Annexure A – Notice

Lloyd's Business Interruption Insurance Class Action

Please see enclosed an important notice from the Federal Court of Australia, which requires your attention.

The notice concerns a class action against the Underwriting Members of Syndicate 2003 at Lloyd's in relation to whether some of Lloyds' insurance policies pay out for business interruption losses during the COVID-19 pandemic.

The Federal Court has ordered that this notice be sent to all businesses which held one of the insurance policies covered by the class action and those businesses who previously expressed interest in participating in the class action.

Your business may previously have expressed interest in participating in the class action.

You should read the notice carefully and follow the instructions contained within it.

A NOTICE FROM THE FEDERAL COURT OF AUSTRALIA
Please read this notice carefully, as it sets out your legal rights. It is not a scam.

CLASS ACTION NOTICE

This is an important notice from the Federal Court of Australia.

This notice is being sent to you about the **Lloyd's Business Interruption Insurance Class Action.** You have been identified as a potential class member or have previously registered your interest in participating in the class action.

The class action is about certain insurance policies issued by Lloyd's to businesses providing cover for business interruption losses. The applicants in the class action argue that Lloyd's should make payment under those policies to businesses which suffered certain losses during the COVID-19 pandemic. Your business holds one of those insurance policies, and you may therefore be a class member, or you have previously registered your interest in participating in the class action.

You may have received an earlier Federal Court notice in February 2024. This notice provides important updates to that notice.

PURPOSE OF THIS NOTICE

This notice has been issued to inform you that the Court has decided that the Lloyd's Business Interruption Insurance Class Action should <u>not</u> continue as a class action from 11 November 2026.

This means that from 11 November 2026, you will no longer be a class member in the class action, and the class action will <u>not</u> determine whether you are entitled to an insurance payout from Lloyd's.

However, the Federal Court of Australia has also made some rulings regarding how some parts of class members' insurance policies with Lloyd's should be read and understood.

These rulings (known to lawyers as "declarations") are enclosed with this notice as **Schedule 1.** If you want to continue a claim against Lloyd's yourself you will be able to rely on these rulings in so far as they apply to your Lloyd's insurance policy, unless you opt out of the class action (see next paragraph).

If you do not want these rulings to apply to you, you must opt out of the Lloyd's Business Interruption Insurance Class Action by no later than 9 November 2026.

YOUR OPTIONS

Class action

You have the following options concerning the class action. These options apply to you whether or not you have made or intend to make a claim against Lloyd's:

1. **Do nothing.**

   You can do nothing in response to this notice.

   If you do nothing, you will remain a member of the class action until 11 November 2026 when the class action terminates. You will be bound by the rulings set out at Schedule 1. You will not be asked to pay any money in relation to the class action.

2. **Opt out**

   You may opt out of the class action. This will mean that you will not have the benefit of the Court's rulings in Schedule 1, and they will not bind you or Lloyd's in any claim that you make against Lloyd's.

   If you wish to opt out of the class action you must do so by completing a "Notice of opting out by class member" in the form at Schedule 2 to this notice.

   Opt out forms must be submitted directly to the New South Wales District Registry of the Federal Court of Australia:

   By post to: Level 17
   Law Courts Building
   184 Phillip St
   Queens Square, Sydney
   NSW 2000

   or

by email at nswreg@fedcourt.gov.au

before 4:00pm on 9 November 2026

IMPORTANT: the Notice must reach the Registrar by no later than **4:00pm on 9 November 2026**, otherwise it will not be effective.

Claim against Lloyd's directly

Whether you take option 1 (do nothing) or option 2 (opt out) above, you can still make a claim against Lloyd's directly (or continue a claim if you have already brought one). You can do this either by following Lloyd's internal claims process or by bringing your own legal proceedings against Lloyd's.

If you have an insurance broker, they may be able to assist you with this. You can also seek advice from a lawyer.

If you want to lodge a claim directly with Lloyds, you or your representative (including broker) can do so, by contacting Quantum Underwriting Agencies, who will notify AXA XL (on behalf of the Lloyd's insurance syndicate) of a claim directly by:

- calling Quantum on 1300 974 095;
- email to claims@qua.net.au.

A claim form can be found at http://www.qua.net.au/forms.html, which also includes guidance on what information should be submitted with your claim.

If you do not agree with Lloyds' decision on your claim, you can:

- request a free internal review;
- lodge a complaint free of charge with the Australian Financial Complaints Authority (**AFCA**) (if your claim falls within the types and amounts of disputes AFCA is permitted to determine); or
- start your own court case against Lloyd's on your own and using your own financial resources.

AM I A CLASS MEMBER?

You are potentially a class member if you suffered interruption or interference to your insured business because of the COVID-19 pandemic.

The Lloyd's insurance policies involved in the class action were labelled "Jewellers' Block and Multi Perils Insurance" and sold under the "Quantum" brand.

WHAT HAPPENED SINCE THE LAST NOTICE?

If you received the last notice sent to you in this class action, in February 2024, you will remember that the Court had asked class members to register with Gordon Legal in order to determine whether it was worthwhile that the class action continue as a class action.

The Court has now decided that the Lloyd's Business Interruption Insurance Class Action should <u>not</u> continue as a class action from 11 November 2026.

However, the Applicant and Lloyd's have agreed on the answers to a number of questions regarding class members' insurance policies. The Court has now made rulings that reflect what was agreed, which is contained at **Schedule 1.** These rulings might assist you if you decide to bring your own claim against Lloyd's. If you do not want to be bound by these rulings, you will need to opt out of the class action by 9 November 2026.

YOU REGISTERED, WHAT HAPPENS NOW?

You might have registered for the class action following receipt of the Court's first notice in February 2024. The point of registrations was to permit the Court to understand how many class members wanted their claims to be determined by the class action.

Ultimately, the Court decided that the class action not continue as a class action. Whether or not you registered therefore has no impact on what steps you can take in response to this notice, or on any claim you might bring against Lloyd's.

The Court's decision that the class action not continue does not mean that the Court has reached any decision regarding whether or not your claim against Lloyd's is likely to succeed.

WHAT IS "OPT OUT"?

The Applicant in a class action does not need to seek the consent of class members to commence a class action on their behalf. However, class members can cease to be class members by opting out of the class action. An explanation of how class members are able to opt out is found below in the section headed "How can I opt out of the class action".

WHAT WILL HAPPEN IF YOU DO NOT OPT OUT?

You will be bound by, and have the benefit of, the rulings attached to this notice as **Schedule 1**. These rulings provide some certainty about how your business interruption insurance policy with Lloyd's operates.

If you chose not to opt out, you can rely on these rulings if you make an insurance claim against Lloyd's directly. Lloyd's is also entitled to rely upon them in relation to any claim that you make against Lloyd's.

HOW CAN I OPT OUT OF THE CLASS ACTION?

If you do not want to be bound by the rulings at Schedule 1, you must opt out of the class action.

If you wish to opt out of the class action you **must** do so by completing a **"Notice of opting out by class member"** in the form at Schedule 2, then returning it to the New South Wales District Registrar of the Federal Court of Australia at the address on the form.

IMPORTANT: the Notice must reach the Registrar by no later than 4:00pm on 9 November 2026, otherwise it will not be effective.

You should submit the Notice of opting out by class member if:

(i) you qualify as a class member and you wish to opt out of the class action; or

(ii) you believe that you have been incorrectly identified as a class member, because you do not meet the criteria set out in the section headed "Am I a class member" above.

Each class member seeking to opt out should fill out a separate form. If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

WILL YOU HAVE TO PAY ANYTHING?

You will not have to pay anything in relation to the Lloyd's Business Interruption Insurance Class Action, regardless of whether you opt out or not.

WHERE CAN YOU FIND OUT MORE INFORMATION?

More information on the Lloyd's Business Interruption Insurance Class Action can be found online at www.gordonlegal.com.au. The Court encourages you to review this additional information.

WHEN WILL MY CLAIM EXPIRE?

Most legal claims are subject to strict time limits. While the class action was ongoing, any time limit that applied to your claim was paused. That time limit will begin to run again once you opt out, or from 11 November 2026 if you do not opt out.

WHERE CAN I OBTAIN COPIES OF RELEVANT DOCUMENTS?

Copies of relevant documents, including the application, the statement of claim, and the defence or defences, may be obtained by:

(a) downloading them from Applicant's lawyers' website (www.gordonlegal.com.au);

(b) inspecting them between 9am and 5pm at one of the offices of the Applicant's lawyers, contact details for which are available from the Applicant's lawyers' website or by calling (03) 9603 3000;

(c) by contacting a District Registry of the Federal Court (contact details are available www.fedcourt.gov.au) and paying the appropriate inspection fee; or

(d) where appropriate arrangements have been made with the Court, inspecting them on the Federal Court website at https://www.fedcourt.gov.au/law-and-practice/class-actions/class-actions

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact the Applicant's lawyers on (03) 9603 3000 or email biclaims@gordonlegal.com.au or seek your own legal advice. You should not delay in making your decision.

SCHEDULE 1
TEST CASE FINDINGS

1. On the proper construction of the Relevant Policies, COVID-19 is a notifiable human infectious or contagious infectious disease.

2. On the proper construction of the Relevant Policies, COVID-19 was declared a notifiable human infectious or contagious disease in each State and Territory as follows:

   a. on 21 January 2020 in New South Wales by the *Public Health Amendment (Scheduled Medical Conditions and Notifiable Diseases) Order 2020* (NSW);
   b. on 29 January 2020 in Victoria by the *Public Health and Wellbeing Amendment (Coronavirus) Regulations 2020* (Vic);
   c. on 28 January 2020 in South Australia by the declaration made under section 63(2) of the *South Australian Public Health Act 2011* (SA);
   d. on 29 January 2020 in Western Australia by the *Public Health (Notifiable Infectious Diseases) Order 2020* (WA);
   e. on 30 January 2020 in Queensland by the *the Public Health (Coronavirus (2019–nCoV)) Amendment Regulation 2020* (Qld);
   f. on 6 February 2020 in Tasmania by the order made under section 40 of the *Public Health Act 1997* (Tas);
   g. on 6 February 2020 in the Northern Territory by the *Declaration and Notification of Notifiable Disease Novel coronavirus (2019-nCoV)* (NT); and
   h. on 14 February 2020 in the Australian Capital Territory by the *Public Health (‘COVID-19’ AKA ‘Novel Coronavirus’ – Temporary Notifiable Condition) Determination 2020 (No 1)* (ACT).

3. On the proper construction of the Relevant Policies, an ‘outbreak’ of COVID-19:

a. occurs in or at a particular place where there exists a case of active (that is infectious) COVID-19 in the community (in the sense that it occurs in a non-controlled environment). The reference to a non-controlled environment means the person infected is present in the community in circumstances where transmission to other persons is possible.

4. On the proper construction of the Relevant Policies, where an insured received a JobKeeper allowance and/or a Commonwealth government cash flow boost, such payment is not a 'sum saved' 'in consequence of the interruption or interference.'

5. To determine whether the business interruption or interference was as a result of an outbreak of COVID-19 within the required area under a Disease Clause for the purpose of the Business Interruption Policies, the occurrence and effect of matters that the parties would naturally expect to occur concurrently with the outbreak can be ignored.

6. In the case of an outbreak of COVID-19 within the required area under a Disease Clause, the matters that the parties would naturally expect to occur concurrently with the outbreak include actions by authorities requiring businesses to close their doors and restrict the free movement of residents.

SCHEDULE 2
OPT-OUT NOTICE

Form 21
Rule 9.34

Opt-out notice

Only complete this form is you wish to opt-out of the Lloyd's Business Interruption Insurance Class Action

No. NSD637 of 2021

Federal Court of Australia
District Registry: New South Wales
Division: General

CODY GEMTEC RETAIL PTY LTD T/AS THE NATIONAL OPAL COLLECTON
Applicant

THE UNDERWRITING MEMBERS OF SYNDICATE 2003 AT LLOYD'S
Respondent

To: The Registrar
Federal Court of Australia
New South Wales District Registry
Level 17
Law Courts Building
184 Phillip St
Queens Square, Sydney
NSW 2000

____ (print name), a group member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976*, that ___________________________________ (print name) is opting-out of the representative proceeding.

Date: __________

Signed by ___________________________________ (print name)
Class member / lawyer for class member (circle as appropriate)