



**Medical Device
Public, Products and Pollution Liability
Insurance Policy**

vQ12.15



Pen Underwriting Pty Ltd
ABN 89 113 929 516 AFSL 290518

Our name comes from the expression 'to pass the pen'. It reflects what we do and what we bring to the insurance industry – specialist expertise and quality underwriting. We strive to exceed the expectations of brokers by providing professional and flexible solutions for their clients' risks across a wide range of major and boutique general insurance products.

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About this booklet

This booklet contains 2 separate parts:

General Information and the Policy Terms and Conditions.

General Information

This part of the booklet contains information You need to know. Please read it carefully before taking out this insurance.

Policy Terms and Conditions

The Policy part of this booklet details all the Policy terms, General Conditions and Exclusions relating to the Policy. It forms part of Your legal contract with Us.

If We issue You with an insurance Policy, You will be given a Policy Schedule. The Policy Schedule sets out the specific terms applicable to Your cover and should be read together with the Policy Terms and Conditions.

The Policy Terms and Conditions and the Policy Schedule We send to You form Your legal contract with Us so please keep them in a safe place for future reference.

If You require further information about this product, please contact Your Financial Services Provider.

GENERAL INFORMATION FOR MEDICAL DEVICE PUBLIC, PRODUCTS AND POLLUTION LIABILITY POLICY

The information contained in this part is general information only and does not form part of Your contract with Us. The Policy Terms and Conditions in the remainder of this booklet contain the details of Your contract.

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.

Privacy

Pen Underwriting handles your personal information with care and in accordance with the Privacy Act 1988 and the Australian Privacy Principles. We collect personal information about you to provide you with insurance and insurance related services. We may disclose your personal information to third parties for the purposes described in our Privacy Policy, including related entities, insurers, reinsurers, agents and service providers, some of whom may be located in the United Kingdom and India. By asking us to provide you with insurance and insurance related services, you consent to the collection, use and disclosure (including overseas disclosure) of your personal information for the purposes described in our Privacy Policy. Where you provide personal information about others, you represent to us that you have made them aware of that disclosure and of our Privacy Policy and that you have obtained their consent. If you do not consent to provide us with the personal information that we request, or withdraw your consent to the use and disclosure of your personal information at any stage, we may not be able to offer you the products or provide the services that you seek. For information about how to access and or correct the personal information we hold about you or if you have any concerns or complaints, ask us for a copy of our Privacy Policy or visit www.penunderwriting.com.au.

Complaints Handling

If you are dissatisfied with a decision Pen Underwriting makes, our service, the service of others we appoint to discuss insurance matters with you, or a claim settlement, we have an internal dispute resolution process to assist you. For further information, ask for a

copy of our Complaints and Disputes Resolution Policy or visit www.penunderwriting.com.au.

General Insurance Code of Practice

Pen Underwriting and Underwriters at Lloyd's proudly support the General Insurance Code of Practice. The Code commits general insurers to uphold high standards of service and practice. A copy of the Code can be obtained from us upon request or from www.codeofpractice.com.au.

Further Information

Your insurance broker has arranged this insurance on your behalf. If you have any questions or need further information concerning your insurance, you should contact your insurance broker to assist you with your enquiry. You should direct all of your correspondence to us through your insurance broker as he is your agent for this insurance.

POLICY TERMS AND CONDITIONS FOR MEDICAL DEVICE PUBLIC, PRODUCTS AND POLLUTION LIABILITY POLICY

Insurer

This Policy is underwritten by certain underwriters at Lloyd's through Pen Underwriting Pty Ltd ABN 89 113 929 516.

Our agreement with you

This Policy is a legal contract between you and us. You pay us the premium, and we provide you with the cover you have chosen as set out in the Policy, occurring during the period of insurance shown on your Policy Schedule or any renewal period.

The amount of any excess that applies to your Policy will be shown on your Policy Schedule.

The exclusions in the section(s) headed 'When you are not covered' and conditions in the section headed 'General Conditions' apply to all types of cover.

Your Policy

Your Medical Device Public, Products and Pollution Liability Policy consists of the Policy Terms and Conditions in this booklet and the Policy Schedule we give you.

Please read your Policy carefully, and satisfy yourself that it provides the cover you require.

If you want more information about any part of your Policy, please ask us, or your Financial Services Provider.

The address and telephone number of your QBE Placement Solutions are on your Policy Schedule.

You should keep your Policy Booklet and Policy Schedule together in a safe and convenient place for future reference.

Other party's interests

You must tell us of the interests of all parties (e.g. financiers, owners, lessors) who will be covered by this insurance. We will protect their interests only if you have told us about them and we have noted them on your Policy Schedule.

Paying your premium

You must pay your annual premium by the due date. If we do not receive your premium by this date or your payment is dishonoured this Policy will not operate and there will be no cover.

Preventing our right of recovery

If you have agreed not to seek compensation from another person who is liable to compensate you for any loss, damage or liability which is covered by this Policy, we will not cover you under this Policy for that loss, damage or liability.

How Goods and Services Tax affects any payments we make

The amount of premium payable by you for this Policy includes an amount on account of the GST on the premium.

When we pay a claim, your GST status will determine the amount we pay.

When you are:

- a) not registered for GST, the amount we pay is the sum insured/limit of indemnity or the other limits of insurance cover including GST.
- b) registered for GST, we will pay the sum insured/limit of indemnity or the other limits of insurance and where you are liable to pay an amount for GST in respect of an acquisition relevant to your claim (such as services to repair a damaged item insured under the Policy) we will pay for the GST amount.

We will reduce the GST amount we pay for by the amount of any input tax credits to which you are or would be entitled if you made a relevant acquisition. In these circumstances, the Input Tax Credit may be claimable through your Business Activity Statement (BAS).

You must advise us of your correct Australian Business Number & Taxable Percentage.

Any GST liability arising from your incorrect advice is payable by you.

Where the settlement of your claim is less than the sum insured/limit of indemnity or the other limits of insurance cover, we will only pay an amount for GST (less your entitlement for Input Tax Credit) applicable to the settlement. This means that if these amounts are not sufficient to cover your loss, we will only pay the GST relating to our settlement of the claim.

We will (where relevant) pay you on your claim by reference to the GST exclusive amount of any supply made by any business of yours which is relevant to your claim.

GST, Input Tax Credit (ITC), Business Activity Statement (BAS) and Acquisition have the same meaning as given to those expressions in A New Tax System (Goods and Services Tax) Act 1999 and related legislation as amended from time to time.

Taxable Percentage is your entitlement to an Input Tax Credit on your premium as a percentage of the total GST on that premium.

1. Our agreement in general

1.1 Parties to this agreement

This Medical Device Public, Product and Pollution Liability Policy is between the **insured** and the **insurer** as declared in the **schedule**. This document, together with its **schedule** and any attached endorsements is the **policy** which sets out this insurance. It is a legal contract so please read all of it carefully.

1.2 Words in bold

Words in bold type face used in this **policy** document, other than in the headings, such as **insured** in clause 1.1 above, have specific meanings attached to them as set out in clause 8, the General definitions and interpretation section of this document.

1.3 Primary purpose of the policy

By this **policy**, the **insurer** agrees, subject to the **policy's** terms, limitations, exclusions and conditions, to:

- 1.3.1 indemnify the **insured** up to the **limit of indemnity** under the **insured sections** for all sums that the **insured** becomes legally liable to pay as damages, including claimant costs recoverable from the **insured**;
- 1.3.2 the full extent of the insurance by this **policy** is described in each **insured section** set out in clauses 2 - 4 below and stated as insured in the **schedule**.

1.4 Policy structure

- 1.4.1 Clauses 2 – 4 set out the scope of main coverage of each **insured section**; additional **costs and expenses**; extra coverage and the circumstances in which the **insurer's** liability to the **insured** is limited, or may be excluded. Also, each clause sets out other terms and conditions.
- 1.4.2 Clause 5 sets out limitations and exclusions shared by **insured sections A, B and C**.
- 1.4.3 Clauses 6 - 9 are applicable to all **insured sections** and set out the **insurer's** ;
 - a) claims handling terms and conditions, including further conditions precedent,
 - b) general terms and conditions, including further conditions precedent,
 - c) definitions,
 - d) complaints procedure.

1.5 Policy period and premium

- 1.5.1 The **policy** will provide insurance as described in clauses 1.3 and 1.4 above for the **period of insurance** it being a condition precedent that the premium and other charges are paid to and accepted by the **insurer**.

- 1.5.2 Taxes, levies and other relevant fiscal charges are payable in addition to the premium.
- 1.5.3 If any instalment of premium is not paid and accepted by the **insurer** on or before its payment date shown in 1.5.1, the **insurer** shall have the right to cancel the **policy** by notifying the **insured** via the broker in writing. In the event of cancellation, premium is due to the **insurer** on a proportionate basis for the period that the **insurer** is on risk, but the full premium shall be payable to the **insurer** in the event of a loss or occurrence prior to the date of termination which gives rise to a valid claim under this **policy**.
- 1.5.4 It is agreed that the **insurer** shall not give less than fifteen (15) days prior notice of cancellation to the **insured** via the broker. If the **premium** due is paid in full to the **insurer** before the notice period expires, notice of cancellation shall be automatically revoked. If not, the **policy** shall automatically terminate at the end of the notice period.

1.6 Basis for the policy

- 1.6.1 All information supplied by the **insured** in connection with the application for insurance including any **proposal** form, application form or otherwise and supplied by or on behalf of the **insured** will be incorporated into and form the basis of the **policy**. It shall be a condition precedent of the **policy** that all such information is true so far as it is within the **insured's** knowledge or could, with reasonable diligence, have been ascertained.
- 1.6.2 It is a further condition precedent of the **policy** that any material change in, or material addition to, the information mentioned in clause 1.6.1, either before or during the **period of insurance**, shall be notified in writing immediately (but in any event no later than 30 days) after the **insured** becomes aware of any such change or addition, to the **insurer** who will continue the **policy** on such terms and conditions as it may determine.
- 1.6.3 In the event of a breach of this clause 1.6, and without prejudice to any of the **insurer's** other rights, the **insurer** may reject or reduce claims connected with the breach, and continue the **policy** on such terms as the **insurer** may determine and if any payment on account of any such claim has already been made the **insured** will repay forthwith all payments on account to the **insurer**.

1.7 Signature

In evidence of the **insurer's** intention to be bound by this insurance, it prints the signature of its Authorised Officer.

2. Insured section A - Public liability

2.1 Public liability cover

The **insurer** agrees to indemnify the **insured** by the terms of this **insured section** against legal liability to pay damages, including claimant costs recoverable from the **insured**, as a result of **bodily injury** or **damage** that occurs during the **period of insurance** and arises out of and in connection with the **business**.

2.2 Public liability costs and expenses

Following any event which is or may be the subject of indemnity under this **insured section** the **insurer** agrees to indemnify the **insured** for **costs and expenses** but the **costs and expenses** form part of and are not additional to the **limit of indemnity** with respect to any insured event under this **insured section**.

2.3 Public liability limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 5, this **insured section** excludes and does not cover:

2.3.1 Clinical trials

bodily injury or **damage** arising out of or from a **clinical trial**.

2.3.2 Pollution and products

bodily injury or **damage** arising out of or from or:

- a) brought about by or contributed to by **pollution**;
- b) in connection with the **insured's products**.

2.3.3 Work away

- a) **damage** to materials, parts or equipment furnished in connection with performance of the **work away** but this limitation shall not be applied to **products** previously supplied under any previous contract; or
- b) **damage** to property that is removed, repaired, adjusted, altered, reinstated, withdrawn or disposed of in the course of and necessitated by the performance of the **work away**; or
- c) any expenditure incurred by the **insured** or others for the removal, repair, adjustment, alteration, reinstatement, withdrawal, inspection or disposal of the **work away** as a result of any defect (suspected or known) in or unsuitability for the intended purpose of the **work away**.

3. Insured section B –Products liability

3.1 Products liability cover

3.1.1 The **insurer** agrees to indemnify the **insured** by the terms of this **insured section** against legal liability to pay damages, including claimant costs recoverable from the **insured** as a result of **bodily injury** or **damage** arising out of the **business** specified in the **schedule**.

3.1.2 All **bodily injury** or **damage** arising out of or alleged to have arisen from the same cause or defect in the **insured's products** shall be considered as having resulted from a single occurrence at the point at which the first claim was made against the **insured** irrespective of the number of claimants or the period over which **bodily injury** or **damage** could result in any claim or claims being made against the **insured** at some future date.

3.2 Products liability costs and expenses

Following any event which is or may be the subject of indemnity under this **insured section** the **insurer** agrees to indemnify the **insured** for **costs and expenses** but the **costs and expenses** form part of and are not additional to the **limit of indemnity** with respect to any insured event under this **insured section**.

3.3 Products liability limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 5, this **insured section** excludes and does not cover:

3.3.1 Aircraft

liability arising out of any **product** or part thereof which with the **insured's** knowledge is intended to be incorporated into the structure, machinery or controls of any aircraft or other aerial device or satellite.

3.3.2 Clinical trials

bodily injury or **damage** arising out of or from a **clinical trial**.

3.3.3 Excluded products

- a) any **product** that is not:
 - i) licenced in accordance with legislation or regulations relating to licensing of **medical devices** in the country in which the **product** is sold; or
 - ii) approved for marketing by the applicable regulatory body in the country in which the **product** is sold where prior approval is required by legislation or regulations; or
 - iii) exempt from any requirement for a licence or marketing

authorisation in the country in which the **product** is sold.

- b) any **product** causing or failing to cure or alleviate any condition directly or indirectly caused by or associated with:
 - i) Hepatitis; or
 - ii) Human Immunodeficiency Syndrome (HIV) initially named as either HTLV III or LAV or the mutants, derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome (AIDS) or AIDS related complex (ARC) or any syndrome or condition of a similar kind howsoever it may be named; or
 - iii) Bovine Spongiform Encephalopathy (BSE), Transmissible Spongiform Encephalopathy (TSE) Creutzfeldt- Jakob Disease (CJD) variant Creutzfeldt- Jakob Disease (vCJD) or new variant Creutzfeldt- Jakob Disease (nvCJD).

3.3.4 Public liability and pollution

bodily injury or **damage** arising out of or:

- a) brought about by or contributed to by **pollution**;
- b) from liability which does not arise out of the **insured's products** in the course of the **business**.

4. Insured section C - Pollution liability

4.1 Pollution liability

The **insurer** agrees to indemnify the **insured** by the terms of this **insured section** against legal liability to pay damages, including claimant costs recoverable from the **insured** as a result of **bodily injury** or **damage**, arising out of or from **pollution** occurring during the course of **business** provided that the **pollution** is caused by a sudden, identifiable, unintended and unexpected incident that takes place in its entirety at a specific moment in time and place during the **period of insurance**.

4.2 Pollution liability costs and expenses

Following any event which is or may be the subject of indemnity under this **insured section** the **insurer** agrees to indemnify the **insured** for **costs and expenses** but the **costs and expenses** form part of and are not additional to the **limit of indemnity** with respect to any insured event under this **insured section**.

4.3 Pollution liability limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 5, this **insured section** excludes and does not cover:

4.3.1 Clinical trials

bodily injury or **damage** arising out of or from a **clinical trial**.

4.3.2 Owned or previously owned premises

liability for **damage** to land or **premises** (including land or water within or below the boundaries of such land or **premises**) that are presently or were at any time previously owned, leased, hired or tenanted by the **insured** or otherwise in the **insured's** care, custody or control.

4.3.3 Public liability and products

bodily injury or **damage** arising out of or from:

- a) liability which does not arise out of **pollution** occurring during the course of the **business**;
- b) in connection with the **insured's products**.

5. Exclusions to insured sections A, B and C

Insured sections A, B and C exclude and do not cover:

5.1 Advertising injury

any loss, liability or **costs and expenses** arising out of or from advertising injury including but not limited to:

- 5.1.1 breach of contract including liability for unauthorised misappropriation of advertising ideas based upon breach or alleged breach of an implied contract;
- 5.1.2 infringement of registered trademarks, patents, registered designs, service marks or trade name including infringement of titles or slogans;
- 5.1.3 the failure of goods, products or services to conform with advertised quality or performance;
- 5.1.4 incorrect description or mistake in advertised price of goods, products or services sold, offered for sale or advertised;
- 5.1.5 arising out of or from libel, slander or the disparagement of goods, products or services of others;
- 5.1.6 advertising activities undertaken on behalf of another party by any **insured** engaged in the business of advertising or undertaken for a fee;
- 5.1.7 the oral, broadcast, telecast or written publication of material whose first publication took place before the inception of the **period of insurance**;
- 5.1.8 an offence committed by the **insured** whose business is advertising, broadcasting, publishing or telecasting.

5.2 Advice, design or plans provided for a fee

any loss, liability or **costs and expenses** arising out of or from advice, design, plans, specifications, formulae, surveys, or directions prepared or given by the **insured** for a fee but this shall not exclude such advice arising in conjunction with **products** supplied.

5.3 Aircraft and watercraft

any loss, liability or **costs and expenses** arising out of or from the ownership, possession or use of any aircraft or other aerial device or satellite, or any watercraft.

5.4 Asbestos

any loss, liability or **costs and expenses** arising out of or from or caused by any work involving the manufacture, mining, processing, use, installation, storage, removal, stripping out, demolition, disposal, distribution, inspection or testing of or exposure to asbestos, asbestos fibres, asbestos dust, or asbestos containing materials.

5.5 Claim jurisdiction limits

any loss, liability or **costs and expenses** arising out of or from any claim brought in or under any jurisdiction outside of the **claim jurisdiction** including any enforcement action or transfer proceedings.

5.6 Contract

any loss, liability or **costs and expenses** arising out of or from any contract or agreement which the **insured** has entered into unless it is proven that, and then only to the extent that, liability would have attached in the absence of such contract.

5.7 Costs and expenses arising from a deliberate act

costs and expenses incurred in proceedings other than in respect of manslaughter, corporate manslaughter or corporate homicide consequent upon any deliberate act or omission by or on behalf of the **insured** if the result of such act or omission could reasonably have been expected to constitute an offence under any legislation.

5.8 Costs of recall or guarantee

expenditure, whether incurred by the **insured** or others, for the withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement, reinstatement of any **product** or part thereof and/or from financial loss consequent upon the necessity for such withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement.

5.9 Damages arising from a deliberate act

any loss, liability or **costs and expenses** either expected or intended by the **insured** but this exclusion does not apply to **bodily injury** resulting from the use of reasonable force to protect persons or property.

5.10 Electronic data

any loss, liability or **costs and expenses**;

- a) arising from loss, alteration or impairment of, or damage to, information and/or data in electronic form,
- b) arising from malicious acts of any person carried out by electronic means,
- c) for defamation or harassment carried out by electronic means,

but this exclusion shall not apply in respect of liability for any ensuing accidental **bodily injury** (save for mental injury or mental disease) or accidental **damage** which is not otherwise excluded.

5.11 Employment practices dispute

any loss, liability or **costs and expenses** which arises out of:

- 5.11.1 a dispute between an employer / prospective employer and **employee** /

prospective **employee** referred or capable of being referred to an Employment Tribunal including such appeal courts or tribunals as are available from an Employment Tribunal; or

- 5.11.2 a settlement or adjudication of or under the auspices of an Employment Tribunal;

and liability by clause 5.11.1 and / or 5.11.2 which is capable of being insured under a generally available Employment Practices Liability Insurance Policy.

5.12 Deductible

the amount of the **deductible** as applicable and stated in the **schedule**.

5.13 Directors' and officers' liability

any loss, liability or **costs and expenses** arising out of or from any **insured** in their capacity as a director, officer or trustee in respect of the performance or non-performance of their duties as a director, officer or trustee.

5.14 Employee accidents

any loss, liability or **costs and expenses** arising out of or from any claim in respect of which compensation is available or would normally be available under any Employers Liability legislation or similar legislation or any obligation for which the **insured** or any company as its insurer may be held liable under any workman's compensation, unemployment compensation, or disability benefits law.

5.15 Employment disputes

any loss, liability or **costs and expenses** arising out of or from any employee, former employee or prospective employee in respect of employment-related libel, slander, humiliation or defamation, unfair or wrongful dismissal, repudiation or breach of any employment contract or arrangement, termination of a training contract or contract of apprenticeship, harassment, discrimination or like conduct.

5.16 Excluded conduct

any loss, liability or costs and expenses arising out of or from:

- a) any deliberate act in violation of any law or ordinance; or
- b) any deliberate or willful misconduct of the insured; or
- c) any dishonest, fraudulent, or criminal act of the **insured**; or
- d) any conduct of the **insured** or **employee** while under the influence of intoxicants or narcotics.

5.17 Financial loss

liability for pure financial loss not consequent upon **bodily injury** or **damage**.

5.18 Fines, penalties, punitive damages, multiple damages or exemplary damages

any fines, penalties, punitive damages, exemplary damages, aggravated damages, multiple or treble damages, or any other increase in damages resulting from the multiplication of compensatory damages.

5.19 Fungus, mould, spores

any loss, liability or **costs and expenses** arising out of or from:

- a) any **fungus, mould**, mildew or yeast; or
- b) any **spore** or toxins created or produced by or emanating from such **fungus, mould**, mildew or yeast; or
- c) any substance vapour gas or other emission or organic or inorganic body substance produced by or arising out of any **fungus, mould**, mildew or yeast; or
- d) any material product building component building structure or any concentration of moisture water or other liquid within such material product building component building or structure that contains harbours nurtures or acts as a medium for any **fungus, mould**, mildew, yeast or **spore** or toxins emanating therefrom;

regardless of any other cause event material product and/or building component that contributed concurrently or in any sequence to that loss, liability or **costs and expenses**.

5.20 Government prohibition

any loss, liability or **costs and expenses** where:

- a) non-admitted insurance is not permitted by local legislation in any country or territory;
- b) or
- c) any government embargo or sanction prohibits the **insured** from trading.

5.21 Insolvency of the insured

any loss, liability or **costs and expenses** arising out of or from or relating directly or indirectly to the insolvency or bankruptcy of the **insured**.

5.22 Intentional disregard of reasonable precautions

any loss, liability or **costs and expenses** arising out of or from the **insured's** deliberate, conscious or intentional disregard of the need to take all reasonable precautions to prevent an insured event or loss arising or continuing.

5.23 Internal company litigation

any action for loss, liability or **costs and expenses** brought or maintained by or on behalf of:

- a) any **insured** or any parent of the **insured** or any subsidiary; or

- b) any firm, partnership or entity in which the **insured** or any director or partner of the **insured** has a financial or executive interest;

provided that this exclusion shall not apply to such loss, liability, **costs and expenses** originating from a claim by an independent third party.

5.24 Latex

any loss, liability or **costs and expenses** arising out of or from, contributed to or caused by:

- a) the pharmacological, toxicological or pathological (including any adverse or allergic reaction to the) properties of natural rubber latex, non-vulcanised rubber, synthetic latex, latex compounds or latex contained in any product or material;
- b) any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the use, handling, storage or possession of natural rubber latex, non-vulcanised rubber, synthetic latex, latex compounds or latex contained in any product or material.

5.25 Legionella

any loss, liability or **costs and expenses** arising out of or from or alleging or attributable to the existence of **legionella**.

5.26 Liability assumed

any loss, liability or **costs and expenses** arising out of or from or relating directly or indirectly to liability assumed by the **insured** under contract which goes beyond the duty to use such skill and care as is usual in the exercise of the **insured's** activities stated in the **proposal** or **business** stated in the **schedule**.

5.27 Liability from employment

bodily injury sustained by any **employee** arising out of or in the course of employment by the **insured** in the **business**.

5.28 Libel and slander

liability arising from or caused by the publication or utterance by or on behalf of the **insured** of a libel or slander.

5.29 Limit of indemnity

liability in excess of the **limit of indemnity** stated in the **schedule** except for payment of **costs and expenses** as provided for by clauses 2.2, 3.2 and 4.2.

5.30 Non Performance or inadequacy of product

any loss, liability or **costs and expenses** arising out of or from the non-performance or inadequacy of the **insured's product** to cure, alleviate, prevent, monitor, detect, eliminate or retard any illness, malady, condition or syndrome.

5.31 North American jurisdiction

liability in respect of any judgment, award, payment, **costs and expenses** or settlement delivered, made or incurred within countries which operate under the laws of **North America** (or to any order made anywhere in the world to enforce such judgment, award, payment, **costs and expenses** or settlement either in whole or in part) unless otherwise stipulated in the **schedule**.

5.32 North American operations

bodily injury or damage including any loss or expense whatsoever resulting or arising therefrom or any consequential loss in connection therewith, occurring within **North America**.

5.33 Nuclear risks

5.33.1 loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss;

5.33.2 any legal liability of whatsoever nature;

5.33.3 any sum which the **insured** becomes legally liable to pay or any loss or expense;

directly or indirectly caused by or contributed to by or arising from or, in the case of 5.33.3 above, attributable to **nuclear hazards**.

5.34 Overseas domiciled operations

any loss, liability or **costs and expenses** arising from the **insured's** subsidiary companies, branch offices or representatives with power of attorney, that are domiciled outside of the **territorial limits** as stated in the **schedule**.

5.35 Ownership or use of mechanically propelled vehicles

any loss, liability or **costs and expenses** arising out of or from the ownership, maintenance, operation or use of any mechanically propelled vehicle by or on behalf of the **insured**.

5.36 Permanently invasive device

any loss, liability or **costs and expenses** arising from or directly or indirectly caused by or contributed to by **permanently invasive devices**.

5.37 Personal injury and denial of access

any loss, liability or **costs and expenses** arising out of **personal injury** or **denial of access**.

5.38 Property in the insured's care, custody and control

damage to property owned, leased, hired or held in trust by the **insured** or under hire purchase or on loan to the **insured** or held otherwise in the **insured's** care, custody or control.

5.39 Reasonable precautions

any loss, liability or **costs and expenses** arising out of or from the **insured's** deliberate, conscious, or intentional disregard of the need to take all

reasonable precautions to prevent an insured event or loss arising or continuing.

5.40 Sexual conduct

any loss, liability or **costs and expenses** arising out of or from or in any way connected with actual or attempted sexual relations, sexual contact or intimacy, sexual harassment, or sexual exploitation.

5.41 Sub-contracting work

any loss, liability or **costs and expenses** arising out of or from work carried out by the **insured**, for and in the name of any other company or association of which the **insured** forms part for the purpose of undertaking any joint venture unless the **insurer's** prior agreement has been obtained and the inclusion of such work endorsed upon this **policy** with the acceptance of any such other terms and conditions as may be imposed.

5.42 Territorial limit

any loss, liability or **costs and expenses** arising from an occurrence outside the **territorial limits** including any contract, or arising from the **business** carried out from the **insured's** own offices situated outside the **territorial limits**.

5.43 Trading debts

any loss, liability or **costs and expenses** arising out of or from any trading debt incurred by the **insured** or any guarantee or undertaking given by the **insured** for a debt or performance of any other obligation by a third party.

5.44 The product itself

liability for **damage** to the **insured's** **product** or any part thereof arising from a defect or unsuitability thereof and pure financial loss arising therefrom.

5.45 War or terrorism

any loss, liability or **costs and expenses** arising out of or from or directly or indirectly caused by or contributed to by **war** or any act of **terrorism**.

6. Duties in the event of a claim or potential claim

The due observance and fulfilment of the provisions of clause 6 is a condition precedent to the **insurer's** liability for any claim under this **policy**. Clause 7.13 sets out consequences of a failure to comply with conditions precedent or **policy** provisions such as clause 6.

6.1 Claim notification

6.1.1 The **insured** will give notice in writing or by an agreed electronic medium, to the **insurer**:

- a) immediately on or not later than forty eight (48) hours from receipt of notice of any impending inquest, fatal accident inquiry, prosecution or other legal proceedings that includes alleged **bodily injury**;
- b) as soon as practical but in any event within seventy two (72) hours from coming in possession of actual knowledge that notice of an Industrial Tribunal hearing includes alleged **bodily injury** or **personal injury**;
- c) immediately on, or not later than seventy two (72) hours from, the **insured's** actual knowledge of any death or **bodily injury** to any person not being an **employee** involving a stay in hospital in excess of three (3) days;
- d) as soon as practical but in any event within thirty (30) days after any other accident, event or the coming in possession of actual knowledge of **bodily injury**, **personal injury**, **damage** or **denial of access** with full particulars thereof;

which may be the subject of indemnity under this **policy**.

6.1.2 The **insured** will give notice by an agreed electronic medium, to the **insurer** not later than forty eight (48) hours from, the **insured's** actual knowledge of any Incident involving any person not being an **employee**.

6.2 Insured's duties

For each every claim or incident, the **insured** and any person acting on behalf of the **insured** must:

- a) not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without the written consent of the **insurer**;
- b) not incur any expense without the consent of the **insurer** except at the **insured's** own cost;
- c) always act honestly, there being no rights to any form of payment or indemnity under the **policy** in the event that any claim is made fraudulently.

- d) give all such information, assistance and forward all documents to enable the **insurer** to investigate, settle or resist any claim as the **insurer** may require;
- e) provide such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected therewith;
- f) not destroy evidence or supporting information or documentation without the **insurer's** prior consent; nor destroy any plant or other property relating to an occurrence, loss or **suit** that may give rise to a claim under this **policy**.

6.3 Claim Procedure

Unless stated otherwise all claims will be handled and overseen by the **insurer**. For each and every claim the **insured** and any person acting on behalf of the **insured** must:

- 6.3.1 immediately send the **insurer** copies of any request, demand, order, notice, summons, legal paper and all documents relating thereto in connection with an insured event as soon as received by the **insured**. In addition the **insured** must co-operate with the **insurer** or their appointed agents to allow them to comply with such relevant practice directions and pre-action protocols as may be issued and approved from time to time by the head of civil justice;
- 6.3.2 authorise the **insurer** to obtain medical records or other pertinent information upon request but only where legally permitted to do so in the event of an insured event involving **bodily injury**;
- 6.3.3 prove, if it is alleged that an event is not covered or that the indemnity is otherwise limited being **war** or an act of **terrorism** that the said exclusion or **limit of indemnity** does not apply;
- 6.3.4 note that any portion of an exclusion or **limit of indemnity** being found invalid, inapplicable or unenforceable will not in any way render the remainder of the exclusion or limit invalid, inapplicable or unenforceable.

6.4 Insurer's rights

- 6.4.1 The **insurer** will be under no obligation to investigate any potential claims or to undertake the conduct of any proceedings in connection with such claims and will be at liberty in all cases to leave the conduct of such proceedings wholly to the **insured** upon such conditions as regards the payment of opponent's costs and with such liberty to bind the **insurer** by compromise as the **insurer** may in its absolute discretion determine.

6.4.2 The **insurer** may at any time pay the **limit of indemnity** (after deduction of any sums already paid) or such lesser sum for which the claim can be settled and will relinquish the conduct and control of the claim and be under no further liability.

6.5 Disputed defence or appeal

If any dispute arises between the **insured** and the **insurer** as to whether a prosecution should be defended or an appeal made, such dispute will be referred to a solicitor attorney or similar legal professional with no less than 10 years experience in the **claims jurisdiction** stated in the **schedule** to be mutually agreed between the parties (or in default of agreement to be nominated by the President of the Law Society) whose decision will be final.

6.6 Deductible

6.6.1 If the insured event forms the subject of indemnity under more than one of **insured sections A to C** the **insured's** maximum liability for the **deductible** will be the highest applicable **deductible**.

6.6.2 If settlement of an insured event investigated or defended by the **insurer** under **insured sections A to C** does not exceed the amount of the applicable **deductible** the **insured** will pay, or reimburse the **insurer** for, as applicable, any **costs and expenses** and paid damages including claimant costs recoverable from the **insured** and incurred in connection with such insured event.

6.7 Subrogation

6.7.1 For each and every claim the **insured** and any person acting on behalf of the **insured** must not waive any rights of recourse or recovery against any other person relating to an occurrence, loss or **suit** that may give rise to a claim under this insurance.

6.7.2 The **insured** will at the request and expense of the **insurer** do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the **insurer** for the purpose of enforcing any rights and remedies or of obtaining relief or indemnity from other parties to which the **insurer** will be or would become entitled or subrogated upon its paying an indemnity under this **policy**, whether such acts and things will be or become necessary or required before or after their indemnification by the **insurer**.

6.7.3 In the event of any payment under this insurance, the **insurer** will act in concert with all other interested persons (including the **insured**) concerned in the exercise of any rights of recovery.

6.7.4 The apportioning of any amounts which may be so recovered will follow the principle that any interested persons

(including the **insured**) that will have paid an amount over and above any payment hereunder, will first be reimbursed up to the amount paid by them; the **insurer** is then to be reimbursed out of any balance then remaining up to the amount paid hereunder, lastly, the interested persons (including the **insured**) to whom this coverage is in excess shall be entitled to claim the residue, if any.

6.7.5 Expenses necessary to the recovery of any such amounts will be apportioned between the interested parties concerned, in the ratio of their respective recoveries as finally settled.

7. General terms and conditions

7.1 Adjustment of premium

Where the premium in whole or part is provisionally based on estimates provided by the **insured**, the **insured** will keep accurate records and declare such information as the **insurer** requires within one (1) month of the expiry of the **period of insurance**. The premium will then be adjusted and any difference paid by or allowed to the **insured** as the case may be but subject to any minimum premium that may apply. The **insurer** reserves the right to request that the **insured** supplies an auditor's certificate with such calculations as are subject to adjustment attesting the accuracy thereof.

It is a condition precedent that that all adjustable premiums due to the **insurer** are paid within ninety (90) days of expiry of each **period of insurance**.

7.2 Law, jurisdiction and dispute resolution

This **policy** will be governed by and interpreted in accordance with the laws and jurisdiction stated in the **schedule**. The **insured** and **insurer** agree to submit to the jurisdiction of any court of competent jurisdiction within the country, state or territory stated as being applicable in the **schedule** and to comply with all requirements necessary to give such court jurisdiction. All matters in dispute between the **insured** and the **insurer** arising out of or in connection with this insurance shall be referred to such court of competent jurisdiction as determined above.

7.3 Assignment

Assignment of interest under this **policy** will not bind the **insurer** unless and until the **insurer's** prior written consent is endorsed hereon.

7.4 Cancellation

The **insurer** may at any time during the **period of insurance** serve written notice on the **insured** at the address shown on the **schedule** cancelling the **policy** with effect from the thirtieth (30th) day after service of the notice. Such cancellation shall not affect the coverage or premium attributable under this insurance to the period prior to cancellation. Upon demand the **insurer** will return to the **insured** a part of any premium paid in excess of that proportionate to the pre-cancelled portion of the **policy**. In the event the **insurer** has paid any claim or loss under this **policy**, the pro-rata return of premium to the **insured** shall be limited to the amount (if any) of the premium received by the **insurer**, with the prior deduction of any paid claim or loss made by the **insurer**.

Without prejudice to any other forms of service, the notice of cancellation is deemed to be served on the third (3rd) day after being posted if sent by pre-paid letter post properly addressed.

7.5 Contribution

If at the time of any claim under **insured sections A to C** there is any other valid and collectible

insurance available to the **insured** other than insurance that is specifically stated to be in excess of this **policy**, and names the **insured** for the insurance, then the insurance afforded by this **policy** will be in excess of and will not contribute with such other insurance.

7.6 Document management

The **insurer** may hold documents relating to this insurance and any claims under it in electronic form and may destroy the originals. An electronic copy of any such document will be admissible in evidence to the same extent as, and carry the same weight as, the original.

7.7 Data Protection

7.7.1 The **insurer** records and holds data in accordance with strict security procedures in the storage and disclosure of information provided to prevent unauthorised access or loss of such information. The **insurer** may find it necessary to pass data to other firms or businesses that supply products and services associated with this **policy**, or otherwise as it is required or permitted by law (e.g., a subpoena, fraud investigation, regulatory reporting etc.).

7.7.2 Further, by accessing and updating various databases the **insurer** may share information with other firms and public bodies, including the police, in order to substantiate information and prevent or detect fraud. If false or inaccurate information is provided and fraud is suspected this fact will be recorded and the information will be available to other organisations that have access to the databases. Details of databases accessed or contributed to, are available on request.

7.8 Fraud

If the claim is in any respect fraudulent or if any fraudulent means or devices are used by the **insured** or anyone acting on their behalf to obtain any benefit under this **policy** or if any liability, loss, destruction or **damage** is occasioned by wilful act or with the connivance of the **insured** there will be no rights to any form of payment or indemnity under this **policy**.

Further any claim paid to the **insured** in respect of any fraudulent means or device must be repaid to the **insurer**.

7.9 Inspection and audit

The **insurer**, or such representative as the **insurer** may designate, will be permitted but not obligated to inspect the **insured's** property and operations at any time given reasonable notice. Neither the **insurer's** right to make inspections nor the making thereof nor any report thereon will constitute an undertaking on behalf of or for the benefit of the **insured** or others, to determine or warrant that such property or operations are safe.

7.10 Legal action against the insurer

- 7.10.1 In respect of liabilities covered by this insurance, no one may bring a legal action against the **insurer** until the amount of the **insured's** liability has finally been determined or agreed.
- 7.10.2 No one has the right under this **policy** to bring the **insurer** into an action to determine the **insured's** liability.

7.11 Material alteration

- 7.11.1 The **insured** will give to the **insurer** written notice immediately (but in any event no later than 30 days) after the **insured** becomes aware of any material alteration to the **insured**, the risk or any material change in the nature of the **business** conducted by the **insured** during the **period of insurance**. The **insurer** reserves the right to reject or reduce **claims** connected with the material alteration or change, until accepted as such by written confirmation from the **insurer** endorsed to this **policy**, upon which the insurer may continue the **policy** on such terms as the **insurer** may determine.
- 7.11.2 Any material alteration or change shall not be binding on the **insurer** or the terms of this **policy** until accepted as such by written confirmation from the **insurer** endorsed to this **policy**.

7.12 Minimisation of risk

- 7.12.1 The **insured** will take all reasonable steps at its own expense to prevent an insured event arising or continuing.
- 7.12.2 Upon the happening of an insured event and at all times thereafter, the **insured** shall act as a prudent uninsured and take all reasonable measures as are appropriate to avoid or minimise any claims which arise or may arise from that insured event. Any failure by the **insured** to take such steps shall mean the **insurer** may reject or reduce claims and continue the **policy** on such terms as the **insurer** may determine and if any payment on account of any such claim has already been made the **insured** will repay forthwith all payments on account to the **insurer**.

7.13 Observance

- 7.13.1 The due observance and fulfilment of the provisions of this **policy** insofar as they may relate to anything to be done or complied with by the **insured**, and are not already conditions precedent, will be a condition of this **policy**. Any waiver by the **insurer** of any provision will not prevent the **insurer** from relying on such term or condition or condition precedent in the future.

7.13.2 In the event of a breach of any condition in the **policy**, and without prejudice to any of the **insurer's** other rights, the **insurer** may reject or reduce claims connected with the breach providing the **insurer** can demonstrate some prejudice.

7.13.3 In the event of a breach of any condition precedent in the **policy**, and without prejudice to any of the **insurer's** other rights, the **insurer** may reject or reduce claims connected with the breach, and continue the **policy** on such terms as the **insurer** may determine and if any payment on account of any such claim has already been made the **insured** will repay forthwith all payments on account to the **insurer**.

7.14 Representation

Any person falling within the definition of the **insured** agrees that the first named **insured** is their agent for the purpose of giving and receiving of any notices from the **insurer** or their representatives including any notice of cancellation. The payment to the first named **insured** of any return premium that may be payable under this **policy** will satisfy the **insurer's** obligations to return premium.

7.15 Rights of recourse

It is a condition precedent to the **insurers** liability under this **policy** that the **insured** maintains full rights of recourse against any person or company with whom the **insured** has entered into a legal contract for the provision of **products** as defined by the **policy**.

7.16 Rights of Third Parties

This insurance does not confer or create any right enforceable (including under legislation) by any person who is not named as the **insured** and both the **insurer** and **insured** may amend, cancel or lapse this insurance without giving notice to, or requiring the consent of, any other third party.

7.17 Subscribing insurer

The **insurers'** obligations under this **policy** are several and not joint and are limited solely to the extent of their individual subscriptions. The **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.

8. General definitions and interpretation

The following words will have the same meaning attached each time they appear in this **policy** in **bold** type face, whether with a capital first letter or not.

Where the context so admits or requires, words importing the singular will include the plural and vice versa and words importing the masculine will import the feminine and the neuter. References to 'a person' will be construed so as to include any individual, company, partnership, or any other legal entity. References to a statute will be construed to include all its amendments or replacements. All headings within the **policy** are included for convenience only and will not form part of this **policy**.

8.1 Bodily injury

Bodily injury means death, disease, illness, physical and mental injury of or to an individual.

8.2 Business

The activities of the **insured** as stated in the **schedule** and including

- 8.2.1 provision and management of canteens, sports, social and welfare and medical organisations for the benefit of the **insured's employees** and / or their pensioners, sponsorships, medical, dental, nursing, first aid, fire, rescue and ambulance services, principally in connection with the operations of the **insured**;
- 8.2.2 provision of security services for the benefit of the **insured**;
- 8.2.3 provision of nursery, crèche or child care facilities where incidental to the business;
- 8.2.4 provision of educational facilities;
- 8.2.5 property owners, lessors and lessees including repair, refurbishment and maintenance of such property;
- 8.2.6 organisation of and participation in exhibitions, trade fairs, conferences and the like,
- 8.2.7 private work undertaken by any **employee** for any fellow principal **employee**, director or partner or executive of the **insured**;
- 8.2.8 employment of subcontractors for performance of work on behalf of the **insured**;
- 8.2.9 the organisation of charitable events or similar fund raising activities;
- 8.2.10 sponsorship of events, organisations, entities and individuals;
- 8.2.11 repair, maintenance and servicing of own mechanically propelled vehicles, sale or disposal of own property and goods, including owned mechanically propelled vehicles;

- 8.2.12 provision of gifts and promotional material incidental to the **business**.

8.3 Claim jurisdiction

Claim jurisdiction shall mean the jurisdiction under which a claim by a third party must be brought for indemnity to be granted the **insurer**.

8.4 Clinical trial

Clinical trial means an investigation in human subjects intended to discover or verify the clinical, pharmacological and/or other pharmacodynamic effects of an **investigational product(s)** and/or to identify any adverse reactions to an **investigational product(s)** and/or to study absorption, distribution, metabolism and excretion of an **investigational product(s)**.

8.5 Combined single limit

Combined single limit means the maximum the **insurer** will pay by this **policy** in the event that two or more **insured sections**, to which the combined single limit applies, provide coverage for an insured event.

8.6 Costs and expenses

Costs and expenses means

- 8.6.1 costs and expenses (other than claimant costs recoverable from the **insured**) incurred in the investigation, adjustment, appraisal, defence or settlement of an insured event, including expert, legal, appeal and defence costs;
- 8.6.2 pre-judgment interest awarded against the **insured** on that part of any judgment covered under this **policy** but where the **insurer** offers to pay the **limit of indemnity** in settlement of a claim or suit, the **insurer** will not pay any pre-judgment interest imposed or earned after the date of such offer;
- 8.6.3 all interest earned on that part of any judgment within the **limit of indemnity** after entry of the judgment and before **insurer** has paid, offered to pay, or deposited in court that part of any judgment that is within the applicable **limit of indemnity**.

8.7 Damage

Damage means:

- 8.7.1 loss of, destruction of or damage to tangible property; and/or
- 8.7.2 loss of use of tangible property that has been lost, destroyed or damaged.

8.8 Deductible

The deductible will form part of and be included within the **limit of indemnity** and means the first amount payable by the **insured** in respect of each and every claim, series of claims or circumstance as ascertained after the application of all other

terms and conditions of this insurance. The deductible will be applied to **costs and expenses**.

8.9 Denial of access

Denial of access means nuisance, trespass, or interference with any easement, right of air, light, water or way.

8.10 Employee

Employee means any person whilst:

8.10.1 engaged under a contract of service or apprenticeship with the **insured**;

8.10.2 acting in the capacity of non executive director of the **insured**;

8.10.3 not under a contract of service or apprenticeship who is, at the requirement of the **insured**, supplied to, hired or borrowed by the **insured** in the course of **business** and under the control of the **insured**, including but not limited to:

- a) persons on secondment from another company that is not an insured under this **policy**;
- b) labour masters or persons supplied by them;
- c) labour only subcontractors;
- d) self-employed persons;
- e) drivers or operators of hired-in plant;
- f) persons engaged under work experience, training, study, exchange or similar schemes;
- g) any officer, member or voluntary helper of the organisations or services stated in the business;
- h) voluntary workers, helpers and instructors;
- i) employee(s) elected on any industry users committee;
- j) outworkers or homeworkers employed under contracts to personally execute any work in connection with business while they are engaged in that work;
- k) prospective employees who are being assessed by the **insured** as to their suitability for employment;
- l) any person a Court of Law within the **claim jurisdiction** deems to be an employee;

provided that the **insured** can always request that any such person is not treated as an employee.

8.11 Fungus

Fungus(i) includes but is not limited to any plants or organisms belonging to the major group fungi lacking chlorophyll and including moulds rusts mildews and mushrooms.

8.12 Insured

Insured means:

8.12.1 the company or other organisation including any subsidiary companies of the insured that are in existence at the inception date of the insurance and have been declared to the **insurer** until such time as they may be sold or otherwise disposed (but not excluding any liabilities incurred prior to disposal), and;

8.12.2 the person or people shown as insured in the **schedule**;

8.12.3 including in either case the legal or personal representatives of the insured in respect of any claim under this **policy** incurred on behalf of the insured.

8.13 Insured section

Insured section means all or any individually lettered sections of this **policy** that forms part of the insurance contract but only if stated as 'insured' in the **schedule**.

8.14 Insurer

Insurer means the party specified as insurer in the **schedule** and any other subscribing insurers.

8.15 Legionella

Legionella means any discharge release or escape of legionella or other airborne pathogens from water tanks, water systems, air-conditioning plants, cooling towers and the like.

8.16 Limit of indemnity

Limit of indemnity means:

8.16.1 the amount stated in the **schedule** which is the maximum amount of the **insurer's** liability for any one (1) occurrence regardless of the number of:

- a) persons or organisations bringing claims or **suits**; or
- b) claims against the **insured** or series of claims against the **insured**, or claims or series of claims made by the **insured**;

8.16.2 where two (2) or more **insured sections** are subject to a **combined single limit**, then the **combined single limit** is the maximum the **insurer** will pay for any insured event to which such **insured sections** apply in combination, and;

8.16.3 where a limit of indemnity is stated in the **schedule** as in the aggregate, that aggregate is the maximum the **insurer** will pay for all insured events during the **period of insurance**.

8.16.4 Any sub-limit of indemnity applies as if it was the limit of indemnity for the **claims** for that sub-limit and is deemed to be part of

and not in addition to the **limit of indemnity**.

8.17 Medical device

8.17.1 Medical device means any instrument, apparatus, appliance, material or other article, whether used alone or in combination, together with any accessories or software for its proper functioning, intended by the manufacturer to be used for human beings in the:

- a) diagnosis, prevention, monitoring, treatment or alleviation of disease, injury or handicap,
- b) investigation, replacement or modification of the anatomy or of a physiological process, or
- c) control of conception

8.17.2 and which does not achieve its principal intended action in or on the human body by pharmacological, immunological or metabolic means, but which may be assisted in its function by such means.

8.18 Mould(s)

Mould(s) means, but is not limited to any superficial growth produced on damp or decaying organic matter or on living organisms and fungi that produced moulds.

8.19 North America

North America means the United States of America or its territories or possessions or Canada.

8.20 Nuclear hazards

Nuclear hazards means:

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

8.21 Period of insurance

Period of insurance means the period shown as such on the **schedule**, which time is taken as the time zone at the **insured's** first named address as detailed on the **schedule** unless otherwise stated.

8.22 Permanently invasive device

Permanently **invasive device** means a medical device **that is intended to remain in the body for a period greater than 12 months**

8.23 Personal injury

Personal injury means harm other than **bodily injury** arising out of one or more of the following offences committed in the course of the **business**:

8.23.1 false arrest;

8.23.2 detention or imprisonment;

8.23.3 wrongful entry into, or eviction of a person from a room, dwelling or premises that the person occupies;

8.24 Policy

Policy means this document, the **schedule** (including any **schedules** issued in substitution), the **proposal** and any endorsements attaching to this document or the **schedule** that will be considered part of the legal contract and any word or expression in bold type face on any of these documents will bear the specific meaning stated in these definitions.

8.25 Pollutant

Pollutant means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste. Waste is deemed to include materials to be recycled, reconditioned or reclaimed.

8.26 Pollution

Pollution means the actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time.

8.27 Premises

Premises means the buildings or land that are owned, leased, hired or tenanted by or on loan to the **insured** for the purpose of the **business**.

8.28 Product

Product means:

8.28.1 any **medical device**, including containers, packaging, materials, parts or equipment leaflets, warnings, instructions and other literature furnished in connection with such **medical devices**, manufactured, sold, handled, treated, altered, distributed or disposed of by the **insured** including those that are no longer in the **insured's** physical possession or in the **insured's** custody or control, provided such **medical devices**;

- a) are licenced in the country in which the product is sold in accordance with legislation or regulations relating to licensing of **medical devices**; or
- b) are authorised for marketing in the country in which the **medical device** is sold by the applicable regulatory body; or
- c) are exempt in the country in which the **medical device** is sold from any requirement for a licence or marketing authorisation;

8.28.2 licences, research results and formulae granted to others in respect of **medical devices** whether for a fee or not by the **insured** or on behalf of the **insured** with the **insured's** written consent.

8.29 Proposal

Proposal means any information as identified on the **schedule** supplied by or on behalf of the **insured**, deemed to be a completed proposal form, application form and medical questionnaire and other relevant or supplementary information that the **insurer** may have received or require.

8.30 Schedule

Schedule means the document titled schedule that includes the name and address of the **insured**, the premium and other variables to this standard **policy** (including endorsement clauses) and is incorporated in this **policy** and accepted by the **insured**. Schedules may be re-issued from time to time where each successor overrides the earlier document.

8.31 Spore(s)

Spore(s) means any dormant or reproductive body produced by or arising or emanating out of any fungus(i) mould(s) mildew plants organisms or micro organisms.

8.32 Suit

Suit means a civil proceeding in which damages to which this insurance applies are alleged, including;

8.32.1 an arbitration proceeding in which such damages are claimed; or

8.32.2 any other alternative dispute resolution proceeding in which such damages are claimed.

8.33 Territorial limits

Territorial limits means such countries as stated in the **schedule**.

8.34 Terrorism

Terrorism means an activity that involves a violent act or the unlawful use of force or an unlawful act dangerous to human life, tangible or intangible property or infrastructure, or a threat thereof; and appears to be intended to

8.34.1 intimidate or coerce a civilian population, or

8.34.2 disrupt any segment of the economy of a government de jure or de facto, state, or country, or

8.34.3 overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion, or

8.34.4 affect the conduct or policy of any government de jure or de facto by mass destruction, assassination, kidnapping or hostage-taking.

8.35 War

War means war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, mutiny, revolution, rebellion, insurrection, uprising, military or usurped power or confiscation by order of any public

authority or government de jure or de facto or martial law but not including **terrorism**.

8.36 Work away

Work away means work, operations, installation or services performed by or on behalf of the **insured** but not on **premises**.