

Arena Cancellation of Events Policy Wording Document

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Important Notices

This policy is a legal contract between you and us. You have paid, or agreed to pay, us the Premium and we provide the cover specified in this policy and as set out in your Schedule.

The terms, conditions and provisions of the insurance we offer you are set out in this policy. It is important that you:

- read all of the policy before you buy it to make sure that it gives you the protection you need
- are aware of the limits on the cover provided and the amounts we will pay you (including any Excess that applies)
- are aware of the definitions in your policy. You will find definitions throughout your policy.

You must comply with all provisions of this policy, otherwise we may be entitled to refuse to pay a claim or reduce the amount you are entitled to receive.

The policy is in force for the Period of Insurance set out in your Schedule or until cancelled.

For the limits on the cover provided:

- some of these will be stated in the policy itself (these are our standard policy limits); and
- the remainder will be stated in your Schedule.

In some circumstances the terms and conditions of this policy may be amended by endorsement. If your policy is endorsed you will receive notification of the endorsement.

In issuing this policy to you, we have relied upon the proposal form you have already completed.

About Arena & Berkley Insurance

ABOUT ARENA

Arena Underwriting Pty Ltd (ABN 26 125 869 481 AFSL 317617) (Arena) Arranges for and on behalf of Berkley Insurance Australia.

Arena acts under a binding authority given to it by the insurer to administer and issue policies, alterations and renewals. In all aspects of this Policy Arena acts as an agent for the insurer and not for you.

If you have any queries in relation to your Policy, you can contact Arena in any of the following ways:

Phone: 02 4952 4477
Postal Address: Suite 7, 34 – 36 Pacific Hwy
Wyong NSW 2259
Email: info@arenaunderwriting.com.au

ABOUT BERKLEY INSURANCE

Berkley Insurance Australia (ABN 53 126 559 706, AFS 463129) is part of the W.R Berkley Corporation.

Berkley Insurance Australia underwrites this policy and is responsible for decisions on claims approvals and payments.

Phone: 02 9275 8500
Postal Address: Level 7, 321 Kent St,
Sydney NSW 2000
Email: australia@berkleyinaus.com.au

Your Duty of Disclosure

This policy is subject to the Insurance Contracts Act 1984. Under that Act you have a Duty of Disclosure.

Before you take out insurance with us, you have a duty to tell us of everything that you know, or could reasonably be expected to know, that is relevant to our decision to insure you and to the terms of that insurance. If you are not sure whether something is relevant you should inform us anyway.

You have the same duty to inform us of those matters before you renew, extend, vary, or reinstate your contract of insurance.

Your duty however does not require disclosure of matters that:

- reduce the risk
- are common knowledge
- we know or, in the ordinary course of our business, ought to know, or
- we have indicated we do not want to know.

If you do not comply with your duty of disclosure, we may in accordance with our rights at law, including under the Insurance Contracts Act 1984 (Cth) may be entitled to:

- reduce our liability for any claim
- cancel the contract
- refuse to pay the claim
- avoid the contract from its beginning, if your nondisclosure was fraudulent.

Taxation Information

The amount of cover available under this policy excludes Goods and Services Tax (GST).

If you are not registered for GST, in the event of a claim we will reimburse you the GST component in addition to the amount that we pay.

The amount that we are liable to pay under this policy will be reduced by the amount of any input tax credit that you are or may be entitled to claim for the supply of goods or services covered by that payment.

If you are entitled to an input tax credit for the Premium you must inform us of the extent of that entitlement at or before the time you make a claim under this policy. We will not indemnify you for any GST liability, fines or penalties that arise from or are attributable to your failure to notify us of your entitlement (or correct entitlement) to an input tax credit on the Premium.

If you are liable to pay an Excess under this policy, the amount payable will be calculated after deduction of any input tax credit that you are or may be entitled to claim on payment of the Excess.

If you are unsure about the taxation implications of this policy, you should seek advice from your accountant or tax professional.

Privacy

Berkley Insurance Australia seeks at all times to comply with the Privacy Act 1988 and the Australian Privacy Principles therein. If We disclose personal information to you for any reason you must also act in accordance with and comply with the terms of the Privacy Act and the Australian Privacy Principles.

Purpose for collection of information

The information contained in this document and any other documents provided to us will be dealt with in accordance with our Privacy Policy.

Disclosure of Information that you provide to us

Berkley Insurance Australia will only use the information in accordance with the terms of the Privacy Policy. Without limiting the application of the Policy Berkley Insurance Australia may disclose personal information to other individuals or organisations in connection with your claim, including legal advisors, other parties, other lawyers, experts and witnesses, courts and tribunals and other organisations that need to be involved in the matter. By submitting your notification and continuing to deal with us you consent to Berkley Insurance Australia and these parties collecting, using and disclosing personal and sensitive information about you for these purposes. By signing the claim form you are consenting to the above.

You warrant to us that where you provide us with personal information that you have collected from other individuals:

- That the information has been collected in accordance with the Privacy Act 1988.
- That We are authorised to receive that information from you and to use it for the purpose of providing legal claims management services and advice.
- You, and the person who provided you with the information, are aware and have complied with the Privacy Act 1988 and have notified the person about whom the personal information is collected of the collection use and disclosure of such information.

By executing the claim form you are indemnifying Berkley Insurance Australia against any breach that arises directly or indirectly out of any act or omission of your part which does not accord with the conduct required under the Privacy Act 1988.

Direct Marketing

We do not disclose personal information that We collect to a third party for the purpose of allowing them to direct market their products and services unless You have given Us Your permission for Us to do this.

Cross Border

We will share Your personal information with the Berkley group of companies. Our data containing Your information is stored in our data centre using dedicated Berkley hardware and network. We may also use Software as a Service, Cloud computing or other technologies from time to time and Your information may be stored outside Australia. We will not transfer personal information to a recipient in a foreign country unless We have appropriate protections in place as required by the relevant privacy laws. Your information will be stored on our data base for such period of time as required by law.

Further information

If you would like further information, please review our full Privacy Policy on our website www.berkleyinaus.com.au or if you have any complaints or concerns over the protection of the information you have given to us or that We have collected from others, contact the National Head of Claims at the Sydney address listed below or alternatively send an email to australiacclaims@berkleyinaus.com.au

Contact Details

Berkley Insurance Australia
Level 23, 31 Market Street
SYDNEY NSW 2000
Ph: 02 9275 8500
Fax: 02 9261 2773

Email: australia@berkleyinaus.com.au

Web site: www.berkleyinaus.com.au

Section 1 – What is Covered

1.1 We will indemnify the Insured up to the Sum Insured for their Net Loss as a result of the:

- a) Abandonment;
- b) Cancellation;
- c) Postponement;
- d) Restriction;
- e) Relocation; or
- f) Inability to Proceed with;

an Insured Event during the Period of Insurance.

1.2 We will indemnify the Insured up to the Sum Insured for their legal liability to a third party as a result of the Insured's Failure to Vacate during the Period of Insurance.

1.3 We will indemnify the Insured up to the Sum Insured for any reasonable and additional expenses incurred to avoid or diminish a loss payable under this policy, PROVIDED THAT the additional expenses do not exceed the amount of loss avoided or diminished.

Section 2 – Exclusions – What is not Covered

We do not cover losses directly or indirectly arising out of, contributed to by or in connection with:

Amendments to Information provided in the Proposal

changes in the number or locations of the Insured Events unless the Insured has have obtained Our written consent.

War and Terrorism

any of the following regardless of any other cause or event contributing concurrently or in any other sequence any of the following:

- a) 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, confiscation by order of any public authority or government de jure or de facto, martial law;
- b) riots, strikes or civil commotion;
- c) any Act of Terrorism; or.
- d) any action taken in controlling, preventing, suppressing, retaliating against or responding to or in any way relating to those things in a) to c) above.

The burden of proving that a Claim does not fall within this exclusion will be upon the Insured.

Electronic Data or Website

- a) the total or partial destruction, distortion, erasure, corruption, alteration, failure, misinterpretation or misappropriation of Electronic Data or a Website;
- b) any error in creating, amending, entering, deleting or using Electronic Data or a Website;
- c) the total or partial inability or failure to receive, send, access or use Electronic Data or a Website for any time or at all; or
- d) any business interruption losses resulting therefrom.

regardless of any other contributing cause or event whenever it may occur.

Fraud, Dishonesty, Criminal or Intentional Loss Damage or Injury

any act, error or omission of any person which is dishonest, fraudulent, or criminal (or which is done or omitted to be done with reckless disregard for the consequences) or is a wilful or reckless breach of statute, contract or duty.

Malicious Acts

- a) intentional acts of force or violence that are committed, threatened or feared to be committed by any person(s), group of persons, organisation or criminal association against the life, health or property of those attending the event, of the organisation of the event including all persons and companies involved in its organisation, including the participants, as well as the owner(s) of the Premises;
- b) an intentional interruption of the transport infrastructure because of acts of violence committed, threatened or feared to be committed by any person(s), group of persons, organisation or criminal association against the life, health or property of the users or operators of the transport infrastructure; and

- c) an intentional interruption of the transport infrastructure because of acts of violence committed, threatened or feared to be committed by any person(s), group of persons, organisation or criminal association, including also demonstrations or blockades which may prevent access to the event.

Previously Known Circumstance

any fact, matter or circumstance known to the Insured, at any time prior to the inception of this policy, and which the Insured knew or a reasonable person in the Insured's position could, in the circumstances, be expected to know or have known might give rise to a claim under the policy.

Insolvency

the insolvency of the Insured.

Fluctuations

fluctuations in prices, taxes, interest rates or currency.

Nuclear Risks and Radioactive Contamination

- a) ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or
- c) exposure to magnetic, electric or electromagnetic fields or radiation.

Financial Loss

financial losses from the staging of the Insured Event, including as a result of the level of public interest, the level of Gross Revenue, and/or the level of financial support by sponsors or other involved parties. This exclusion is not meant to entirely exclude a claim under Clause 1.1 d).

Communicable Diseases

any communicable disease which leads to:

- a) the imposition of quarantine or restriction in movement of people or animals by any national or international body or agency; and/or
- b) any travel advisory or warning being issued by a national or international body or agency

and in respect of a) or b) any fear or threat thereof (whether actual or perceived).

Asbestos or Toxic Mould

asbestos or toxic mould.

Construction Delay

the Premises not being fit for use because construction work on or in the building has not been completed or has not been completed on time; UNLESS the Insured did not or could not know about such construction work at the time the policy commenced.

Non-Appearance or Failure to Function

- a) non-appearance of any person, entertainment or thing; or
- b) the failure of any device to function

Failure to Vacate

any liability owed to a third party as a result of a Failure to Vacate if the owner or manager of the Premises is in any way affiliated with the Insured.

Adverse Weather

any Adverse Weather. This exclusion shall not apply if the Optional Extension – Adverse Weather is Included.

Associated Claimant

any liability to a third party where such third party has a financial interest in the organiser of the event or a director/officer or manager of the organiser has a financial interest in the third party.

Policy Shutdown

any events that are shut-down by order of any government or public or local authority as a result of the seizure, confiscation or the handling of contraband.

Section 3 – Optional Extension – Adverse Weather

We will provide the following cover, where it is specifically noted in the Schedule as Included. The coverage provided under this Optional Extension is subject to all other terms and conditions of this policy. The inclusion of coverage under this Optional Extension will not increase the Sum Insured.

Adverse Weather

We will indemnify the Insured up to the Sum Insured for their Net Loss as a result of the Abandonment, Cancellation, Postponement, Restriction, or Relocation if an Open Air Insured Event as a sole and direct result of Adverse Weather.

Section 4 – Obligations of the Insured

Before and during the Insured Event and prior to any Abandonment, Cancellation, Postponement, Restriction, or Relocation if an Open Air Insured Event as a sole and direct result of Adverse Weather:

- 4.1 The Insured must make all the necessary arrangements in a timely manner in order to ensure the proper conduct of the Insured Event. In particular, the requisite licences, visas and permits shall be obtained, written contracts completed, official and statutory conditions fulfilled.
- 4.2 The Insured must keep financial records in accordance with generally accepted accounting principles and shall keep invoices and receipts from which the costs incurred and revenue earned from the Insured Event can be ascertained
- 4.3 After insurance has been applied for, The Insured may not undertake or approve anything that might tend to aggravate the risk or increase the potential loss without Our written consent, which shall not be unreasonably withheld.
- 4.4 If the Insured becomes aware of any aggravation of the risk or increase to the potential for loss, the Insured must notify Us as soon as reasonably practicable. We shall then have the option of cancelling the policy in accordance with our rights under the Insurance Contracts Act 1984 (Cth), or charging reasonable additional Premium and/or amending the terms and conditions of the policy, having regard to the nature of the risk being assumed by Us
- 4.5 The Insured must observe and comply with the requirements of any law, ordinance, court or regulatory body.
- 4.6 The Insured must ensure that all Essential Equipment is adequately packed and secured for transit to the Insured Event and that the Insured has allowed a reasonable period of time for the Essential Equipment to arrive at the Premises prior to the opening of the Insured Event.
- 4.7 The Insured must maintain sufficient insurance to cover the full value of the Insured's maximum possible loss for each Insured Event without any allowance for possible recoveries, savings or waivers. Should the Insured fail to do so, then We will not be liable for a greater proportion of any loss covered hereunder than the Sum Insured bears to the full value of the maximum possible loss for the relevant Insured Event.

Following the Postponement, Abandonment, Cancellation, Restriction or Relocation of an Insured Event:

- 4.8 The Insured must take all possible and justifiable measures to avoid or minimise loss. This includes (but is not limited to):
 - a) make all reasonable efforts to find another place to hold the Insured Event; and
 - b) provide timely notice to the contracted provider of any goods or services in order to diminish or avoid a loss.
- 4.9 The Insured must give Us all information that We reasonably request in order to investigate the reason and amount of the loss, and on demand to permit inspection of their books and records.
- 4.10 The Insured must co-operate with Our investigation into any Insured Event or claim. This includes but is not limited to:
 - a) making available to Us their books and records relating to the Insured Event and the Premises;

- b) completing any claim form and returning it to Us within any period reasonably requested by Us;
- c) if requested by Us, providing a statutory declaration in relation to the Insured Event and the subject matter of the claim; and
- d) provide Us with all necessary documentation to assess the claim for indemnity under their policy.

4.11 Where the Adverse Weather Optional Extension is Included, the Insured must prove (using official data provided by the weather station closest to the Premises) that Adverse Weather occurred.

Section 5 – Claims Conditions

Discovery and Notice of a Claim

If during the Period of Insurance the Insured becomes aware of any circumstances that might or will lead to a claim under this policy the Insured will give notice to Us as soon as practicable.

Notice of any claim will be provided in writing to:

National Head of Claims
australiacclaims@berkleyinaus.com.au
Berkley Insurance Australia
PO Box Q296
QVB NSW 1230.

Admission of Liability

In the event of any claim, the Insured will not admit liability and no admission, offer, settlement, promise or payment will be made by the Insured without Our prior written consent.

Conduct and Control of Claims

Following notification of any claim under this policy, We will be entitled to take over and conduct in the name of the Insured the investigation, defence or settlement of any such matter in regard to monies owed by the Insured to third parties. The Insured will Cooperate with and give all such assistance as We may reasonably require.

No admission, promise, payment or indemnity shall be made or given by or on behalf of the Insured without Our prior written consent.

Excess

In respect of each loss covered by this policy the Insured is liable for the amount of any Excess stated in the Schedule and We will have no liability for the amount of any Excess.

Notification of Other Insurances

If at any time of any loss covered under this policy, there exists any other insurance policy which would provide indemnity to the insured, then the Insured must provide Us with full details of any such insurance policy when making any claim under this policy.

Section 6 – General Conditions

- 6.1. It is acknowledged by the Insured that We have no obligation to refund any part of the Premium irrespective of whether the Insured Event takes place.
- 6.2. The premium for this policy must be paid within 5 days of inception or 5 working days prior to the Insured Event, whichever is the earliest.
- 6.3. The Insured has a responsibility to cooperate fully with Us, even if We have already paid their claim, and they must give Us all the information that We reasonably require.
- 6.4. This policy is governed by the laws of the State or Territory where this policy is issued. The relevant courts of the place where the policy was issued will have jurisdiction in any dispute concerning or under this policy.
- 6.5. If more than one person or entity is named as the Insured, We will treat a statement, act, omission or claim of any one of those persons or entities as a statement, act, omission or claim by all those persons or entities.

Section 7 – Cancellation / Assignment Clause

- 7.1. The **Insured** may cancel the policy, provided written notice is given to the Insurer as soon as reasonably practicable before the Insured Event begins, to receive a refund of premiums paid.
- 7.2. If the policy is cancelled prior to the Insured Event being run/taking place, the Insurer is entitled to retain 25% of the premium charged to cover their necessary costs in arranging the policy.
- 7.3. No part of Premiums, once paid to the Broker / Insurer, is refundable to the Insured under any circumstances, where the Insured Event has already started/been run/taken place. No part of Premiums, once paid to the Broker / Insurer, are not refundable to the Insured under any circumstances, where The Insured has reported an incident that is likely to give rise to a claim under this policy.
- 7.4. The **Insured** is not entitled to assign the policy to a third party without **Our** written consent.

Section 8 - Definitions

Headings and notes are for information purposes only and are not to be construed as part of the policy. Various words and phrases are used in this policy and wherever they appear starting with a capital letter and whether they are used in the plural or singular form, they are deemed to have the meaning set out below:

Abandonment means the unavoidable inability to complete the Insured Event once commenced as a direct result of an event occurring during the Period of Insurance which is beyond the control of the Insured, the event organiser, sponsor or financial supporter.

Act of Terrorism

Means the actual or threatened:

- a) use of force or violence against persons or Property;
- b) commission of an act dangerous to human life or Property;
- c) commission of an act that interferes with or disrupts an electronic or communication system undertaken by any person or group whether or not acting on behalf of or in connection with any organisation government power authority or military force;

and the reasonably apparent intent or effect is to:

- a) intimidate or coerce a government or organisation or to disrupt any segment of the economy;
- b) cause alarm fright fear of danger or apprehension of public safety in one or more distinct segments of the general public or to intimidate or coerce one or more such segments; or
- c) further political ideological religious or cultural objectives or to express support for (or opposition to) a philosophy ideology religion or culture;
- d) affect the conduct of a government de jure or de facto by mass destruction, assassination, kidnapping or hostage taking.

Adverse Weather means Flood, Bushfire, Moderate Snow, Cyclone, heavy hail, Violent Rain or Showers, Gale Force Winds, Severe Thunderstorm, Earthquake, Fog or any other severe weather condition occurring at or near the Premises that:

- a) causes major disruption to travel services;
- b) restricts access roads to the Premises;
- c) renders the Premises unsafe for patrons as deemed by Police or Local Government Authority; or
- d) renders the Premises unsafe to conduct the Insured Event.

The following definitions apply for the purposes of clause d) only:

Bushfire means two or more of the following:

Extreme – catastrophic Fire Danger Rating (Code RED); Fire Danger Index 100+; or thousands of embers being violently blown into and around homes causing other fires to start and spread quickly up to 20 kilometres ahead of the main fire.

Cyclone means a tropical depression of sufficient intensity to produce sustained gale force winds (at least 63 kilometres per hour) or produce sustained hurricane force winds (at least 118 kilometres per hour), in addition to being designated a name by the Australian Bureau of Meteorology.

Flood means the inundation of normally dry land by water that has escaped from the normal confines of any natural or artificial watercourse, lake, lagoon, reservoir, canal or dam. It also includes water discharged from sewerage or waste water systems due to pressure induced by Flood water

Gale Force Winds means winds of 76–87 kilometres per hour or 48-55 knots.

Moderate Snow means a water equivalent of 2.2 millimetres to 6 millimetres per hour

Severe Thunderstorm means two or more of the following: hail at the ground with diameter of 2 centimetres or more; wind gusts at the group of 90 kilometres per hour or more; tornadoes; or very heavy rain likely to cause flash flooding.

Violent Rain or Showers means downpour in excess of 50 millimetres per hour.

Cancellation means the unavoidable inability to proceed with any part of the Insured Event as a direct result of an event occurring during the Period of Insurance which is beyond the control of the Insured, the event organiser, sponsor or financial supporter.

Electronic Data means facts, data, concepts and information converted to a form useable for communications, display, storage, distribution, interpretation or processing by electronic and electromechanical data processing or electrically controlled equipment and includes programmes, software and other coded instructions for such equipment

Essential Equipment means the material required by the Insured to participate in or host the Insured Event including exhibits, displays, stands, stock and samples.

Expenses means the costs and charges incurred by the Insured arising directly out of the Insured Event, including but not limited to deposits and other charges paid (or contracted to be paid) by the Insured for transport, catering services, property and equipment rentals, hall and location rentals and accommodations.

Excess means the amount shown in the Schedule.

Failure to Vacate means the Insured's inability to vacate Premises by the Termination Date as a direct result of an occurrence happening during the Insured Event and which is beyond control of the Insured, the event organiser, sponsor or financial supporters.

Gross Revenue means all monies paid or payable to the Insured from every source in connection with the Insured Event. This includes monies owed even if the person or entity is or becomes insolvent or refuses to pay for whatever reason.

Inability to Proceed means the unavoidable inability of the Insured to open their space in an Insured Event due to either a late or non-arrival of their Essential Equipment or physical loss or damage to their Essential Equipment while at or in transit to the Premises (provided that such damage renders the Essential Equipment unsuitable for its intended purpose). However this does not include when the Essential Equipment was not sent within a reasonable period of time prior to the Event, taking into consideration the distance and importance of the Essential Equipment.

Insured means

- a) the insured person or entity named in the Schedule
- b) the directors, officers, employees or staff of the entity named in the Schedule
- c) persons working for the Insured whether under a contract or otherwise.

Insured Event means the event as described in the Schedule.

Net Loss means the irrevocable Expenses minus the Gross Revenue less any savings the Insured is able to effect to mitigate such loss.

Open Air Insured Event means any Insured Event where part or all of the event is scheduled to take place in the open air, under a marquee or canvas structure or in other similar temporary structures.

Period of Insurance means the period stated in the Schedule to the published closing date of the Insured Event.

Postponement means the unavoidable deferment of part or all of the Insured Event to another time as a direct result of an event occurring during the Period of Insurance which is beyond the control of the Insured, the event organiser, sponsor or financial supporter

Premises means the location of the Insured Event as described in the Schedule

Premium means the amount stated in the Schedule.

Restriction means the unavoidable closing of part of or all of an Insured Event earlier than the published closing date or time as a direct result of an event occurring during the Period of Insurance which is beyond the control of the Insured, the event organiser, sponsor or financial supporter

Relocation means the unavoidable removal of the Insured Event to another location as a direct result of an event occurring during the Period of Insurance which is beyond the control of the Insured, the event organiser, sponsor or financial supporter

Schedule means the schedule attached to this policy.

Sum Insured means the amount specified in the Schedule. The Sum Insured is to be applied as an aggregate limit in respect of the sum total of all claims notified during the Period of Insurance.

Termination Date means the date agreed between the Insured and the owner or manager of the Premises by which time the Insured is to vacate the Premises.

We, Us or Our means Berkley Insurance Company (trading as Berkley Insurance Australia) ABN 53 126 559 706.

Website means any connection to the internet that maintains one or more web pages that are used for advertising the Insured Event or processing sales for the Insured Event.

Product issued by
Berkley Insurance Australia

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