



Excess of Loss Insurance Policy

General Information & Important Notices

How We protect your privacy

We use information provided by **Our** customers to allow **Us** to offer **Our** products and services. This means **We** may need to collect **Your** personal information, and sometimes sensitive information about **You** as well (for example, **Your** claims history). **We** will collect this information directly from **You** where possible, but there may be occasions when **We** collect this information from someone else.

We will only use **Your** information for the purposes for which it was collected, other related purposes and as permitted or required by law. **You** may choose not to give **Us** **Your** information, but this may affect **Our** ability to provide **You** with insurance cover.

We may share this information with companies within **Our** group, government and law enforcement bodies if required by law and others who provide services to **Us** or on **Our** behalf, some of which may be located outside of Australia.

By applying for, using or renewing any of **Our** products or services, or providing **Us** with **Your** information, **You** agree to this information being collected, held, used and disclosed as set out in this policy.

You can access **Our** privacy policy at www.pacificindemnity.com.au/privacy-policy.

You can access the Insurers privacy policies on their websites at either: CGU.com.au/privacy or zurich.com.au/important-information/privacy

General Insurance Code of Practice

We proudly support the General Insurance Code of Practice (Code). The purpose of the Code is to raise the standards of practice and service in the general insurance industry. The objectives of the Code are:

- to commit **Us** to high standards of service;
- to promote better, more-informed relations between **Us** and **You**;
- to maintain and promote trust and confidence in the general insurance industry;
- to provide fair and effective mechanisms for resolving complaints **You** make about **Us**; and
- to promote continuous improvement of the general insurance industry through education and training.

The Code Governance Committee is an independent body that monitors and enforces insurers' compliance with the Code.

Our service commitment

We are proud of **Our** service standards and support the General Insurance Code of Practice. In an unlikely event that **You** are not satisfied with the way in which **We** have dealt with **You**, as part of **Our** commitment to customer service, **We** have an internal dispute resolution process in place to deal with any complaint **You** may have.

Please contact **Us** if **You** have a complaint, including if **You** are not satisfied with any of the following:

- one of **Our** products;
- **Our** service;
- **Our** claims representatives; or
- **Our** decision on **Your** claim.

Our staff will help **You** in any way they can. If they are unable to satisfy **Your** concerns, they will refer the matter to their supervisor or manager. If the manager cannot resolve the matter, the manager will escalate the matter to **Our** Internal Dispute Resolution Department.

Details of **Our** internal dispute resolution process are available from **Our** office.

Intermediary Remuneration

Pacific Indemnity Underwriting Solutions Pty Ltd pays remuneration to insurance intermediaries when **We** issue, renew or vary a policy the intermediary has arranged or referred to **Us**. The type and amount of remuneration varies and may include commission and other payments. If **You** require more information about remuneration **We** may pay **Your** intermediary **You** should ask **Your** intermediary.

CGUA and Zurich

This **Policy** is jointly issued on a co-insurance basis whereby each insurer provides cover under the same terms and conditions but with a limited share of liability. CGU Australia Pty Ltd (CGUA), ABN 62 004 478 960 - AFSL No: 700014 provides cover for 75% of the liability under this **Policy**. Zurich Australian Insurance Limited, ABN 13 000 296 640 - AFSL No: 232507 (Zurich) provides cover for 25% of the liability under this **Policy**.

CGUA's contact details are:

Level 13, Tower Two, Darling Park,
201 Sussex Street,
Sydney NSW 2000
Telephone. 1800 045 517

Zurich's contact details are:

118 Mount Street,
North Sydney NSW 2060
Telephone. 132 687

In the first instance, **You** should contact Pacific Indemnity in relation to this insurance.

Pacific Indemnity

Pacific Indemnity Underwriting Solutions Pty Ltd ABN 14 606 511 639 AFSL 480863 (Pacific Indemnity) has developed this **Policy**, which is jointly underwritten by CGUA and Zurich.

Pacific Indemnity has authority from CGUA and Zurich, pursuant to a binder arrangement, to arrange, enter into/bind and administer this insurance (including handling and settling claims). This means that when issuing this **Policy**, Pacific Indemnity will be acting as an agent for CGUA and Zurich, not for **You**.

Pacific Indemnity's contact details are:

Level 3,
84 William Street,
Melbourne, VIC 3000

PO Box 2, Collins Street West, Melbourne VIC 8007
Telephone: (03) 9042 3506

Wholesale only

Pacific Indemnity Underwriting Solutions Pty Ltd is only licensed to offer or provide General Insurance products or services to wholesale clients as defined by the *Corporations Act 2001* (Cth).

Policy wording

Insuring Clause

We will **Cover You** up to the **Limit of Liability** of this **Policy** in excess of the **Underlying Insurance** for **Claims** made against **You** within the **Period of Insurance**.

We will not, however, be liable under this **Policy** unless:

- the insurers of the **Underlying Insurance** have granted indemnity or have been held liable in respect of indemnity by final judgment, award, finding or other adjudication of a court, tribunal, commission or arbitration; and
- You** have paid the **Premium** specified in the **Policy Schedule**. Otherwise, any outstanding **Premium**, or part thereof, may be deducted from the amount **We** pay **You**.

Provisions of the Primary Policy

This **Policy** is subject to all the provisions of the **Primary Policy** (including all terms, conditions and exclusions) and the provisions of this **Policy**.

In the event of a conflict between the provisions of the **Primary Policy** and the provisions of this **Policy**, the provisions of this **Policy** shall prevail.

Under no circumstances shall this **Policy** provide cover which is broader than the cover provided by the **Underlying Insurance**.

Alteration to this Policy

No alteration, change or amendment to any **Underlying Insurance** shall alter, change or amend this **Policy** unless expressly agreed to in writing by **Us**.

Maintenance of Underlying Insurance

This **Policy** only provides **Cover** while the **Underlying Insurance** is maintained in full force and effect. This **Policy** does not drop down or replace any **Underlying Insurance** if the **Underlying Insurance** is avoided or cancelled or not renewed.

Claim Participation

We may, at our sole discretion, elect to participate in the investigation, settlement or defence of any **Claim** which is covered under this **Policy** even if the **Underlying Insurance** has not been exhausted. No offer of settlement or settlement of any claim **Covered** by this **Policy** shall be made without our prior written agreement.

Reduction or Exhaustion of Underlying Insurance

If the available cover under the **Underlying Insurance** is reduced or exhausted as a result of payment for losses under that policy (or those policies), then this **Policy** will (subject to the remaining **Limit of Liability** of this **Policy**):

- in the event of reduction, provide **Cover** for subsequent losses as excess insurance over and above the amount of any remaining **Underlying Insurance**, provided that such losses are not excluded by the provisions of this **Policy**; or
- in the event of exhaustion of the **Underlying Insurance**, apply in place of the **Primary Policy**.

Terms, Conditions, Exclusions and Excess following exhaustion of the Underlying Insurance

To the extent that this **Policy** applies in place of the **Primary Policy** as a result of all **Underlying Insurance** being exhausted, then any terms, conditions, exclusions, endorsements and self-insured retention, deductible or excess specified to apply under the **Primary Policy** shall continue to apply under this **Policy**.

Inability to Pay of Underlying Insurers

The inability of any insurer to meet its financial obligations under any **Underlying Insurance**, for whatever reason, does not reduce or exhaust the **Underlying Insurance** and **We** shall only be liable to the extent that it would have been liable had such insurer(s) been able to meet those financial obligations.

Obligation to Notify

You shall give notice in writing to **Us** as soon as reasonably possible of any of the following events:

- any **Underlying Insurance** is cancelled or avoided; or
- any notice (including notice of a claim) is given by **You** to any insurer in connection with the **Underlying Insurance**; or
- any additional premium is charged in respect of **Underlying Insurance**; or
- the insurer of any of the **Underlying Insurance** denies indemnity or reduces the amount payable on a claim under the **Underlying Insurance**; or
- where there has been a request to amend or endorse the **Underlying Insurance**.

Subrogation & Recoveries

If **We** make any payment under this **Policy**, **We** are subrogated to all the **Insured's** rights of recovery in respect of such payments. The **Insured** is required to execute and deliver instruments and papers and do whatever else is reasonably necessary to secure such rights. **We** will only request information relevant to handling the recovery and will explain why the information, documents and help is required.

We will act reasonably in exercising **Our** discretion in the conduct of any legal proceedings and in the settlement of any claim while **We** conduct any recovery action. **We** will keep the **Insured** reasonably informed and updated with the progress of proceedings.

Any amounts recovered after payment of loss under this **Policy** must be apportioned in the inverse order of payment to the extent of actual payment. The expenses of all such recovery proceedings must be apportioned in the ratio of respective recoveries.

If this **Policy Covers You** in respect of any **Claim** made under **US Laws**, then for the purposes of recovery, the **Limit of Liability** will be deemed to comprise **Our** maximum liability for any one claim and in the aggregate inclusive of costs and expenses. **You** must not do anything that may prejudice **Our** position or potential or actual rights of recovery against any party. Any amounts recovered by **Us** in excess of **Our** total payment to or on **Your** behalf will be restored to **You** less the cost to **Us** of such recovery.

Law of the Policy

This **Policy** is governed by the law of the Territory or State where the **Policy** was issued, which is stated in the **Schedule**. The courts of that place have jurisdiction in any dispute about or under this **Policy**.

Termination of Primary Policy

This **Policy** shall terminate immediately upon the termination of the **Primary Policy**, whether by the **Named Insureds** or the insurer of the **Primary Policy**. Notice of cancellation or non-renewal of the **Primary Policy** duly given to the **Named Insured** by the insurer of the **Primary Policy** shall serve as notice of the cancellation or non-renewal of this **Policy** by **Us**.

Exclusions additional to the Underlying Insurance

The following exclusions apply to this **Policy** unless otherwise specified and are in addition to those in the **Primary Policy**. To the extent of any inconsistency between any exclusion this **Policy** and the **Primary Policy**, **Our** exclusion takes precedence unless the exclusion in the **Primary Policy** is more favourable to **Us**.

Notwithstanding anything else to the contrary in the **Underlying Insurance**, **We** do not **Cover You** for any **Claims** directly or indirectly caused by, arising from or in connection with:

Asbestos

asbestos, asbestos fibres or derivatives of asbestos.

Radioactivity & Nuclear Hazards

- ionizing radiations or contamination by radioactivity from any nuclear material; or
- the hazardous properties of any nuclear explosive, assembly or component.

War & Uprisings

- war, invasion, acts of foreign enemies, civil or military uprisings, hostilities (even if war is not declared), or government power being taken unlawfully; or
- property being taken, damaged or destroyed by a government or public or local authority.

Terrorism

- any act of **Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, illness, injury, death, cost or expense; or
- any action in controlling, preventing, suppressing, retaliating against, or responding to any act of **Terrorism**.

Sanctions

We will not be liable to provide any cover, pay any claim or provide any benefit under this **Policy** (including any refund of premium), to the extent that such cover, claim, benefit or refund may contravene or expose **Us** to any sanction, prohibition or restriction under United Nations resolutions or any trade or economic sanctions, laws or regulations of any country.

Words with Special Meanings

In this **Policy**:

Claim

has the same meaning in this **Policy** as the same or equivalent definition in the **Primary Policy**.

Cover (and 'Covered')

means indemnity granted by **Us** under this **Policy**.

Limit of Liability

means the amount specified as the 'Policy Limit' in the **Schedule** and which shall be the maximum amount of **Our** liability under this **Policy** for any one claim or in the aggregate.

Named Insured

means any person or entity expressly identified in the **Schedule** as the Named Insured.

Period of Insurance

means the period of time specified in the **Schedule** unless this **Policy** is cancelled in which event the **Period of Insurance** will end on the effective date of the cancellation.

Policy

means the insurance contract made up of:

- a) this document; and
- b) the **Schedule**; and
- c) the endorsements, if any, contained or referred to in the **Schedule**.

Premium

means the amount payable by **You** for this **Policy** including any applicable charges as advised by **Us**.

Primary Policy

means the primary policy specified in the **Schedule**.

Schedule

means the Schedule attached to this **Policy** wording, which is issued by **Us**.

Terrorism

means any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which

- a) involves violence against one or more persons; or
- b) involves damage to property; or
- c) endangers life other than that of the person committing the action; or
- d) creates a risk to health or safety of the public or a section of the public; or
- e) is designed to interfere with or to disrupt an electronic system.

Underlying Insurance

means all those underlying policies specified in the **Schedule**, including the **Primary Policy**.

You or Your

means the **Named Insured** and each person, firm or incorporated body covered by the **Primary Policy**.

We or Us or Our or Insurers

CGU Australia Pty Ltd (CGUA), ABN 62 004 478 960 - AFSL No: 700014, Zurich Australian Insurance Limited, ABN 13 000 296 640 - AFSL No: 232507 (Zurich) and Pacific Indemnity Underwriting Solutions Pty Ltd, ABN 14 606 511 639 - AFSL No: 480863 (Pacific Indemnity) acting as agent for CGUA and Zurich.