any such rights arise under legislation only.

Section 1 - Professional Indemnity

We will indemnify the Insured according to the terms of this Policy in consideration of the payment of the premium and in reliance on the contents of the proposal and any other information submitted by the Insured or on its behalf.

Section 1.1 INSURING CLAUSES

- 1.1.1 We will indemnify the Insured for any Claim first made against the Insured and notified to Us during the Period of Insurance in respect of any civil liability arising from breach of professional duty in the conduct of the Sport.
- 1.1.2 We will also pay the Defence Costs incurred with Our prior written consent in the defence, settlement or investigation of any Claim covered under clause 1.1.1.
- 1.1.3 The Policy will only indemnify the Insured for actual or alleged breaches of professional duty with respect to acts, errors or omissions committed after the retroactive date shown in the Schedule.

Section 1.2 LIMIT OF INDEMNITY AND EXCESS

- 1.2.1 Our total liability under this Policy in respect of any one Claim, and in the aggregate for all Claims, will not exceed the Limit of Indemnity plus any reinstatement under automatic extension 1.4.1 except that We will pay Defence Costs in addition.
- 1.2.2 If the amount to dispose of any Claim exceeds the Limit of Indemnity, Our liability for Defence Costs shall be in the same proportion as the Limit of Indemnity bears to the amount required to dispose of the Claim.
- 1.2.3 The Insured must pay the Excess specified by the Policy for each Claim. We are only required to indemnify the Insured for amounts over and above the Excess.
- 1.2.4 The Excess does not apply to Defence Costs.
- 1.2.5 For the purposes of applying the Limit of Indemnity and to determine the number of Excesses applicable, all Claims will be treated as one Claim if they arise from causally connected or interrelated acts, errors or omissions.

Section 1.3 DEFINITIONS

- 1.3.1 **Claim** means any:
- a) demand for compensation or damages made by a third party in writing to the Insured, or
 - b) writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, counter-claim or third or similar party notice served on the Insured.
- 1.3.2 **Defence Costs** means the fees and expenses incurred by the Insured with Our prior written consent in defending, settling or investigating a Claim covered by the Policy.
- 1.3.3 **Documents** means deeds, wills, agreements, maps, plans, drawings, books, letters, contracts, certificates, forms and other documents of any nature whether printed, written, digitally or electronically stored data, or reproduced by any other method but does not mean and excludes money, bank or

currency notes, bearer bonds or coupons, stamps or any negotiable instrument.

- 1.3.4 **Employee** means any person employed by the Insured under a contract of service, traineeship or apprenticeship, including volunteers (but excluding workers on-hired from labour hire agencies)
- 1.3.5 **Employment Dispute** means any dispute arising from actual or alleged: unfair or wrongful dismissal, discrimination, denial of natural justice, workplace harassment, unfair or wrongful demotion (or failure to promote, employ or recommend for employment) of any person (including an Employee) or misleading representation or advertising with respect to employment, breach of a contract of employment, or any violation of any law concerning employment.
- 1.3.6 **Excess** means the amount stated in the Schedule.
- 1.3.7 **Insured** means the entity named as the Insured in the Schedule, including any:
- (a) Subsidiary of the Insured;
 - (b) person who is during the Period of Insurance a principal, partner, director or Employee of the Insured, but only whilst acting within the scope of their duties in such capacity; and
 - (c) prior corporate entity through which the Insured previously traded in the course of the conducting the Sport.
- 1.3.8 **Limit of Indemnity** means the amount specified in the Schedule.
- 1.3.9 **Period of Insurance** means the period specified in the Schedule.
- 1.3.10 **Policy** means the Professional Indemnity policy in Section 1, the General Exclusions, General Conditions and Claims Conditions, the Schedule, the written proposal made by the Insured to Us (including any attachments), and any endorsement to the Policy issued by Us at the commencement of or during the Period of Insurance.
- 1.3.11 **Schedule** means the schedule to this Policy containing the specific insurance details of the Policy issued by Us.
- 1.3.12 **Sport** means the sporting activities specified in the Schedule conducted by the Insured, as well as all associated official activities conducted by the Insured, including social and fundraising activities
- 1.3.13 **Subsidiary** means any entity over which the Insured is in a position to exercise effective direction or control through ownership or control of more than 50 per cent of the issued voting shares of that entity, and any subsidiary at law.
- 1.3.14 **We, Us and Our** mean ATC acting under a binder as an agent of certain underwriters at Lloyd's

Section 1.4 AUTOMATIC EXTENSIONS

These extensions are included automatically and are subject to the terms of the Policy except to the extent varied by the extension. Except for extension 1.4.1 they do not increase the Limit of Indemnity.

1.4.1 One automatic reinstatement

Although the Limit of Indemnity for any one Claim will not change, if the Limit of Indemnity is exhausted by reason of Claims We will reinstate the Limit of Indemnity once during the Period of Insurance.

1.4.2 Continuous cover

We will cover any Claim that would otherwise be excluded by Specific Exclusion 1.5.5 that arises out of an act, error or omission occurring prior to the Period of Insurance provided that:

- (a) We were the Insured's professional indemnity insurer at the time when the Insured first became aware of the fact or circumstance from which the Claim arose, and
- (b) We continued as the Insured's professional indemnity insurer from the time the Insured first became aware of the fact or circumstance to the time when the Claim is made and notified to Us.

We reserve the right to reduce the amount payable for any Claim by the amount that fairly represents any prejudice We have suffered as a result of the late notification.

The Limit of Indemnity under this extension shall be the lesser of that available under the policy in force at the time the Insured first became aware of the fact or circumstance and this Policy. The terms of this Policy will apply in all other respects.

This extension will not apply to a fraudulent non-disclosure of a fact or circumstance.

1.4.3 Fraud and dishonesty

We will cover Claims that would otherwise be excluded by Specific Exclusion 1.5.4, but We will not cover:

- (a) any person who commits, condones or authorises any dishonest, fraudulent, malicious, criminal or reckless act, error or omission; or
- (b) any loss of money, negotiable instruments, bonds, coupons, currency, bank notes or stamps.

1.4.4 Cover for others

Provided they observe and are subject to the terms of the Policy the following are also covered:

- (a) Former principals and Employees

Any person who has ceased or ceases to be a principal, partner, director or Employee of an Insured entity before or during the Period of Insurance, but solely in respect of work carried out for and on behalf of that entity.

- (b) Personal representatives

The estate, heirs, legal representatives or assigns of any deceased, mentally incompetent or insolvent Insured.

1.4.5 **Former Subsidiaries**

We will cover the Insured for the Insured's liability in respect of the conduct of the Sport by a Subsidiary that ceased or ceases to be a Subsidiary before or during the Period of Insurance.

1.4.6 **Affiliations and joint ventures**

Provided that the joint venture is declared to and agreed by Us, We will cover the Insured for the Insured's conduct in any joint venture to which the Insured is party, but cover is limited to the Insured's proportion of liability.

1.4.7 **Competition and Consumer Act 2010 ("Australian Consumer law")**

We will cover the Insured's liability to pay compensation as a result of unintentional breaches of any provision of any Australian Consumer Law.

For the purpose of this clause, Australian Consumer Law includes the previous consumer laws found in the Trade Practices Act 1974 (Cth) and State and Territory Fair Trading legislation

1.4.8 **Confidentiality and intellectual property**

We will cover the Insured for liability for breach of trust, confidentiality or privacy and/or infringement of copyright, trademark, design or patent arising out of the conduct of the Sport.

1.4.9 **Defamation**

We will cover the Insured for unintentionally making libelous or slanderous statements.

1.4.10 **New Subsidiaries, mergers and acquisitions**

We will cover:

(a) any Subsidiaries that are either created or acquired by the Insured during the Period of Insurance, and

(b) any other entities that are merged into or acquired by the Insured during the Period of Insurance

for a period of 30 days during the Period of Insurance from the date of creation, acquisition or merger (as the case may be) provided that We will only indemnify the Insured for actual or alleged breaches of professional duty with respect to acts, errors or omissions committed after the date of creation, acquisition or merger.

Cover under this extension will only apply to Subsidiaries and entities whose professional activity is of a similar nature as the Sport

Cover beyond 30 days will only be available if application is made by the Insured and agreed to by Us.

1.4.11 **Severability and non-imputation**

If more than one party is insured under this Section the written proposal shall be construed as if it was a separate application for cover by each Insured and any statement or representation in the proposal or surrounding the proposal,

or any knowledge possessed by an Insured, shall not be imputed to any other Insured.

Further, any breach of the terms or conditions of this insurance, or any other conduct by any Insured, shall not be imputed to any other Insured.

Provided always that:

- a) the remaining Insured are entirely innocent of and had no prior knowledge of the conduct of the other Insured (or should not reasonably have been expected to have such knowledge) and as soon as reasonably practical after becoming aware of the conduct, advise Us in writing of all known facts in relation to the conduct, and
- b) this clause is not intended to limit the Insured's duty of disclosure under the *Insurance Contracts Act 1984*.

Section 1.5 SPECIFIC EXCLUSIONS

We will not cover the Insured for:

1.5.1 Assumed liability

Any Claim:

- a) arising from any duty or obligation assumed or undertaken by the Insured that is not assumed or undertaken in the normal conduct of the Sport , or
- b) alleging a liability under a contractual warranty, guarantee or undertaking unless liability would have been implied by law or would have existed in the absence of the contractual warranty, guarantee or undertaking.

1.5.2 Waiver of rights

Any liability that the Insured has either waived or limited its right of recovery from another party (either in whole or in part).

1.5.3 Fines, penalties and aggravated damages

Liability to pay: fines; penalties; aggravated, punitive or exemplary damages; or liquidated damages.

1.5.4 Dishonest, fraudulent, malicious, or reckless acts

Any Claim arising from any dishonest, fraudulent, criminal or malicious act or omission by the Insured unless covered by automatic extension 1.4.3.

1.5.5 Known claims and circumstances

Any Claim:

- (a) first made or threatened against the Insured before the inception date of the Policy;
- (b) arising from any fact or circumstance that the Insured knew or ought reasonably to have known before the inception date of the Policy might give rise to a Claim;

- (c) that has been notified under any previous policy or was stated on the proposal (or any declaration or other underwriting information on which this Policy is based); or
- (d) arising from any fact or circumstance that has been notified (or ought reasonably to have been) under any previous policy or was stated on the proposal (or any declaration or other underwriting information on which this Policy is based).

1.5.6 **Documents**

Any Claim arising from the loss or destruction of, or any damage to, Documents

1.5.7 **Employers liability**

The Insured's liability to pay compensation for the death, bodily injury, illness or disease of, or to, any Employee or damage to, destruction of, or loss of use of any property of any Employee.

1.5.8 **Employment Disputes**

Any Claim arising from any Employment Dispute.

1.5.9 **Directors and officers**

Any liability incurred as a director or officer of a company or as a trustee of a trust while acting in those capacities.

1.5.10 **Related persons**

Unless originally emanating from an independent third party, any Claim made by:

- (a) any person or entity covered by this Section, or
- (b) any spouse, domestic partner or companion, parent, parent-in-law, domestic partner of a parent, sibling, or child of any Insured or any spouse or domestic partner of an Insured's sibling or child.

1.5.11 **Property**

Any Claim arising from the ownership, possession, occupation or use of land, buildings, mechanically propelled vehicles or vessels, aircraft or watercraft by the Insured.

1.5.12 **Products Liability**

Any Claim arising from manufacture, installation, assembly, processing, repair, maintenance, sale, supply or distribution of goods or products by or on behalf of the Insured.

1.5.13 **Care, custody and control**

Any Claim arising directly or indirectly from property under the Insured's care, custody or control

1.5.14 **Insurance**

Any Claim that is more specifically insured against under Section 2 of this insurance.

Section 2 - Public & Products Liability

We will indemnify the Insured according to the terms of this Policy in consideration of the payment of the premium and in reliance on the contents of the proposal and any other information submitted by the Insured or on its behalf.

Section 2.1 INSURING CLAUSES

2.1.1 We will indemnify the Insured for the Insured's legal liability to pay compensation in respect of:

- a) Injury, and/or
- b) Damage, and/or
- c) Advertising Injury

happening within the Policy Territory during the Period of Insurance as a result of an Occurrence in connection with the Sport.

2.1.2 We will also pay the Defence Costs incurred with Our prior written consent in the defence, settlement or investigation of any claim covered under clause 2.1.1.

Section 2.2 LIMIT OF INDEMNITY AND EXCESS

2.2.1 The total amount payable by Us will not exceed the Limit of Indemnity in respect of any one Occurrence or series of Occurrences arising out of one originating cause.

2.2.2 Defence Costs will be paid in addition to the Limit of Indemnity. However, Our liability to pay Defence Costs in respect of any Occurrence will cease once We have paid compensation up to the Limit of Indemnity.

2.2.3 The Insured must pay the Excess specified by the Policy for each Occurrence that is the subject of a claim covered under clause 2.1.1. We are only required to indemnify the Insured for amounts over and above the Excess.

2.2.4 The Excess does not apply to Defence Costs.

2.2.5 For the purposes of applying the Limit of Indemnity and to determine the number of Excesses payable by the Insured, all events of a series consequent upon or attributable to one source or original cause shall be deemed to be one Occurrence .

Section 2.3 DEFINITIONS

2.3.1 **Advertising Injury** means injury arising from:

- a) libel, slander or defamation, or
- b) any infringement of copyright or passing off of title or slogan, or
- c) unfair competition, piracy, idea misappropriation contrary to implied contract, or
- d) invasion of privacy

committed or alleged to have been committed during the Period of Insurance in any advertisement, publicity article, broadcast or telecast and caused by or arising out of the Insured's advertising activities.

- 2.3.2 **Damage** means:
- a) physical loss or destruction of, or damage to, tangible property, including its loss of use at any time as a result, and/or
 - b) loss of use of tangible property that has not been physically lost, destroyed or damaged provided that such loss of use is caused by or arises out of an Occurrence.
- 2.3.3 **Defence Costs** means the fees and expenses incurred by the Insured with Our prior written consent in defending, settling or investigating a claim covered by the Policy.
- 2.3.4 **Employee** means any person employed by the Insured under a contract of service, traineeship or apprenticeship, including volunteers (but excluding workers on-hired from labour hire agencies)
- 2.3.5 **Employment Dispute** means any dispute arising from actual or alleged: unfair or wrongful dismissal, discrimination, denial of natural justice, workplace harassment, unfair or wrongful demotion (or failure to promote, employ or recommend for employment) of any person (including an Employee) or misleading representation or advertising with respect to employment, breach of a contract of employment, or any violation of any law concerning employment.
- 2.3.6 **Excess** means the amount specified in the Schedule.
- 2.3.7 **General Liability** means the Insured's legal liability for Injury, Damage or Advertising Injury as a result of any one Occurrence happening in connection with the Sport other than Products Liability.
- 2.3.8 **Injury** means:
- death, bodily injury, illness, sickness, disease, disability,
 - shock, fright, mental anguish, humiliation, or loss of consortium or services as a result,
 - defamation,
 - unlawful arrest, unlawful imprisonment, wrongful detention, and/or
 - wrongful eviction, wrongful entry or other invasion of privacy
- 2.3.9 **Insured** means the following:
- a) the Insured stated in the Schedule,
 - b) any subsidiary company (including subsidiaries thereof) of the Insured and any other organisation under the control of the Insured and over which it is exercising active management,
 - c) any new organisation acquired during the Period of Insurance by the Insured described in 2.3.9(a) and 2.3.9(b) through consolidation, merger, purchase or assumption of control and active management, provided that such acquisition or assumption is:
 - i. reported to Us within ninety (90) days after it is acquired, and
 - ii. endorsed onto this Policy,
 - d) any director, officer, employee, partner or shareholder of the Insured or of a company designated in 2.3.9(a), 2.3.9(b) or 2.3.9(c) above, but only whilst acting within the scope of their duties in connection with the Sport,

- e) any voluntary worker and any person whilst working but only in respect of the conduct of the Sport for the purpose of gaining work experience and/ or any person supplied under any work experience or similar Government scheme,
- f) if a party named in the Schedule as an Insured is an individual, the spouse and family of that individual but only in connection with the Sport,
- g) any person in respect of their liability arising out of the performance of any contract or agreement on behalf of an Insured designated in 2.3.9(a), 2.3.9(b) and 2.3.9(c) above but only in respect of the conduct of the Sport, and only to the extent required by such contract or agreement,
- h) if the Insured is declared in the Schedule as a partnership or joint venture, any partner or member thereof but only with respect to their liability as a partner or member of such partnership or joint venture in connection with the Sport, and
- i) the personal representatives of the Insured in respect of liability incurred by the Insured whilst acting on behalf of the Insured but only in connection with the Sport.

2.3.10 **Limit of Indemnity** means the amount(s) stated in the Schedule or any lesser limit shown in the Schedule or Policy. The Limit of Indemnity is:

- a) the maximum amount We shall be liable to pay in respect of any one claim or series of claims for General Liability arising from any one Occurrence, and
- b) the maximum amount We shall be liable to pay in respect of any one claim or series of claims, and in the aggregate during any one Period of Insurance, for Products Liability.

2.3.11 **Occurrence** means an event that results in Injury and/or Damage and/or Advertising Injury neither expected nor intended by the Insured and includes the continuous or repeated exposure to substantially the same general conditions.

With respect to Injury and/or Damage, all events of a series consequent upon or attributable to one source or original cause shall be deemed to be one Occurrence.

All Advertising Injury arising from the same injurious material or act (regardless of the frequency or repetition, the number and kind of media used, or the number of claimants) shall be deemed to be one Occurrence.

2.3.12 **Period of Insurance** means the period specified in the Schedule.

2.3.13 **Policy** means the Public & Products Liability policy in this Section 2, the General Exclusions, General Conditions and Claims Conditions, the Schedule, the written proposal made by the Insured to Us (including any attachments), and any endorsement to the Policy issued by Us at the commencement of or during the Period of Insurance.

2.3.14 **Policy Territory** means anywhere in the world except the United States of America and Canada and their territories and protectorates.

- 2.3.15 **Pollution** means pollution or contamination of the atmosphere or of any water, land or other tangible property.
- 2.3.16 **Product/s** means any goods (including containers, labeling, instructions or advice provided in connection therewith) manufactured, sold, supplied, distributed, altered, constructed, erected, repaired, serviced, designed, tested, installed or processed by or on behalf of the Insured and which are not in the possession of the Insured at the time of the Occurrence.
- Product does not include food or drink sold or supplied by or on behalf of the Insured primarily to the Insured's Employees as a staff benefit.
- 2.3.17 **Product Liability** means the Insured's legal liability for Injury and/or Damage arising from any Products or the reliance upon a representation or warranty made at any time with respect to such Products, but only where such Injury and/or Damage occurs away from premises owned or leased by, or rented to, the Insured and after physical possession of such Products has been relinquished to others.
- 2.3.18 **Schedule** means the schedule to this Policy containing the specific insurance details of the Policy issued by Us.
- 2.3.19 **Sport** means:
- a) the sporting activities specified in the Schedule conducted by the Insured, as well as all associated official activities conducted by the Insured, including social and fundraising activities; and
 - b) the provision and management of canteen facilities for the Insured's Employees' benefit; and
 - c) the Insured's ownership or occupation of the Insured's premises
- 2.3.20 **Subsidiary** means any entity over which the Insured is in a position to exercise effective direction or control through ownership or control of more than 50 per cent of the issued voting shares of that entity, or any subsidiary at law.
- 2.3.21 **We, Us** and **Our** mean ATC acting under a binder as an agent of certain underwriters at Lloyd's

Section 2.4 AUTOMATIC EXTENSIONS

These extensions are included automatically and are subject to the terms of the Policy except to the extent varied by the extension. They do not increase the Limit of Indemnity.

2.4.1 Multiple Insureds Clause

- (i) It is noted and agreed that if the Insured described in the schedule comprises more than one insured party each operating as a separate and distinct entity then (save as described in this Multiple Insureds Clause) cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each such insured party provided that the total liability of the Underwriters to all of the insured parties collectively shall not exceed the sums insured and limits of indemnity including any inner limits set by memorandum or endorsement stated in the policy.
- (ii) It is understood and agreed that any payment or payments by Underwriters to any one or more such insured parties shall reduce to the extent of that payment Insurers' liability to all such parties arising

from any one event giving rise to a claim under this policy and (if applicable) in the aggregate.

- (iii) It is further understood that the Insured parties will at all times preserve the various contractual rights and agreements entered into by the insured parties and the contractual remedies of such parties in the event of loss or damage.
- (iv) It is further understood and agreed that Underwriters shall be entitled to avoid liability to or (as may be appropriate) claim damages from any of the Insured parties in circumstances of fraud, material misrepresentation, material non-disclosure or breach of any warranty or condition of this policy each referred to in this clause as a Vitiating Act.
- (v) It is however agreed that (save as described in this Multiple Insureds Clause) a Vitiating Act committed by one insured party shall not prejudice the right to indemnity of any other insured party who has an insurable interest and who has not committed a Vitiating Act.
- (vi) Underwriters hereby agree to waive all rights of subrogation which they may have or acquire against any insured party except where the rights of subrogation or recourse are required in consequence of or otherwise following a Vitiating Act in which circumstances Underwriters may enforce such rights notwithstanding the continuing or former status of the vitiating party as an insured.
- (vii) The lenders to the project shall not be entitled to any indemnity under this policy for or arising from loss or damage in respect of which Underwriters are by reason of a Vitiating Act no longer liable to indemnify any one or more other insured party.

2.4.2 **Representation costs**

We will pay the reasonable and necessary fees, costs and expenses incurred with Our prior written agreement relating to the Insured's representation:

- (a) at any formal legal inquiry into the circumstances surrounding an Occurrence that resulted in the death of any person, including a coroner's inquest; or
- (b) at any other formal inquiry or proceeding in respect of any matter that is either the subject of a claim for indemnity under this Policy or could directly give rise to a claim for indemnity under this Policy.

Any representation costs payable under this extension will be treated as Defence Costs for the purpose of applying the Limit of Indemnity as stated in Section 2.2.

2.4.3 **First aid expenses**

If We indemnify the Insured for Injury We will also pay the expenses reasonably and necessarily incurred by the Insured for first aid provided at the time of Injury.

2.4.4 **Temporary repairs**

If We indemnify the Insured for Damage We will also pay the expenses reasonably and necessarily incurred by the Insured with Our prior agreement for temporary repairs, shoring up or other protection of property belonging to others.

2.4.5 **New Subsidiaries, mergers and acquisitions**

We will cover:

(a) any Subsidiaries that are either created or acquired by the Insured during the Period of Insurance, and

(b) any other entities that are merged into or acquired by the Insured, or over which the Insured becomes entitled to control its daily decision making, during the Period of Insurance,

for a period of 30 days during the Period of Insurance from the date of creation, acquisition or merger (as the case may be) provided that We will only indemnify the Insured for its legal liability in relation to Injury and/or Damage and/or Advertising Injury first happening after the date of creation, acquisition or merger.

Cover under this extension will only apply to Subsidiaries and other entities whose business activity is of a similar nature as the Sport of the Insured.

Cover beyond 30 days will only be available if application is made by the Insured and agreed to by Us and any additional premium paid.

Section 2.5 SPECIFIC EXCLUSIONS

We will not cover the Insured for:

2.5.1 **Assumed liability**

Any liability:

- a) for delay in performance by the Insured or anyone acting on its behalf arising from any contract or agreement, or
- b) under a contractual warranty, guarantee or undertaking unless liability would have been implied by law or would have existed in the absence of the contractual warranty, guarantee or undertaking.

This exclusion does not apply to liability that is assumed by the Insured under a lease of real or personal property (other than a provision which obliges the Insured to insure such property).

2.5.2 **Waiver of rights**

Any liability that the Insured has either waived or limited its right of recovery from another party (either in whole or in part).

2.5.3 **Fines, penalties and aggravated damages**

Liability to pay: fines; penalties; aggravated, punitive or exemplary damages; or liquidated damages.

2.5.4 **Motor vehicles**

Liability arising out of the ownership, possession or use by or on behalf of the Insured of any motor vehicle or trailer for which compulsory insurance is required by legislation other than liability:

- (a) 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, or
- (b) arising beyond the limits of any carriageway or thoroughfare by the loading or unloading of any motor vehicle or trailer, or
- (c) for damage to any bridge weighbridge road or anything beneath caused by the weight of any motor vehicle or trailer or of the load carried thereon, or
- (d) arising out of any motor vehicle or trailer temporarily in the Insured's custody or control for the purpose of parking,

and where such liability does not require compulsory insurance by legislation governing the use of any motor vehicle or trailer.

2.5.5 **Care, custody or control**

Property owned, leased, hired by, under hire purchase, on loan or rented to the Insured or otherwise in its care, custody or control. However, this exclusion does not apply to:

- (a) premises occupied by the Insured for the purpose of the Sport;
- (b) premises (including their contents) temporarily occupied by the Insured for the purpose of carrying out works on those premises, but no indemnity is available for any liability for physical damage to that part of any premises on which the Insured is or was working to the extent that the Damage arises or arose from such work;
- (c) the clothing and personal effects of directors, partners, principals, Employees and/or visitors;
- (d) other property temporarily in the Insured's possession or physical or legal control, subject to the following provisos:
 - there is no cover available for liability in respect of physical damage to that part of any property upon which the Insured is or has been working; and
 - Our liability to indemnify the Insured under this sub-clause is limited to \$250,000 for each and every Occurrence.

2.5.6 **Employment liability**

- a) Liability for Injury to any Employee. Provided that if the Insured:
 - i. is required by law to insure or otherwise fund, whether through self-insurance, a statutory fund or other scheme, all or part of any common law liability for such Injury (whether limited in amount or not), or
 - ii. is 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 applicable workers' compensation law or the Injury is not an Injury that is subject to such law,

then this Policy will cover the Insured to the extent that the Insured's liability would not be covered under any such policy of insurance, self-insurance arrangement, fund or scheme had the Insured complied with its legal obligations.

- b) Any other liability than that referred to under sub-paragraph a) imposed by any workers' compensation law.
- c) 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.
- d) Liability arising from any Employment Dispute

2.5.7 **Products**

- (a) Damage to any Product caused by or arising directly or indirectly out of any defect in a Product or to their harmful nature or unsuitability.
- (b) Liability to pay for: the cost of recall, withdrawal from sale, inspection, disposal, repair or replacement of Products (or of any property of which they form a part) if such Products are withdrawn from the market or from use because of any known or suspected defect or deficiency in them; the cost of investigation into the cause of any defect or deficiency; or compensation in connection with the loss of use of such Products.
- (c) Liability to reinstate, repair or replace Products or to pay for the cost of such reinstatement, repair or replacement where the Damage was caused by those Products.
- (d) Any Product that is incorporated into the structure, machinery or controls of any aircraft, aerial device, watercraft or hovercraft.

2.5.8 **Aircraft, watercraft and hovercraft**

The ownership, maintenance, operation, possession or use by or behalf of the Insured of any aircraft, aerial device, watercraft (except watercraft while stored on land or that do not exceed eight metres in length) or hovercraft .

2.5.9 **Faulty workmanship**

Liability to perform, complete or rectify any work carried out by or on behalf of the Insured, or to pay for the cost to do any of those things.

2.5.10 **Professional Indemnity**

Liability arising from or in connection with any breach of duty owed by the Insured in a professional capacity except:

- a) liability where such breach is in relation to advice or services given gratuitously, or
- b) liability arising from advice given in relation to the use or storage of Products, or
- c) the rendering of, or failure to render, professional medical advice by qualified medical practitioners employed by the Insured to provide first aid and other medical service on the Insured's premises.

2.5.11 Assault and battery

Liability for assault or battery committed by the Insured or at its direction, unless reasonably necessary for the purpose of preventing or eliminating danger to persons or property.

2.5.12 Defamation

Liability for the publication or utterance of a defamatory statement made before the Period of Insurance or made by the Insured, or at its direction, with knowledge of its falsity.

2.5.13 Advertising Injury

Liability to pay compensation for Advertising Injury arising from:

- a) offences committed prior to the inception date of this Policy;
- b) offences committed at the direction of the Insured with knowledge of the illegality or falsity thereof;
- c) breach of contract, other than misappropriation of advertising ideas under an implied contract;
- d) incorrect description of the price of the Products, goods or services;
- e) infringement of trade mark, service mark or trade name by use thereof as the trade mark, service mark or trade name of the Products, goods or services sold, offered for sale or advertised, but this exception does not apply to titles or slogans;
- f) failure of the Products, goods or services to conform with advertised performance, quality, fitness or durability; or
- g) any Insured whose business is advertising, broadcasting, publishing or telecasting.

2.5.14 Pollution

Liability arising out of Pollution other than 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.

All Pollution which arises out of one incident shall be deemed to have occurred at the time such incident takes place.

Our liability for all damages and compensation payable in respect of all Pollution which is deemed to have occurred during the Period of Insurance shall not exceed the Limit of Indemnity for any one Occurrence and in the aggregate in the Period of Insurance.

2.5.15 Insurance

Any Claim that is more specifically insured against under Section 1 of this insurance.

General Exclusions

The following exclusions apply to both Sections unless stated otherwise.

We will not indemnify the Insured against the following:

3.1 **Terrorism**

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes death, injury, illness, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

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

For the purpose of this exclusion, "Terrorism" means 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.

3.2 **USA and Canada**

Any legal liability:

- (a) that arises directly or indirectly out of any act, error or omission committed within the territorial limits of the United States of America or Canada or their territories or protectorates;
- (b) for any action or proceeding for damages that is brought against the Insured in a court of law of the United States of America or Canada or their territories or protectorates;
- (c) Any action or proceeding for the enforcement of any judgement, order or award obtained in or pursuant to the laws of the United States of America or Canada or their territories or protectorates; or

Any legal liability that arises directly or indirectly out of the export of the Insured's Products or services to the United States of America or Canada.

3.3 **War and invasion**

Legal liability in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, nationalisation, requisition or damage to property by or under the order of any government or local authority.

3.4 **Radioactive, contamination, chemical, biological, bio-chemical and electromagnetic weapons**

Loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from:

- a. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel,
- b. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof,
- c. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter,
- d. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter (the exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes), or
- e. any chemical, biological, bio-chemical, or electromagnetic weapon.

3.5 **Asbestos**

Any actual or alleged legal liability whatsoever in respect of claims directly or indirectly arising out of, resulting from or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity.

3.6 **Non-medically prescribed drugs**

Any legal liability arising directly or indirectly from the use of non-medically prescribed drugs

3.7 **Computers and electronic data**

Any legal liability:

- a) arising anywhere in the world caused by, contributed to by, or arising directly or indirectly from loss or damage to Electronic Data or caused by or arising directly or indirectly out of the total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data or any error in creating, amending, entering, deleting or using Electronic Data or total or partial inability or failure to receive, send, access or use Electronic Data for any time at all or any consequential loss resulting from any of these things.

For the purpose of this exclusion, "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 programs, software and other coded instructions for such equipment.

- b) arising anywhere in the world caused by, contributed to by, or arising directly or indirectly out of or in connection with the use of the internet or any intranet by any of the insured

- 3.8 **Sexual molestation**
- Any legal liability arising directly or indirectly from, or in connection with, the actual, attempted or alleged sexual misconduct or molestation of any person.
- 3.9 **Tobacco and smoking**
- Any legal liability arising directly or indirectly from the inhalation or ingestion of, or exposure to, tobacco or tobacco smoke or any ingredient or additive present in any articles, items or goods which contain or include tobacco.
- 3.10 **Child care**
- Any legal liability arising directly or indirectly from the operation of a child minding facility, fee paying or otherwise, unless declared to and agreed by Us in writing.
- 3.11 **Demolition, excavation and building works**
- Any legal liability arising directly or indirectly out of, or in connection with:
- i. demolition of property exceeding ten metres from ground level,
 - ii. pile driving tunnelling or quarrying,
 - iii. excavations below three metres in depth, or
 - iv. the erection striking or alteration of scaffolding equipment for any purpose.
- 3.12 **Underground cables**
- Any legal liability for Damage to cables pipes or other services located underground unless the Insured has:
- a) taken or caused to be taken all reasonable measures to identify the location of such cables pipes and services before any work is commenced which may involve a risk of damage thereto (reasonable measures include contacting the appropriate authorities where it is possible cables pipes or services are under the site),
 - b) retained a written record of the measures which were taken to locate such cables pipes or other services, or
 - c) conveyed the location of such cables pipes and services to Employees or others who are carrying out such work on behalf of the Insured
- 3.13 **Participant to participant**
- Any legal liability for Injury to any person arising directly or indirectly out of the actual participation by that person in the Sport (including practice, trials, training and competition) provided such Injury is caused by another person who is also participating in the same Sport, unless declared to Us and agreed by Us in writing.
- 3.14 **Fees and debts**
- Any Claim arising from any liability to refund the Insured's professional fees or charges, or to pay trading debts.

3.15 **Solarium use**

Any legal liability directly or indirectly arising from:

- a) the use of any equipment that can be used for the purpose of artificial sun tanning, or
- b) the presence of such equipment on Your premises.

3.16 **Pollution (Section 1 only)**

Any Claim arising directly or indirectly out of the actual or alleged discharge, dispersal, seepage, release or escape (whether intentional or accidental) of any pollutants into the atmosphere, into or upon any land or into any body of water (including a waterway or water course), or arising from or in connection with any enforcement action by any public official or agency, or any direction or costs to test for, monitor, remove, clean, contain, treat, detoxify or neutralise any pollutants.

For the purpose of this exclusion, "pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste ("waste" includes material to be recycled, reconditioned).

General Conditions

The following conditions apply to both Sections unless stated otherwise:

4.1 Payment of premium

Our liability to indemnify the Insured is conditional upon the Insured having paid the premium.

4.2 Reasonable care (Section 2 only)

The Insured must:

- a) take all reasonable precautions to prevent Injury and/or Damage and/or Advertising Injury occurring and to prevent the manufacture, sale or supply of defective Products;
- b) ensure that only competent employees use, operate, maintain and service plant and equipment;
- c) maintain all premises, fittings, plant and equipment in sound condition; and
- d) at its own expense, act immediately to trace, recall or modify all Products that it knows or has reason to suspect are defective or deficient.

4.3 Alteration to risk

The Insured must notify Us within 30 days of any material change to the nature of the Sport of the Insured or any act of insolvency or bankruptcy of the Insured, including an inability to pay debts as and when they fall due.

If the Insured fails to notify us, We will not be obliged to indemnify the Insured for any claim made under this insurance.

4.4 One contract

The Policy and the Schedule shall be read together as one contract of insurance and any word or expression to which a specific meaning applies in any part of this Policy or the Schedule shall have the same meaning wherever it may appear.

4.5 Other insurance

If the Insured seeks indemnity under any Policy in respect of a liability that is or may be covered in whole or in part by any other insurance, then the Insured must advise Us of the full details of such other insurance when making a claim with Us.

Subject to the *Insurance Contracts Act 1984*, We reserve the right to seek contribution from other insurer(s).

4.6 Insurance arranged by Principal

If the Insured enters into an agreement with any other party (who for the purpose of this clause is called the "Principal") pursuant to which the Principal has agreed to provide a policy of insurance which is intended to indemnify the Insured for any loss or liability arising out of the performance of the said agreement, then We will (subject to the terms and conditions of this

insurance) only indemnify the Insured for loss or liability not covered by the policy of insurance provided by the Principal.

4.7 Premium adjustment

If We have calculated the premium based on statements and estimates supplied by the Insured, within a reasonable time after the expiry of the Period of Insurance the Insured shall provide Us with such information as We may require for that period and the premium will be adjusted by Us and the difference paid by the Insured or allowed by Us (as the case may be), subject to any minimum premium.

The Insured shall keep records of the information requested by Us and upon reasonable notice allow Us or our nominee to inspect and make copies of those records.

4.8 Jurisdiction

This insurance shall be interpreted in accordance with the laws of Australia and the state or territory where it was issued.

4.9 Cancellation

Cancellation by the Insured:

This insurance may be cancelled at any time at the request of the Insured by notifying the Insurer or its agent in writing.

Cancellation by Us:

We may also cancel this insurance on any grounds subject to the Insurance Contracts Act 1984 (Cth) where We have given the Insured written notice of such cancellation in accordance with the Act. The cancellation will be effective from 4pm on the day specified in the notice given to the Insured.

In the event that We or the Insured cancel the insurance, We may deduct a pro rata proportion of the premium for time on risk, reasonable administrative costs related to the acquisition and termination of the insurance and any government taxes or duties we cannot recover. In the event that you have made a Claim under the insurance and we have agreed to pay the Claim, no return of premium will be made for any unused portion of the premium.

4.10 Assignment

The Insured must not assign this insurance or any rights under this insurance without first obtaining Our consent in writing by endorsement to this insurance.

4.11 Goods and Services Tax (GST)

Where the Insured makes any payment relevant to a Claim covered under this insurance that includes GST, or where the Insured would pay such an amount, We will indemnify the Insured for that GST less any input tax credit the Insured is or would be able to claim for it (the " GST amount ").

We will pay the GST amount in addition to the Limit of Indemnity shown in the Schedule. If the Limit of Indemnity is not sufficient to cover the amount of the Claim, We will only pay the GST amount that relates to Our payment under this insurance.

We will reduce the GST amount by the amount of any input tax credit that the Insured is or would be entitled to.

We will not indemnify the Insured for any GST liability that arises due to the Insured's failure to notify us of the Insured's entitlement or correct entitlement to an input tax credit on the premium.

4.12

Severability

In the event that any part of this insurance is found to be invalid or unenforceable, the remainder of the insurance shall remain in force.

Claims Conditions

- 5.1 The Insured shall give Us immediate notice in writing of any claim and provide all information that We or Our representatives reasonably require to investigate the claim.
- 5.2 The Insured must not make any admission of liability, promise or payment (or offer of payment), or incur any costs or expenses in connection with any claim, without Our prior written consent.
- The Insured must at its own expense take all reasonable steps and precautions in doing all things reasonably practicable to avoid or minimise any actual or potential loss, injury or damage arising from any actual or possible claim under this insurance.
- 5.3 We shall be entitled to take over the defence or settlement of the claim in the name of the Insured, and We will have full discretion and control in doing so, and the Insured shall provide Us at their own expense with all assistance and information that We may reasonably require.
- 5.4 The Insured shall not be required to contest any claim unless a Senior Counsel (mutually agreed upon by the Insured and Us) advises that the claim should be contested based upon the likelihood of success (including a consideration of any costs recoverable from the third party), the likely amount of all Defence Costs, and the likely amount of damages and costs recoverable by the third party.
- 5.5 The Insured may elect to contest a claim, but if We consider that the claim should be settled Our liability to indemnify the Insured will not exceed the total amount for which the claim could have been settled (including the Defence Costs incurred up to the date of the election by the Insured).
- 5.6 We may at any time pay to the Insured in connection with any claim or series of claims an amount equal to the indemnity available under this insurance or any lesser amount for which the claim or claims could be settled. If We make such a payment We shall relinquish the control of and have no further liability for such claim/s.
- 5.7 We shall be entitled to direct the Insured to conduct the defence or settlement of any claim if We consider that the claim will not exceed the Excess. We will reimburse the Insured for all reasonable costs and expenses in the event that any payment made to dispose of the claim exceeds the Excess.
- 5.8 We shall be entitled to claim indemnity or contribution at any time in the name of the Insured from any party against whom the Insured may have such rights and the Insured shall provide all assistance and information We reasonably require to exercise Our rights of subrogation, including the signing of statements and the giving of evidence.