

FREMANTLE PORTS EVENT INDEMNITY FORM

TO: FREMANTLE PORT AUTHORITY
1 CLIFF STREET
FREMANTLE WA 6160

INDEMNIFIER & EVENT INFORMATION

For the purposes of this indemnity the following words mean:

Event:

Event Date:

Event Location:

Indemnifier:

Insurance Policy: Public liability insurance for the Event to be held on the Event Date at the Event Location with a minimum cover of \$.....
for any one occurrence and unlimited as to the number of occurrences during any 12 month period of insurance.

Liability Cap:

AGREED INDEMNITY TERMS

In consideration of the Fremantle Port Authority (**FPA**) agreeing at the request of the Indemnifier to permit the Event to be held on the Event Date and at the Event Location situated on or near to the Port, the Indemnifier agrees to the following terms:

INDEMNITY

1. The Indemnifier indemnifies FPA against all Loss arising out of (directly or indirectly), or in connection with, the Event except to the extent caused by FPA.

LIMITATION OF LIABILITY

2. Subject to paragraph 3, the Indemnifier is not liable to FPA for any Excluded Loss and the Indemnifier's total aggregate liability to FPA arising out of, or in connection with, this indemnity is limited to the Liability Cap.
3. Paragraph 2 does not apply:
 - a. in respect of any claim for personal injury, sickness or death;
 - b. in respect of any loss or damage to property;
 - c. to the extent that the Indemnifier is able to recover from its Insurance Policy or should have been able to recover from its Insurance Policy but for a failure of the Indemnifier to comply with its obligations under paragraph 5; or
 - d. in relation to any reckless, fraudulent or unlawful acts or omissions.

INSURANCE

4. The Indemnifier must:
 - a. obtain and maintain the Insurance Policy at its own expense with an Australian Prudential Regulatory Authority approved insurer and on terms acceptable to FPA; and
 - b. provide a certificate of currency for the Insurance Policy to FPA within 2 days of a request by FPA.

GENERAL

5. The indemnity in this document is a continuing obligation and survives completion of the Event.
6. It is not necessary for the FPA to incur an expense or make a payment before enforcing this indemnity.
7. The following words have the meaning set out against them:
 - a. **Excluded Loss** means indirect or consequential loss, loss of production, loss of revenue, loss of profit, loss of use, loss of contract, loss of goodwill, loss of opportunity or loss of reputation.
 - b. **Loss** means any loss, claim, action, liability, damage, cost, charge, expense, outgoing, payment, diminution in value or deficiency of any kind or character which FPA pays, suffers or incurs or is liable for, including:
 - (i) liabilities on account of tax;
 - (ii) interest and other amounts payable to third parties; and
 - (iii) legal (on a full indemnity basis) and other expenses incurred in connection with investigating or defending any claim or action, whether or not resulting in any liability, and all amounts paid in settlement of any claim or action.
 - c. **Port** means the Fremantle harbour and includes the outer harbour and all areas within the Fremantle port boundary.

EXECUTION

Execution as a deed poll on

_____ **20** _____

EXAMPLE EXECUTION BLOCKS

Individual

Signed by [insert individual's name] in the presence of:)

.....
Witness (sign)

.....
[insert individual's name]

.....
Name of Witness (print)

Incorporated Association

Note: Use of a common seal will be detailed in the constitution of the incorporated association, including any witnessing requirements. The constitution may require execution in a particular manner which should be adopted where applicable.

Common seal: If the incorporated association requires the use of common seal:

The common seal of [insert name of incorporated association] is affixed in the presence of:)

.....
[insert position of person required to witness affixing common seal] (sign)

.....
[insert position of person required to witness affixing common seal] (sign)

.....
Name of [insert position of person required to witness affixing common seal] (print)

.....
Name of [insert position of person required to witness affixing common seal] (print)

No common seal: If the incorporated association does not require use of common seal:

Executed by [insert name of incorporated association] in the presence of:)

.....
Witness (sign)

.....
[insert position of person with authority] (sign)

.....
Name of Witness (print)

.....
Name of [insert position of person with authority] (print)

Corporation

Executed by the [insert name of corporation] pursuant to section 127 of the Corporations Act 2001 (Cth):

.....
Company Secretary/Director (sign)

.....
Director (sign)

.....
Name of Company Secretary/Director (print)

.....
Name of Director (print)