

**Certificate of Insurance**

**“Losses Occurring”**

**Public, Products and Pollution Liability Insurance**

**Schedule**

**Certificate number:** B0801ONGL032

**Attaching to delegated Underwriting Authority:** B0801ONGL000

**Insured:** **THE SANDS LTD.**, The Proprietors of Strata Plan No. 25, Ocean Side Marketing Ltd/Owners of individual condominium apartments for their respective rights and interests and as otherwise provided for herein.

**Address:** The Sands at Grace Bay  
P.O. Box 681, Providenciales  
Turks & Caicos Islands  
British West Indies

**Business:** Villa Owners / Operators and operations connected therewith.

**Geographical Limits:** Worldwide excluding operations owned, operated and managed in the United States of America.

**Period of Insurance:** **From:** 1 February 2009  
**To:** 1 February 2010  
both days at 00:01 a.m. local standard time at the Insured's Address as above.

**Indemnity Limits:** **Section A:** USD 10,000,000

**Section B:** USD 10,000,000

**Section C:** USD 10,000,000

Subject always to the applicable sub-limits stated in the various Endorsements to this Certificate. Such sub-limits are within and not in addition to the above Indemnity Limits.

**Excesses:** USD 5,000 other than as specified below:

USD 7,500 in respect of claims brought within any jurisdiction other than Turks & Caicos Islands, the United States of America or Canada.

USD 20,000 in respect of claims brought within the jurisdiction of the United States of America and/or Canada.

Other amounts as specified in Endorsements 8, 10 and 14 herein

All Excesses are inclusive of Defence Costs.

**Choice of Law & Jurisdiction:**

**Choice of Law:** Turks and Caicos Islands  
**Jurisdiction:** Turks and Caicos Islands

**United States of America and Canadian Jurisdiction Memorandum Applicable:**

Yes

**Contingent/Excess Employers' Liability:** Covered

**Contingent/Excess Motor Liability:** Covered

**Premium:** Annual Premium USD 52,500 (100%) in full.

**Taxes payable by Insured and administered by Insurers:**

None.

**Taxes payable by Insurers:**

None.

**Dated in London:**

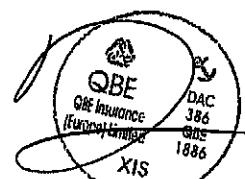
15 January 2009.

**Lines Clause**

This Insurance, being signed for 100% part of 100% insures only that proportion of any loss, whether total or partial, including but not limited to that proportion of associated expenses, if any, to the extent and in the manner provided in this Insurance.

The percentages signed in the Table are percentages of 100% of the amount(s) of Insurance stated herein.

20/1/09.  
As per QBE  
open 7 days  
No cover  
given  
All T's & C's  
are expiry.  
20/1/09.  
sub update on claim  
of 26/7/08 satisfactory  
to QBE prior attachment



NCG

### **Several Liability Notice**

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.

#### **Effectuated with:**

**Lloyd's Underwriters**

**Signed Lines: 100%**

As per Willis Binding Authority No. ONGL000

Syndicate 386 (DAC) at Lloyd's, London, England	33.34%
Syndicate 1886 (QBE) at Lloyd's, London, England	33.33%

Syndicate 2003 (SJC) at Lloyd's, London, England	33.33%
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**Endorsement No. 1**

**Clause 2, Definitions – “Advertising Injury”**

Clause 2.1, “Advertising Injury”, herein is amended by the addition of the following:

- e) disparagement of goods, products or services

**Endorsement No. 2**

**Clause 2, Definitions – “Business”**

Clause 2.2, “Business”, herein is amended by the addition of the following:

- f) the sale or provision of alcoholic beverages, other than where the Insured is engaged in the business of manufacturing alcoholic beverages. The mixing of drinks or the preparation of cocktails shall not be considered manufacturing of alcoholic beverages. However, Underwriters shall not be liable for any taxes, penalties or fines imposed by any regulatory authority relating to the sale, gift, distribution or use of alcoholic beverages.

**Endorsement No. 3**

**Clause 2, Definitions – “Damage”**

Paragraph b) of Clause 2.3, “Damage”, herein is amended to read as follows:

- b) loss of use of tangible property not owned by the Insured which has not been physically lost, damaged or destroyed.

**Endorsement No. 4**

**Clause 2, Definitions – “Product”**

Clause 2.7 herein, “Product”, is amended to read as follows

- 2.7 “Product” means any property after it has left the custody or control of the Insured which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured but shall not include food or drink served or supplied by or on behalf of the Insured in the course of the Business.

**Endorsement No. 5**

**Clause 5, Indemnity Limits**

The first paragraph of Clause 5 herein is amended to read as follows:

Underwriters’ liability to pay damages (including claimant’s costs, fees and expenses) shall not exceed the sum stated in the Schedule against each Section in respect of any one occurrence or series of occurrences arising from one originating cause, but under Section C the Indemnity Limits represent Underwriters’ total liability in respect of all occurrences.

**Endorsement No. 6**

**Clause 7, Section A Exclusions - aircraft**

Clause 7.2 herein is amended to read as follows:

7.2 arising out of the ownership, possession or use by or on behalf of the Insured of any aircraft, but this exclusion shall not apply to:

- i) unmanned inflatable balloons used for advertising or promotional purposes, or
- ii) the loading and unloading of aircraft;

**Endorsement No. 7**

**Clause 7, Section A Exclusions - watercraft**

Clause 7.3 herein is amended to read as follows:

7.3 arising out of the ownership, possession or use by or on behalf of the Insured of any watercraft, provided that this exclusion shall not apply to:

- 7.3.1 hand propelled or sailing craft;
- 7.3.2 watercraft not owned by the Insured, used by the Insured for business entertainment;
- 7.3.3 any watercraft less than five metres in length
- 7.3.4 the loading and unloading of watercraft

and then, only when used on inland waterways or in territorial waters;

- 7.3.5 watercraft whilst on dry land
- 7.3.6 watercraft used solely in connection with those recreational activities detailed in Clause 7, Section A Exclusion 7.7.6

**Endorsement No. 8**

**Clause 7, Section A Exclusions – damage to owned/controlled property**

Clause 7.4 herein is amended to read as follows:

7.4 for and/or arising out of Damage to property owned leased or hired by or under hire purchase or on loan to the Insured or otherwise in the Insured's care, custody or control other than:

- 7.4.1 premises (or the contents thereof) temporarily occupied by the Insured for work therein (but no indemnity is granted for Damage to that part of the property on which the Insured is working and which arises out of such work);

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Continued

**Endorsement No. 8**

**Clause 7, Section A Exclusions – damage to owned/controlled property  
(Continued)**

- 7.4.2 the personal property, tools and effects of any director, partner, officer, executive or employee of the Insured, or the clothing and personal effects of any visitor to, the Insured (always excluding loss from the Insured's safe deposit boxes);
- 7.4.3 premises tenanted by the Insured to the extent that the Insured would be held liable in the absence of any specific agreement;
- 7.4.4 any motor vehicle (including its contents and spare parts and accessories therein or thereon) not belonging to or used by or on behalf of the Insured, whilst such motor vehicle is in a car park owned or operated by the Insured, provided that the Insured, as the principle part of its business, does not operate such car park for reward and subject always to the following:
  - 7.4.4.1 Underwriters' liability in respect of this clause 7.4.4 shall not exceed the sum of USD 25,000 in respect of any one occurrence or series of occurrences arising from one originating cause and the sum of USD 250,000 in all for all occurrences during the Period of Insurance;
  - 7.4.4.2 The Excess shall be amended to USD 2,500
- 7.4.5 loss from safe deposit boxes at the Insured's premises of property deposited therein by the Insured's guests, subject always to the following:
  - 7.4.5.1 Underwriters' liability in respect of this clause 7.4.5 shall not exceed the sum of USD 25,000 in respect of any one occurrence or series of occurrences arising from one originating cause and the sum of USD 250,000 in all for all occurrences during the Period of Insurance, or any lesser amount as may be provided by the statute(s) or common law governing innkeepers liability on the Turks & Caicos Islands;
  - 7.4.5.2 The Excess shall be amended to USD 2,500
  - 7.4.5.3 Excluding any loss due to any fraudulent, dishonest or criminal act by the Insured;
  - 7.4.5.4 Excluding any loss for which the Insured is contractually responsible;
- 7.4.6 Guests' property while on the Insured's premises, subject always to the following:
  - 7.4.6.1 Underwriters' liability in respect of this clause 7.4.6 shall not exceed the sum of USD 5,000 in respect of any one occurrence or series of occurrences arising from one originating cause and the sum of USD 100,000 in all for all occurrences during the Period of

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**Endorsement No. 8**

**Clause 7, Section A Exclusions – damage to owned/controlled property  
(Continued)**

Insurance, or any lesser amount as may be provided by the statute(s) or common law governing innkeepers liability on the Turks & Caicos Islands;

7.4.6.2 The Excess shall be amended to USD 500

7.4.6.3 Excluding loss from safe deposit boxes at the Insured's premises;

7.4.6.4 Excluding any loss due to any fraudulent, dishonest or criminal act by the Insured;

7.4.6.5 Excluding any loss for which the Insured is contractually responsible;

7.4.6.5 Excluding Damage to any motor vehicle, including its contents and spare parts and accessories therein or thereon;

7.4.6.6 any articles carried or held by a guest of the Insured as samples or for sale or for delivery after sale;

**Endorsement No. 9**

**Clause 7, Section A Exclusions – additional exclusions**

Clause 7, Section A – Exclusions is amended by the addition of the following additional exclusions:

7.5 arising from the rendering or failure to render a professional service by the Insured for a fee. The provision of food and drink and the operation of a hotel is not considered a professional service;

7.6 arising out of a breach of contract or assumed under any contract and/or agreement unless such liability would have attached in the absence of such contract or agreement;

7.7 arising from any of the following:

7.7.1 horseback riding (including polo);

7.7.2 ownership or operation of golf clubs or courses

7.7.3 bungee jumping;

7.7.4 tours and excursions provided by the Insured;

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**Endorsement No. 9**

**Clause 7, Section A Exclusions – additional exclusions**  
**(Continued)**

7.7.5 operation of gymnasiums and exercise facilities. However, provided they are not available to individuals who do not purchase accommodation from the Insured, this exclusion shall not apply to the following facilities:

7.7.5.1 tennis courts;

7.7.5.2 stationary exercise machines, provided that no more than fifteen such machines are on any one of the Insured's premises at any one time, not counting free weights;

7.7.5.3 aerobics classes;

7.7.6 any activities taking place in, on, or over water provided that this exclusion shall not apply to the following activities:

7.7.6.1 swimming and diving (but not scuba diving);

7.7.6.2 use of waterslides emptying into swimming pools;

7.7.6.3 watersports taking place in swimming pools;

7.7.6.4 snorkeling;

7.7.6.5 use of Jacuzzis and whirlpools;

7.7.6.6 use of non-motorized waterborne craft or vessels not exceeding 17 feet in length;

7.7.6.7 Hobie Cats;

7.7.6.8 windsurfers;

7.7.6.9 kayaks

7.7.6.10 fibreglass rescue boats not exceeding 16 feet in length

7.8 arising directly or indirectly out of or in connection with any actual, alleged or attempted conduct or contact of a "Sexual Nature". For the purpose of this Exclusion, "Sexual Nature" shall mean sexual gratification, discrimination, coercion, harassment or pressure of any kind.

**Endorsement No. 10**

**Clause 8, Section A Extensions – Medical Expense Payments**

Clause 8, Section A Extensions is amended by the addition of the following additional extension:

**8.3 Medical Expenses Payments**

Notwithstanding anything contained herein to the contrary, this Policy extends to cover liability for the medical expenses as described below for Injury caused by an accident:

8.3.1 on any premises owned or rented by the Insured

8.3.2 on ways next to premises owned or rented by the Insured

8.3.3 arising in connection with the Business

provided always that:

8.3.4 the accident takes place within the Geographical Limits stated in the Schedule and during the Period of Insurance;

8.3.5 the Insured reasonably believe that the accident for which medical expenses are paid could give rise to a claim under this Policy;

8.3.6 the expenses are incurred and reported to Underwriters within three months of the date of the accident;

8.3.7 the injured person submits to examination at Underwriters' expense, by physicians chosen by Underwriters, as often as Underwriters reasonably require;

Underwriters will make these payments regardless of fault, subject always to the following terms and conditions:

8.3.8 such medical expenses shall be those reasonable expenses for:

8.3.8.1 first aid at the time of an accident;

8.3.8.2 necessary medical, surgical, x-ray and dental services, including prosthetic devices;

8.3.8.3 necessary ambulance, hospital, professional nursing and funeral Services;

8.3.9 Underwriters' liability in respect of such medical expenses shall not exceed the sum of USD 5,000 in respect of any one occurrence or series of occurrences arising from one originating cause and the sum of USD 50,000 in all for all occurrences during the Period of Insurance;

8.3.10 The Excess shall be amended to USD 500;

8.3.11 Underwriters will not pay medical expenses for Injury:

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**Endorsement No. 10**

**Clause 8, Section A Extensions – Medical Expense Payments**  
**(Continued)**

- 8.3.11.1 to any party or person indemnified by this Policy;
- 8.3.11.2 to any person hired to do work on the Insured's behalf;
- 8.3.11.3 to any person injured on that part of premises owned or rented by the Insured that such person normally occupies;
- 8.3.11.4 to any person, whether or not an employee of the Insured, if benefits for such Injury are payable or must be provided under a workers compensation or disability benefits law or similar law;

**Endorsement No. 11**

**Clause 13, General Exclusions**

Clause 13.1 under General Exclusions is amended to read as follows:

- 13.1 arising out of the deliberate, conscious or intentional disregard by the Insured's senior technical or administrative management of the need to take all reasonable steps to prevent Injury, Damage or Advertising Injury, provided that this exclusion shall not apply to Injury or Damage resulting from the use of reasonable force to protect persons or property;

**Endorsement No. 12**

**Clause 13, General Exclusions – additional exclusion (AIDS)**

Clause 13, General Exclusions, is amended by the addition of the following:

- 13.11 arising from any condition directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HTLV III) or Lymphadenopathy Associated Virus (LAV) or the mutants derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome or any syndrome or condition of a similar kind howsoever it may be named.

**Endorsement No. 13**

**Clause 14, General Conditions**

Clause 14, General Conditions, is amended by the addition of the following:

- 14.10 In the event of any payment under this Policy, Underwriters shall be subrogated to all the Insured's rights of recovery thereof against any person or organization unless rights of subrogation have been waived in writing prior to loss, and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure those rights and the Insured shall do nothing after loss to prejudice such rights.

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**Endorsement No. 13**  
**Clause 14, General Conditions**  
**(Continued)**

Underwriters agree to waive their right of subrogation against the Insured's affiliated and/or subsidiary corporations or companies, and/or their partners, officers and/or employees.

14.11 Bankruptcy or insolvency of the Insured will not relieve Underwriters of their obligations under this Policy.

**Endorsement No. 14**  
**Independent Contractors**

This Endorsement modifies the Policy only to the extent stated below. All other terms and conditions of this Policy remain unaltered and apply to this Endorsement.

1. Where used in this Endorsement, "*Applicable Contractors Liability Insurance policy*" shall mean a liability insurance policy that:
  - i) covers Injury and/or Damage to third parties arising out of work performed by an independent contractor or subcontractor; and
  - ii) includes an Indemnity to Principal provision; and
  - iii) is in force for the duration of the performance of work by an independent contractor or subcontractor for or on behalf of the Insured.
2. This Policy is extended to indemnify the Insured or an independent contractor or subcontractor in accordance with the Operative Clause for and/or arising out of Injury and/or Damage and/or Advertising Injury occurring during the Period of Insurance and which arises out of the performance of work by such independent contractor or subcontractor for or on behalf of the Insured.
3. For the purpose of this Independent Contractors Endorsement, the Excess shall be amended to the following:
  - (i) in respect of bodily injury, death, sickness, disease, disability, shock, fright, mental anguish and/or mental injury (hereinafter "Bodily Injury") and/or Damage – the limit of indemnity of the "*Applicable Contractors Liability Insurance policy*" or the amount of the applicable Excess stated in the Schedule to this Policy, whichever the greater;
  - (ii) in respect of Injury other than Bodily Injury and in respect of Advertising injury – the limit of indemnity of the "*Applicable Contractors Liability Insurance policy*" or USD 250,000, whichever the greater;

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**Endorsement No. 14**  
**Independent Contractors**  
**(Continued)**

4. Underwriters shall not be liable for Damage to:
  - i) that part of the Insured's premises (including the contents and fittings thereof) that is occupied by an independent contractor or subcontractor for work thereon.
  - ii) The Insured's property that is being worked on by an independent contractor or subcontractor.
  - iii) Property owned, leased, hired or borrowed by an independent contractor or subcontractor if such Damage is caused by such independent contractor or subcontractor.
5. It is a condition precedent to Underwriters' liability under this Endorsement that
  - i) The independent contractor or subcontractor shall observe, fulfil and be subject to the terms and conditions of this Policy in so far as they apply.
  - ii) The conduct and control of any claims arising under this Endorsement are vested in Underwriters.
  - iii) The Limit of Insurance of the "*Applicable Contractors Liability Insurance policy*" shall not be less than USD 250,000.
6. This Policy shall apply in excess of and shall not contribute with the "*Applicable Contractors Liability Insurance policy*". Nothing contained in this Policy shall be construed to make this Policy subject to the terms, limitations, conditions and definitions of the "*Applicable Contractors Liability Insurance policy*".

All other terms and conditions remain unchanged.

## **Public, Products and Pollution Liability Insurance**

### **1. Operative Clause**

The Underwriters will indemnify the Insured against their liability to pay damages (including claimants' costs, fees and expenses) in accordance with the law of any country but not in respect of any judgement, award, payment, or settlement made within countries which operate under the laws of the United States of America or Canada (or to any order made anywhere in the world to enforce such judgement, award, payment or settlement either in whole or in part) unless the Insured has requested that there shall be no such limitation and has accepted the terms offered by Underwriters in granting such cover, which offer and acceptance must be signified by specific memorandum to this Policy.

This indemnity applies only to such liability as defined by each insured Section of this Policy arising out of the Business specified in the Schedule in respect of its operations within the Geographical Limits, subject always to the terms, Conditions and Exclusions of such Section and of the Policy as a whole.

### **2. Definitions**

For the purpose of determining the indemnity granted:-

**2.1 "Advertising Injury"** means injury arising out of:

- a) libel, slander or defamation; or
- b) any infringement of copyright or passing-off of title or slogan; or
- c) unfair competition, piracy, misappropriation of advertising ideas or style of doing business; 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 or by the use of any internet website and caused by or arising out of the Insured's advertising activities.

**2.2 "Business"** means:

the Insured's Business as described in the Schedule and, where applicable, as further described in any more specific underwriting information provided to the Underwriters at the time when this insurance was negotiated, and shall include:

- a) the ownership and/or tenancy of premises by the Insured;
- b) the staging of exhibitions or trade stands or the attendance at conventions or seminars and the like;

- c) the provision of sports, social and welfare organisations and fire, first aid and medical facilities;
- d) private work undertaken by the Insured's employees for any director, partner, officer or executive of the Insured;
- e) the ownership or operation of lifts, elevators, escalators or hoists, but only in so far as this liability is not otherwise insured.

2.3 "Damage" means:

- a) physical loss, destruction of or damage to tangible property, including the loss of use thereof at any time resulting therefrom; and/or
- b) loss of use of tangible property which has not been physically lost, damaged or destroyed, provided such loss of use is caused by physical damage to or destruction of other tangible property which first happened during the Period of Insurance; all such loss of use shall be deemed to occur at the time of the physical damage or destruction that caused it.

2.4 "Injury" means:

- a) bodily injury, death, sickness, disease, disability, shock, fright, mental anguish and/or mental injury ("Bodily Injury");
- b) false arrest, false imprisonment, wrongful detention, malicious prosecution or humiliation;
- c) wrongful entry or wrongful eviction or other invasion of privacy;
- d) libel, slander or defamation of character, unless arising out of Advertising Injury;
- e) assault and battery not committed by or at the direction of the Insured unless committed for the purpose of eliminating danger to persons or property.

2.5 "Insured" means:

- a) the Insured named in the Schedule (the "Named Insured"), which term shall include all subsidiary and/or related and/or controlled corporations (including subsidiaries thereof) of the Named Insured and/or any other organisations under the control of the Named Insured, as now existing or which may hereafter be constituted or acquired provided that any new acquisition:
  - (i) does not represent a material change to the existing Business
  - (ii) does not represent an increase in wages or turnover of more than 10% of the existing declared wages or turnover

- b) every director, partner, proprietor, officer, executive and employee of the Named Insured (including the spouse of any such person while accompanying such person on any commercial trip or function on behalf of the Business) while such persons are acting in their capacity as such for or on behalf of the Named Insured;
- c) every person or firm to whom or to which the Named Insured is obligated by virtue of any contract or agreement to provide insurance such as is afforded by this Policy, but only to the extent required by such contract or agreement and subject always to Clauses 7.4.3 and 13.3;
- d) every officer, member, employee or voluntary helper of the Named Insured's canteen, social, sports, medical, fire fighting or welfare organisations or facilities while acting in their respective capacity as such;
- e) the personal representatives of the estate of any person indemnified by reason of this Clause 2 in respect of liability incurred by such persons.

2.6 "Pollution" means pollution or contamination of the atmosphere or of any water, land or other tangible property;

2.7 "Product" means any property after it has left the custody or control of the Insured which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured but shall not include food or drink supplied by or on behalf of the Insured primarily to the Insured's employees as a staff benefit.

### **3. Cross liabilities**

Each person or party indemnified is separately indemnified in respect of claims made against any of them by any other, subject to the Underwriters' total liability not exceeding the stated Indemnity Limits.

### **4. Defence Costs**

The Underwriters will pay all costs, fees and expenses incurred by the Insured with Underwriters' prior consent ("Defence Costs")

- 4.1 in the investigation, defence or settlement of;
- 4.2 as a result of representation at any inquest, inquiry or proceedings in respect of matters which have a direct relevance to;

any occurrence which forms or could form the subject of indemnity by this Policy.

## 5. **Indemnity Limits**

Underwriters' liability to pay damages (including claimant's costs, fees and expenses) shall not exceed the sum stated in the Schedule against each Section in respect of any one occurrence or series of occurrences arising from one originating cause, but under Section B and Section C the Indemnity Limits represent Underwriters' total liability in respect of all occurrences.

Defence Costs will be payable in addition to the Indemnity Limits unless this Policy is endorsed to the contrary.

Should liability arising from the same originating cause form the subject of indemnity by more than one Section of this Policy, each Section shall be subject to its own Indemnity Limit, provided always that the total amount of Underwriters' liability shall not exceed the greatest Indemnity Limit available under any one of the Sections providing indemnity.

## **Section A – Public Liability**

### 6. **Section A - Indemnity**

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of Injury and/or Damage and/or Advertising Injury occurring during the Period of Insurance but not against liability arising out of:-

- 6.1      Pollution
- 6.2      or in connection with any Product.

### 7. **Section A - Exclusions**

This Section does not cover liability:

- 7.1      arising out of the ownership, possession or use of any motor vehicle or trailer by or on behalf of the Insured, other than liability:
  - 7.1.1    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;
  - 7.1.2    arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any motor vehicle or trailer;
  - 7.1.3    for Damage to any bridge, weighbridge, road or anything beneath caused by the weight of any motor vehicle or trailer or the load thereon;

7.1.4 arising out of any motor vehicle or trailer temporarily in the Insured's custody or control for the purpose of parking;  
provided always that no indemnity is granted against liability compulsorily insurable by legislation or for which the government or other authority has accepted responsibility;

7.2 arising out of the ownership, possession or use by or on behalf of the Insured of any aircraft, but this exclusion shall not apply to unmanned inflatable balloons used for advertising or promotional purposes;

7.3 arising out of the ownership, possession or use by or on behalf of the Insured of any watercraft, provided that this exclusion shall not apply to:

- 7.3.1 hand propelled or sailing craft;
- 7.3.2 watercraft not owned by the Insured, used by the Insured for business entertainment;
- 7.3.3 any watercraft less than five metres in length  
and then, only when used on inland waterways or in territorial waters;

7.4 for and/or arising out of Damage to property owned leased or hired by or under hire purchase or on loan to the Insured or otherwise in the Insured's care, custody or control other than:

- 7.4.1 premises (or the contents thereof) temporarily occupied by the Insured for work therein (but no indemnity is granted for Damage to that part of the property on which the Insured is working and which arises out of such work);
- 7.4.2 the personal property, tools and effects of any director, partner, officer, executive or employee of, or the clothing and personal effects of any visitor to, the Insured;
- 7.4.3 premises tenanted by the Insured to the extent that the Insured would be held liable in the absence of any specific agreement;
- 7.4.4 any motor vehicle (including its contents and spare parts and accessories therein or thereon) not belonging to or used by or on behalf of the Insured, whilst such motor vehicle is in a car park owned or operated by the Insured, provided that the Insured, as the principle part of its business, does not operate such car park for reward.

**8. Section A – Extensions (Applicable only where designated as “covered” in the Schedule of (Re)Insurance)**

**8.1 Contingent/Excess Employers’ Liability**

Notwithstanding General Exclusion 13.2 this Policy extends to cover liability for Bodily Injury to an employee of the Insured whilst employed arising out of and in the course of his employment or engagement by the Insured for the Business insofar as claims for such Bodily Injury are not:

- 8.1.1 payable by a workmen’s compensation or any other social insurance or arising from any liability imposed by an industrial award or agreement. However, claims arising out of the failure of the Insured to contract a compulsory insurance remain excluded;
- 8.1.2 payable under local valid and collectable insurances arranged in respect of such Bodily Injury to employees or excluded due to a breach of condition of such insurances.

**8.2 Contingent/Excess Motor Liability**

Notwithstanding anything to the contrary herein, this Policy extends to cover liability for Bodily Injury and/or Damage arising out of the use of:

- 8.2.1 motor vehicles owned, leased or rented by the Insured (other than vehicles owned, leased or rented by the Insured and registered in the United States of America, its territories, possessions, Puerto Rico or Canada) for which compulsory insurance is required by law. Indemnity shall apply in respect of any sum in excess of such statutory limit of indemnity or standard market coverage and limits of liability;
- 8.2.2 any motor vehicle not the property of or provided by the Insured whilst being used in connection with the Business provided the Underwriters shall not be liable for:
  - (a) Injury or Damage arising while such vehicle is being driven by any person who to the knowledge of the Insured does not hold a licence to drive or is disqualified from holding or obtaining such a licence;
  - (b) Damage to the vehicle or its contents unless the contents are property of a third party for which the Insured is responsible

provided that this Policy shall only provide cover excess of any other valid and collectable insurance or the Excess specified herein, whichever is greater.

## **Section B - Pollution Liability**

### **9. Section B - Indemnity**

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of Injury and/or Damage occurring in its entirety during the Period of Insurance and arising out of Pollution, but only to the extent that such Pollution:

- 9.1 was the direct result of a sudden, specific and identifiable event occurring during the Period of Insurance;
- 9.2 was not the direct result of the Insured failing to take reasonable precautions to prevent such Pollution.

### **10. Section B - Exclusions**

This Section is subject to the Exclusions of Sections A7 and C12, and also does not cover liability for and/or arising out of:

- 10.1 Damage to premises presently or at any time previously owned or tenanted by the Insured;
- 10.2 Damage to land or water within or below the boundaries of any land or premises presently or at any time previously owned or leased by the Insured or otherwise in the Insured's care, custody or control.

## **Section C - Products Liability**

### **11. Section C - Indemnity**

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of Injury and/or Damage and/or Advertising Injury occurring during the Period of Insurance but only against liability arising out of or in connection with any Product and not against liability arising out of Pollution

### **12. Section C - Exclusions**

This Section does not cover liability:-

- 12.1 for and/or arising out of Damage to any Product or part thereof;
- 12.2 for costs incurred in the repair, reconditioning, modification or replacement of any Product or part thereof and/or any financial loss consequent upon the necessity for such repair, reconditioning, modification or replacement;

- 12.3 for costs arising out of the recall of any Product or part thereof;
- 12.4 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 and which have been directly designed for the navigation, propulsion or safety of such aircraft.

### **13. General Exclusions applicable to all sections of the policy**

This Policy does not cover liability:-

- 13.1 arising out of the deliberate, conscious or intentional disregard by the Insured's senior technical or administrative management of the need to take all reasonable steps to prevent Injury, Damage or Advertising Injury;
- 13.2 for and/or arising out of Injury to any person under a contract of employment or apprenticeship with or the provision of labour only services to the Insured where such Injury arises out of the execution of such contract;
- 13.3 arising out of liquidated damages clauses, penalty clauses or performance warranties unless proven that liability would have attached in the absence of such clauses or warranties;
- 13.4 directly or indirectly occasioned by happening through or in consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution insurrection or military or usurped power;
- 13.5 directly or indirectly caused by or contributed to by or arising from
  - 13.5.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
  - 13.5.2 the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- 13.6 for Advertising Injury:
  - 13.6.1 resulting from breach of contract but this exclusion shall not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract;
  - 13.6.2 resulting from the infringement of any trade mark, service mark or trade name on any Products sold, offered for sale or advertised, but this exclusion shall not apply to claims for infringement of titles or slogans;
  - 13.6.3 resulting from any incorrect description of any Products or services;

- 13.6.4 resulting from any mistake in advertised price;
- 13.6.5 an offence committed by an Insured whose business is principally advertising, broadcast publishing or telecasting
- 13.7 directly or indirectly caused by or alleged to be caused by or contributed to in whole or in part by or arising from the existence of or exposure to asbestos or any asbestos containing material, nor to any obligation to defend any claim or suit against the Insured alleging liability resulting from the existence of or exposure to asbestos or any asbestos containing material, nor to liabilities for Defence Costs arising therefrom;
- 13.8 for any benefits for which the Insured is liable under any Workmen's Compensation Act;
- 13.9 for the Excess as stated in the Schedule in respect of the first amount of each claim or series of claims arising out of one originating cause;
- 13.10 to the extent available under any other insurance and this Policy shall not be drawn into contribution with such other insurance.

#### **14. General Conditions**

(Conditions 14.1 to 14.4 are precedent to Underwriters' liability to provide indemnity under this Policy)

- 14.1 The Insured shall give written notice to the Underwriters as soon as reasonably practicable of any occurrence that may give rise to a claim under this Policy and shall give all such additional information as the Underwriters may require. Every claim, writ, summons or process and all documents relating thereto shall be forwarded to the Underwriters immediately they are received by the Insured.
- 14.2 No admission, offer, promise or payment shall be made or given by or on behalf of the Insured without the prior written consent of the Underwriters who shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured to their own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Insured shall give all such information and assistance as the Underwriters may reasonably require.
- 14.3 The Insured shall give notice as soon as reasonably practicable of any fact or event which materially changes the information supplied to Underwriters at the time when this Policy was effected and Underwriters may amend the terms of this Policy according to the materiality of the change.
- 14.4 Where the premium is provisionally based on the Insured's estimates, the Insured shall keep accurate records and after expiry of the Period of Insurance declare as soon as possible such details as Underwriters require. The premium shall then be

adjusted and any difference paid by or allowed to the Insured as the case may be subject to any minimum premium that may apply.

14.5 The Underwriters may at any time pay to the Insured in connection with any claim or series of claims under this Policy to which an Indemnity Limit applies the amount of such Limit (after deduction of any sums already paid) or any lesser amount for which such claims can be settled and upon such payment being made the Underwriters shall relinquish the conduct and control of and be under no further liability in connection with such claims except for the payment of Defence Costs incurred prior to the date of such payment (unless the Indemnity Limit is stated to be inclusive of Defence Costs).

Provided that if Underwriters exercise the above option and the amount required to dispose of any claim or series of claims exceeds the Indemnity Limit and such excess amount is insured either in whole or in part, with Defence Costs payable in addition to the Indemnity Limit under this Policy then the Underwriters will also contribute their proportion of subsequent Defence Costs incurred with their prior consent.

14.6 Any dispute concerning the interpretation of this Policy and/or Schedule will be determined in accordance with the law of the territory specified under Choice of Law in the Schedule.

The Insured and Underwriters submit to the exclusive jurisdiction of any court of competent jurisdiction within the territory specified under Jurisdiction in the Schedule and agree to comply with all requirements necessary to give such court jurisdiction. All matters arising hereunder shall be determined in accordance with the law and practice of such court.

14.7 Any phrase or word in this Policy will be interpreted in accordance with the law of the territory specified under Choice of Law in the Schedule. The Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the Schedule shall bear such specific meaning wherever it may appear.

14.8 This Policy may be cancelled by the Underwriters by giving sixty days' notice in writing of such cancellation to the Insured.

In the event of cancellation of this Policy, the Insured shall be entitled to a pro rata refund of premium.

If the premium is subject to adjustment, cancellation will not affect the obligation of the Insured to supply the Insurer with such information as is necessary to permit the premium adjustment to be calculated.

14.9 If the Insured shall make any claim knowing the same to be false or fraudulent, as regards amount or otherwise, this Policy shall become void and all claim hereunder shall be forfeited.

### **Terrorism Exclusion Endorsement**

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes liability for loss, injury, 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.

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

This endorsement also excludes loss, injury, 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.

If the Underwriters allege that by reason of this exclusion, any loss, injury, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

### **United States of America and Canadian Jurisdiction Memorandum**

This Policy is extended to indemnify the Insured in respect of any judgement, award, payment, or settlement made within countries which operate under the laws of the United States of America or Canada (or to any order made anywhere in the world to enforce such judgement, award, payment or settlement either in whole or in part) provided that such indemnity shall be subject to the terms, conditions and exclusions herein and subject to the following additional terms, conditions and exclusions:

- a) Underwriters' liability to pay damages (including claimant's costs, fees and expenses) and Defence Costs shall not exceed the sum stated in the Schedule against each Section in respect of any one occurrence or series of occurrences arising from one originating cause, but under Section B and Section C the Indemnity Limits represent Underwriter's total liability in respect of all occurrences;
- b) The Excess stated in the Schedule shall apply to the first amount of each claim or series of claims arising out of one originating cause, including Defence Costs;
- c) Regardless of any of the other provisions of this Policy, this Extension does not apply to awards or damage of a punitive or exemplary nature whether in the form of fines, penalties, multiplication of compensatory awards or damages or the like;
- d) This Extension does not cover liability arising out of Pollution.

## **Claims Handling Agreement**

1. In the event of the Insured gaining knowledge of any incident or circumstances which may give rise to a claim or receiving notification of a possible claim or claims where the reserve, regardless of any questions of liability or contributory negligence of third parties, is estimated to exceed 50% of the amount of the Excess, the Insured shall report such incident, circumstances, claim or claims to the Coverholders as soon as reasonably practicable who will then notify Underwriters within 5 working days.
2. In addition, the following categories of incident, circumstance or claim shall be reported to the Coverholders as soon as reasonably practicable who will then notify Underwriters within 5 working days:
  - (a) Fatal injuries to third parties
  - (b) Bodily injuries as specified below:
    - brain injuries resulting in impairment of physical functions
    - spinal injuries resulting in partial or total paralysis of upper or lower extremities
    - amputations or loss of use of upper or lower extremities
    - third degree burns
    - all other injuries likely to result in a disability rating of 50% or more
    - all injury claims made in the United States of America or involving US citizens
3. Underwriters will instruct adjusters/solicitors as and when necessary. These instructions will be made via the Coverholders. The Coverholders will provide the adjusters/solicitors with all documents and coverage details as may be necessary.
4. All adjusters/solicitors will be instructed to report directly to Insurers via the Coverholders unless they perceive a coverage problem, in which case they will report directly to the Insurers.
5. This Claims Handling Agreement is in addition to, and should be read in conjunction with, the policy wording and, in particular, the conditions regarding notification.

All other terms and conditions remain unchanged.