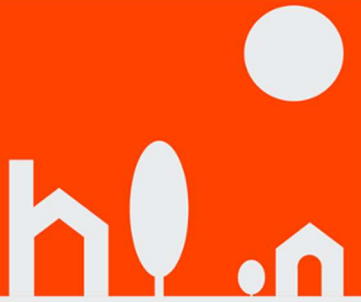


# hutch

UNDERWRITING



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way to  
better  
cover.**

# ANNUAL CONSTRUCTION WORKS INSURANCE

## Contents

<b>IMPORTANT INFORMATION</b>	<b>2</b>
HOW CLAIMS ARE DEALT WITH.....	4
<b>POLICY WORDING</b>	<b>5</b>
POLICY OPERATION .....	5
DEFINITIONS .....	5
GENERAL EXCLUSIONS.....	10
GENERAL CONDITIONS .....	12
CLAIMS CONDITIONS.....	14
SPECIAL CONDITIONS .....	15
<b>SECTION 1 – MATERIAL DAMAGE</b>	<b>16</b>
INSURANCE PROVIDED .....	16
SPECIFIC EXCLUSIONS TO SECTION 1.....	17
SPECIAL CONDITIONS TO SECTION 1 .....	18
ADDITIONAL BENEFITS TO SECTION 1 .....	18
BASIS OF SETTLEMENT .....	20
<b>SECTION 2 – LEGAL LIABILITY</b>	<b>21</b>
INSURANCE PROVIDED .....	21
LIMIT OF LIABILITY .....	21
SPECIFIC EXCLUSIONS TO SECTION 2.....	21
SPECIAL CONDITIONS TO SECTION 2 .....	22
ADDITIONAL BENEFITS TO SECTION 2 .....	23
<b>SECTION 3: CYBER</b>	<b>24</b>
INSURANCE PROVIDED .....	24
SPECIFIC DEFINITIONS APPLICABLE TO SECTION 3 .....	24
SPECIFIC CONDITIONS APPLICABLE TO SECTION 3 .....	24
SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 3 .....	24

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# IMPORTANT INFORMATION

## Introduction

This document contains the details of Your Policy. This Policy consists of individual sections and You should read it together with Your Schedule, which contains information about the Policy as it applies to You and Your business.

Because We don't know Your personal circumstances, You should treat any advice in this Policy as purely general in nature. It doesn't consider Your objectives, financial situation or needs. You should carefully consider the information provided with regard to Your personal circumstances to decide if it is right for You.

Keep this information in a safe place - it contains important information about Your Policy should You want to make a claim or make changes to Your insurance cover. This Policy is only valid when a completed Schedule is attached to it.

## About Hutch

Hutch Underwriting Pty Ltd ABN 84 655 256 134, authorised representative number 001 296 345 (Hutch Underwriting) is an authorised representative of CoverRadar Group Pty Ltd ABN 14 641 225 809, AFS Licence number 523647 of L8, 17 Bridge Street, Sydney, NSW 2000.

Hutch Underwriting issues and manages Your insurance Policy and acts on behalf of certain underwriters at Lloyd's and Sompo Japan Insurance Inc. Australia Branch.

This means that when issuing this Policy, Hutch Underwriting will be acting on behalf of the Insurers, not for You.

Postal Address: L8, 17 Bridge Street,  
Sydney, NSW 2000

Telephone: 1300 256 056

Email: [help@hutchunderwriting.com.au](mailto:help@hutchunderwriting.com.au)

Your insurance broker will arrange this insurance for You on Your behalf. If You have any questions or need any further information concerning Your insurance, You should contact Your insurance broker to assist You with Your inquiry. You should direct all of Your correspondence to Hutch Underwriting through Your insurance broker.

## About the Insurer

Section 1 & 3: Certain underwriters at Lloyd's

Section 2: Sompo Japan Insurance Inc. Australia Branch

Australian branch of Sompo Japan Insurance Inc is based in Australia with registered address at C/- Littlewoods Services Pty Ltd, Level 21, 264 George Street, Sydney NSW 2000 with ARBN 000 837 801 (incorporated in Japan) and AFSL 530900.

Sompo Japan Insurance Inc. is a company incorporated in Japan with registered address at 26-1, Nishi-Shinjuku 1-chome, Shinjuku-ku, Tokyo 160-8338, Japan.

## About Lloyd's

Lloyd's is the world's leading insurance and reinsurance marketplace. Through the collective intelligence and risk-sharing expertise of the market's underwriters and brokers, Lloyd's helps to create a braver world.

The Lloyd's market provides the leadership and insight to anticipate and understand risk, and the knowledge to develop relevant, new and innovative forms of insurance for customers globally.

It offers the efficiencies of shared resources and services in a marketplace that covers and shares risks from more than 200 territories, in any industry, at any scale.

And it promises a trusted, enduring partnership built on the confidence that Lloyd's protects what matters most: helping people, businesses and communities to recover in times of need.

Lloyd's began with a few courageous entrepreneurs in a coffeeshop. Three centuries later, the Lloyd's market continues that proud tradition, sharing risk in order to protect, build resilience and inspire courage everywhere.

Visit [www.lloyds.com](http://www.lloyds.com) for more information.

## About This Policy - Notice to the Insured

This Policy is a legal contract. Please read it carefully to ensure that it is in accordance with Your requirements and that You understand its terms and conditions. Your insurance broker or intermediary who arranged this Policy should be contacted as soon as reasonably practicable if any correction is necessary.

When drawing up this insurance, We have relied on the information and statements that You have provided in the proposal form, declaration or statement of fact. Please read this Policy carefully to ensure that it meets Your requirements.

## Language

The language of this contract of insurance will be English.

## Duty of Disclosure

Before You enter into an insurance contract, You have a duty to tell Us anything that You know, or could reasonably be expected to know, may affect Our decision to insure You and on what terms. You have this duty until We agree to insure You. You have the same duty before You renew, extend, vary or reinstate an insurance contract.

You do not need to tell Us anything that:

- reduces the risk We insure You for; or
- is common knowledge; or
- We know or should know as an insurer; or
- We waive Your duty to tell Us about.

If You do not tell Us something You are required to, We may cancel Your contract or reduce the amount We will pay You if You make a claim to the extent of any prejudice suffered by Us arising from Your failure to comply with this condition, or both.

If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

## The General Insurance Code of Practice

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ("the Code"), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry.

Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. Sompo Japan Insurance Inc.

Australia Branch proudly supports the General Insurance Code of Practice. For further information on the Code please visit [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to [www.insurancecode.org.au](http://www.insurancecode.org.au)

### Cooling Off Period

If You change Your mind within 14 days of the commencement of Your Policy, You can cancel it and receive a full refund (less any taxes or duties payable that We are unable to have refunded). You cannot return the Policy where, before the 14 day period ends, You have made or are entitled to make a claim. After the cooling off period ends You continue to have cancellation rights under the Policy. These rights are set out in the General Conditions of this document.

To cancel Your Policy within the cooling-off period, contact Your insurance broker electronically or in writing.

### Privacy

We will collect personal information when You deal with us, Our agents, other companies in Our group, certain underwriters at Lloyd's, Sompo Japan Insurance Inc., or suppliers acting on Our behalf. Underwriters may in turn pass your personal information including information about your claim onto other parties and service providers. On specific request, we will be able to provide you with Underwriters' privacy policy or relevant notice.

We use Your personal information so We can do business with You, which includes issuing and administering Our products and services and processing claims.

Sometimes We might send Your personal information overseas. The locations We send it to can vary but include Singapore, the Philippines, India, Ireland, the UK, the US, China and countries within the European Union.

Our privacy policy describes in detail where and from whom We collect personal information, as well as where We store it and the full list of ways We could use it. To get a free copy of it please visit [hutchunderwriting.com.au/privacy](http://hutchunderwriting.com.au/privacy).

It's up to You to decide whether to give us Your personal information, but without it We might not be able to do business with You, including not paying Your claim.

### Complaints & Dispute Resolution

If You have any concerns or wish to make a complaint in relation to this Policy, Our services or Your insurance claim, please speak to your insurance broker first. Alternatively you can let Us know and We will attempt to resolve Your concerns in accordance with our internal dispute resolution procedure.

With respect to Sections 1 & 3, Please contact Hutch Underwriting Pty Ltd in the first instance:

Complaints Officer  
Hutch Underwriting Pty Ltd  
Telephone: 1300 256 056

Email: [help@hutchunderwriting.com.au](mailto:help@hutchunderwriting.com.au)

We will acknowledge receipt of Your complaint and do our utmost to resolve the complaint to Your satisfaction within 10 business days.

If we cannot resolve your complaint to your satisfaction, we will escalate your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are:

Lloyd's Australia Limited  
Email: [ldraustralia@lloyds.com](mailto:ldraustralia@lloyds.com)  
Telephone: (02) 8298 0783

Post: Suite 1603 Level 16, 1 Macquarie Place, Sydney NSW 2000

With respect to Section 2 Please write to Sompo at [sompo.complaints@lwds.com.au](mailto:sompo.complaints@lwds.com.au) or post your complaint to:

The Sompo Complaints Officer  
C/- Littlewoods Services  
Level 21, 264 George Street, Sydney NSW 2000  
AUSTRALIA

It will help Sompo to progress your complaint quickly if you send the full details of your complaint together with any supporting documents and an explanation of what resolution is expected.

Alternatively, you can call the Sompo Complaints Officer on +61 2 9274 3056 between 9am and 5pm AEST, except public holidays.

When you first let Sompo know about your complaint or concern, the person trying to resolve your complaint will listen to you, consider the facts and attempt to resolve your complaint as soon as possible. If you advise that you are not satisfied with the outcome, your complaint will be escalated as a dispute through the appropriate Internal Dispute Resolution (IDR) process.

With respect to all sections, a final written decision will be provided to you within thirty (30) calendar days of the date on which you first made the complaint (or earlier if different timeframes apply as per ASIC RG 271), unless certain exceptions apply.

You may refer your complaint to the Australian Financial Complaints Authority (AFCA) subject to their rules, if your complaint is not resolved to your satisfaction within thirty (30) calendar days of the date on which you first made the complaint, or at any time. We are bound by AFCA's determinations. AFCA can be contacted as follows:

Telephone: 1800 931 678  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Post: GPO Box 3 Melbourne VIC 3001  
Website: [www.afca.org.au](http://www.afca.org.au)

Your complaint must be referred to AFCA within two (2) years of the final decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

The Underwriters accepting this Policy agree that:

1. if a dispute arises under this Policy, this Policy will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
2. with respect to Section 1 & 3, any summons notice or process to be served upon the Underwriters may be served upon:

Lloyd's Underwriters' General Representative in Australia

Suite 1603

Level 16

1 Macquarie Place

Sydney NSW 2000

who has authority to accept service on the Underwriters' behalf;

3. with respect to Section 2, any summons notice or process to be served upon the Insurers may be served upon:

Insurers care of Littlewoods Services Pty Ltd, who has authority to accept service on our behalf. Contact details as follows:

Mail: C/- Sompco Complaints Officer, Littlewoods Services Pty Ltd, Level 21, 264 George Street, Sydney NSW 2000

4. if a suit is instituted against any of the Underwriters, all Underwriters participating in this Policy will abide by the final decision of such Court or any competent Appellate Court.

### **Terrorism Insurance Act 2003**

The Commonwealth Government established the Australian Reinsurance Pool Corporation (ARPC) under the Terrorism Insurance Act 2003 (Cth) to offer reinsurance for terrorism risk in Australia.

The Terrorism Insurance Act 2003 (Cth) renders terrorism exclusion clauses in eligible insurance contracts ineffective in relation to loss or liabilities arising from a declared terrorist incident affecting eligible property located in Australia.

The requirements of the Act are compulsory and under the present terms of the scheme insurers are required to submit to the ARPC a percentage of the premium You pay. If the loss is a result of a declared terrorist incident the ARPC will be responsible for paying Your claim in accordance with the Policy terms and conditions.

If You require further information on the scheme please contact Hutch Underwriting, Your insurance adviser or the ARPC.

### **Confirmation of Transactions**

If you need to clarify any of the information contained in this Policy, wish to confirm a transaction or you have any other queries regarding your Policy, your first point of contact is your insurance broker. However, if you would also like to contact us directly, please use the contact details above.

### **HOW CLAIMS ARE DEALT WITH**

We or the claims administrator reserve the right to appoint a loss adjuster.

If required by Us or the Insurer or the claims administrator You will complete a claim form, report, statement or declaration.

To report a claim, please contact:

The Claims Manager

Telephone: 1300 256 056

Email: [claims@hutchunderwriting.com.au](mailto:claims@hutchunderwriting.com.au)

Please quote the policy number (as shown on the Schedule) on all correspondence.

Reporting a claim to Us shall be deemed notice to the Insurer.

We recommend that You also advise Your insurance broker or intermediary of any incident.

# POLICY WORDING

## POLICY OPERATION

### Our Agreement

Your Policy is an agreement between You and Us, made up of:

1. this Policy wording;
2. Your Schedule, which sets out the cover You have chosen and any terms specific to You.
3. any Endorsement or notice We give You in writing.
4. information supplied to Us in submissions made by You or Your insurance broker, whether verbal or in writing.

### Uniform Meaning

This Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been given in any part of this Policy or of the Schedule shall bear such meaning wherever it may appear unless such meaning is clearly inapplicable in the context that the word or expression appears.

### Insuring Clause

Subject to payment of the required premium, We will insure You during the Period of Insurance in the manner and to the extent specified in the Policy. This cover will be subject to:

1. conditions and exclusions which apply to specific covers or sections;
2. general exclusions, which apply to any claim You make under this Policy;
3. general conditions, which set out Your responsibilities under this Policy;
4. claims conditions, which set out our rights and Your responsibilities when You make a claim; and
5. other terms, which set out how this Policy operates.

Provided that We shall not be liable under this Policy for more than the Sums Insured or Limit of Liability applying to the applicable cover or section. Our liability shall be reduced by any applicable Deductible noted in the Schedule or Policy Wording. Our liability shall be limited to Our proportion noted in the Schedule.

### Premium Payment

You must pay the premium to Us in full within sixty (60) days of inception of this Policy. If the premium due under this Policy has not been paid to Us by the 60th day from the inception of this Policy, We shall have the right to cancel this Policy with effect from inception by notifying the Named Insured via their insurance broker in writing.

It is agreed that We shall give not less than fourteen (14) days prior notice of cancellation to the Named Insured via their insurance broker. If premium due is paid in full to Us before the notice period expires, notice of cancellation shall automatically be revoked. If not, the Policy shall automatically terminate at the end of the notice period and this Policy shall be null and void with effect from inception.

### Goods and Services Tax (GST)

This Policy covers the Insured for GST liability on settlement of claims, arising under Section 78-30 of A New Tax System (Goods and Services Tax) Act 1999.

Any payment We make to the Insured in this respect is in addition to the Policy.

We will pay these claims after the Insured has provided Us with the appropriate approved notification to the Commissioner of taxation as required under Section 23 of the A New Tax System (Goods and Services Tax Transition) Act 1999.

Where the GST inclusive claim settlement amount exceeds the Policy Sum Insured, We may pay the Insured an amount up to 10% above the maximum amount payable under the Policy, to take account of the Insured's GST liability on the claim settlement, subject to any payment made in respect of the Insured's Section 78-30 liability.

Claims for Property Damage will be paid under the basis of GST inclusive cost of repair or replacement unless the Insured is entitled to an input tax credit on the repair or replacement, in which case We will deduct the amount of that input tax credit from the claim.

### Third Party Rights

It is not the intention of this Policy that any party except Us and those named or defined as "Insureds" herein or other parties specifically indemnified by this Policy should acquire any rights under or in relation to it nor be entitled to the benefit of any of its terms.

### DEFINITIONS

Some words and expressions used in this Policy have a specific meaning, which are defined below and apply to all sections of this Policy.

#### Act of Terrorism means

An act including but not limited to the use of force or violence and/or 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) which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public or any section of the public in fear.

#### Aircraft means

Any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.

#### Business means

The performance and management of any Insured Contract(s) described in the Schedule including office and/or workshop activities, Contract Site visits and associated operations in addition to and in connection with such the Insured Contract(s). It also includes the occupation of premises by You (whether or not You own the premises), the provision and management of canteen, social, sports, welfare or childcare organisations for the benefit of Your Employees and internal first aid, fire and ambulance services, formed with Your consent.

For the purpose of Products Liability cover Business includes any completed project of the same type and value as those to which this insurance applies.



**Compensation means**

Monies paid or agreed to be paid by judgment, award or settlement for Personal Injury or Property Damage.

**Contract means**

the contract or agreement between the Insured and any principal that gives rise to the Contract Works and includes any sub-contract or sub-agreement entered into pursuant to such contract or agreement.

**Contract Site means**

Any one location where any Contract or group of Contracts comprising the Contract Works are carried out by You within the Territorial Limits.

**Contract Value means**

The value of the Contract Works specified in the Insured Contract.

**Contract Works means**

The permanent and temporary works executed in performance of the Contract and the Principal Supplied Materials used in connection with the Contract.

**Contractors Plant Tools and Equipment means**

Major Plant and Minor Plant.

**Cyber Loss means**

any loss, damage, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident.

**Cyber Act means**

an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

**Cyber Incident means:**

1. any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or
2. any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

**Computer System means**

any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the Insured or any other party.

**Data means**

information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

**Data Processing Media means**

any Property Insured by this Policy on which Data can be stored but not the Data itself.

**Damage means**

Unforeseen physical loss, physical destruction, or physical damage.

**Deductible means**

The amount(s) specified in the Schedule or elsewhere in the Policy payable by You towards each loss or series of losses resulting from the one original source or cause, including costs incurred in defence of such claims.

**Deferred Purchase means**

an arrangement whereby the Insured enters into an agreement which entitles the Insured to defer payment for Property Insured for a period in excess of usual trade credit.

**Display Building means**

A completed building used for display, show or presentation purposes and includes: all fixtures, fittings, fixed floor coverings, terraces, paths, in-ground pools, spas, saunas, driveways, retaining walls, gates, fences, masts, aerials and clothes lines.

**Electronic Data means**

Any facts, concepts, and/or information converted to a form usable for communications, displays, distribution, processing by electronic, electromechanical data processing, electronically controlled equipment which includes but is not limited to programs, software or other coded instructions for such equipment.

**Employee means**

Any person engaged by You under a contract of service or apprenticeship. This includes both statutory and common law employees.

**Employees' Tools means**

Any personal tools and effects the property of the Insured's Employees other than motor vehicles precious metals precious stones or articles made therefrom or money.

**Employment Practices means**

Any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination directly or indirectly related to employment or prospective employment of any person or persons by You or on Your behalf.

**Endorsement means**

a variation in the terms and conditions (or change of details) of the Policy evidenced in writing by Us.

**Existing Structure means**

Any permanent structure or building including all fixings and attachments located at the Contract Site prior to the commencement of the Contract Works.

**Flood means**

The covering of normally dry land by water that has escaped or been released from the normal confines of:

1. any lake, or any river, creek or other natural watercourse, whether or not altered or modified; or
2. any reservoir, canal or dam.

**Hired-In Plant means**

plant, tools or equipment hired in by the Insured, and for which the Named Insured is legally responsible.

**Insured Contract(s) means**

A contract that is required to be insured by the Insured that is within the type, categories and limits described and specified in the Schedule that:

1. has an estimated Contract Value not greater than the Maximum Contract Value specified in the Schedule at commencement of the Contract Works; and
2. has a construction period not greater than the Maximum Construction Period; and
3. is not within the type or category of Referral Contracts specified in the Schedule.

**Insurer means**

In respect of Section 1 & 3: Certain underwriters at Lloyd's; and in respect of Section 2: Sompo Japan Insurance Inc. Australia Branch.

**Limit of Liability means**

The applicable limit of liability specified in the Schedule as it pertains to a section or cover.

**Maintenance Period means**

The lesser of the Maximum Maintenance Period specified in the Schedule and the period specified in any Insured Contract during which You are legally obliged to:

1. rectify defects, shrinkages, errors, omissions or other faults; and/or
2. complete Your obligations under such Insured Contract(s) for the maximum period specified in the Insured Contract(s).

Where there is no formal agreement between principal and contractor for a Maintenance Period, the Maintenance Period for the purpose of this insurance is nil.

**Major Peril means**

Earthquake, explosion, Storm, Flood, rain, Water Damage, landslip, erosion, Subsidence, fire, snow, ice, volcanic action, tsunami, erosion or collapse.

**Major Plant means**

Cranes, hoists, excavators, loaders, graders, rollers, trenching and piling equipment, concreting plant, lifting devices and mobile construction machinery or Vehicles.

**Market Value means**

The cost of replacing lost or damaged property with property of similar age, condition and capacity, including any necessary installation and commissioning costs.

**Minor Peril means**

Any cause other than a Major Peril.

**Minor Plant means**

Employees' Tools and any plant, equipment and tools which are not Major Plant.

**Named Cyclone means**

any tropical cyclone named by the Australian Bureau of Meteorology, Tropical Cyclone Warning Centre including any associated rain depression.

**Named Insured means**

The insured named in the Schedule.

**Occurrence means**

An event which You neither expect nor intend which results in Personal Injury or Property Damage. All Personal Injury or Property Damage arising out of continued or repeated exposure to substantially the same general conditions shall be construed as arising out of one Occurrence.

**Period of Insurance means**

In respect of Section 1 of the Policy:

1. Annual Turnover Basis: Where this Policy is specified in the Schedule as being on an Annual Turnover basis, the period of insurance begins for any Insured Contract at the start of the Policy Period or at the commencement of the Contract Works, whichever is the later. It ends with Practical Completion, the expiry of the Maximum Construction Period (specified in the Schedule) or at the end of the Policy Period, whichever occurs first. The Maintenance Period (if applicable) will immediately follow Practical Completion; but only where Practical Completion takes place before the end of the Policy Period. There will be no Maintenance Period if Practical Completion takes place after the end of the Policy Period.
2. Run-Off Basis: Where this Policy is specified in the Schedule as being on a Run-Off Basis, the period of insurance begins for each Insured Contract from the date the Contract Works commences during the Policy Period. It ends with Practical Completion or on expiry of the Maximum Construction Period specified in the Schedule, whichever occurs first. The Maintenance Period (if applicable) will immediately follow Practical Completion but only where Practical Completion takes place before the end of the Maximum Construction Period.

Notwithstanding the above, the Period of Insurance for each part of the Contract Works will end at the time such part of the Contract Works attains Practical Completion or is taken over by the principal or put into service or is a deemed separable portion (or the equivalent) or a certificate of partial completion (or its equivalent) is issued for that part, whichever occurs first. This will be so even if the Contract Works as a whole has not yet attained Practical Completion. The Maintenance Period (if applicable) for that part will then follow.

In respect of Section 2 of the Policy:

1. Where this Policy is specified in the Schedule as being on an Annual Turnover basis the period of insurance is the same as the Policy Period.
2. Where this Policy is specified in the Schedule as being on a Run-Off basis the period of insurance begins and ends at the same time as it does for Section 1
3. In respect of liability arising out of the Business of the Insured and Products Liability the period of insurance is the same as the Policy Period
4. In respect of any liability arising out of the use of hired-in plant, tools or equipment, the period of insurance



begins at the start of the current Policy Period or at the start of the hire, whichever is the later. It ends at the end of the current Policy Period or when You have ceased using it, whichever occurs first.

In respect of Section 3 of the Policy:

The period of insurance for all cover under Section 3 is the same as the current Policy Period.

#### Personal Injury means

1. bodily injury, death, illness, shock, fright, mental anguish, or mental injury. In the event of any claims for Personal Injury arising from latent injury, latent disease or latent sickness, such injury, disease or sickness in respect of each claim shall be deemed to have first happened on the day such injury, disease or sickness was first medically diagnosed and to be covered under this Policy that diagnosis must first occur during the Period of Insurance;
2. wrongful arrest, false detention, false imprisonment or malicious prosecution;
3. wrongful entry or wrongful eviction or other invasion of privacy;
4. defamation;
5. assault and battery not committed by You or at Your direction unless reasonably committed for the purpose of preventing or eliminating danger to people or property.

#### Policy means

this Policy wording, Your Schedule, and any Endorsement or notice issued to You which amends the Policy Wording or Schedule.

#### Policy Period means

The period for which the Policy is in force. The period begins and ends at the dates specified in the Schedule.

#### Pollutant means

Any solid, liquid, gaseous, biological or thermal irritant or contaminant, including but not limited to smoke, dust, vapour, soot, fumes, acids, alkalis, chemicals, organisms and waste. Waste includes material to be recycled, reconditioned or reclaimed.

#### Practical Completion means

The earlier of

1. when the Contract Works has been completed except for minor omissions and minor defects which do not prevent the Contract Works from being capable of being occupied or put into use; or
2. when the certificate of practical completion is issued.

#### Principal means

The owner or lessee or property developer for whom the Contract Works is performed.

#### Principal Supplied Materials means

materials supplied by or provided to the Insured by the principal for inclusion in the Contract Works for which the Insured is responsible under the terms of the Contract and which are not otherwise excluded from this Policy.

#### Product(s) means

Any good(s), product(s) or property that You have manufactured, extracted, produced, processed, constructed, assembled, erected, installed, repaired, serviced, treated, sold, supplied or distributed in the course of the Business.

However, none of these things is deemed to be a product until after it has left Your physical custody and legal control.

#### Property Damage means

1. physical damage to, physical loss of, or physical destruction of tangible property including any resulting loss of use of that property; or
2. loss of use of tangible property which has not been physically damaged, lost or destroyed

resulting from an Occurrence.

#### Property in Care, Custody or Control means

the whole of the property not owned by You which its third-party owner has entrusted to You to have physical control over and/or safe-keep and/or be responsible for whilst it is so entrusted to You.

#### Property Insured means

all real and personal property of every kind and description, not hereinafter excluded,

including:

1. materials, goods, equipment and supplies (including Principal Supplied Materials) forming a permanent part of, or which will form a permanent part of, the Contract;
2. temporary works and/or structures erected, installed and/or constructed by the Insured for the purpose of completing the Contract, including but not limited to, props, formwork, falsework, hoardings, bunding, bridging, slipform, shuttering and the like;
3. contract consumables, including, but not limited to, oil, petrol, first aid equipment, safety boots and the like;
4. plans, files, records, specifications and the like pertaining to the Contract in book or similar document form or held on computer software;
5. temporary buildings and accommodation (including site offices, portable houses, caravans, mess accommodation, workers' camp, stores and workshops) and their contents;

owned by the Insured, or in the Insured's Care, Custody or Control, or for which the insured is legally liable or has assumed the responsibility to insure, and which is to be used in the course of construction of, or in connection with or for the purpose of, the Contract.

#### Referral Contract(s) means

Any Contract(s) that do not fall within the description of Insured Contract(s) outlined in the Schedule including but not limited to those Referral Contracts detailed in the Schedule.

#### Replacement Value means

1. where property is lost or destroyed;
  - a. in the case of a building, the rebuilding thereof; or

- b. in the case of property other than a building, the replacement thereof, by similar property.

To in either case a condition equal to but not better or more extensive than its condition when new.

- 2. where property is Damaged; the repair of the Damage and the restoration of the Damaged portion of the property to a condition substantially the same as but not better or more extensive than its condition when new.

#### **Schedule means**

the schedule of cover attaching to and forming part of this Policy which includes Your specific details of the items insured (including the Sums Insured), the Policy Period, the Territorial Limits, any Deductible or Deductibles, and the Premium.

#### **Speculative Building means**

A completed habitable sealed structure consisting of a roof and walls, awaiting sale to a party not defined as You, Your, Insured within this Policy.

#### **Storm means**

A violent weather condition including but not limited to, windstorm, Named Cyclone, cyclone, tornado, thunderstorm, hailstorm, or snowstorm.

#### **Subsidence means**

Earth movement, landslide, mudslide, erosion, coastal erosion, settlement of newly made up ground, or settlement caused by the bedding down of new structures.

#### **Sum Insured means**

The value insured for each of the insured items specified in the Schedule.

#### **Territorial Limits means**

Anywhere within Australia or its territories unless otherwise specified in the Schedule.

Territorial Limits expressly exclude:

- 1. claims made or actions instituted within any country, state or territory (outside Australia) that require insurance to be effected or secured with an insurer or organisation licensed in that country, state or territory to grant such insurance; or
- 2. claims made and actions instituted within the United States of America or Canada or Cuba or Iran or North Korea or any other state or territory coming within the jurisdiction of the courts of the United States of America or Canada or Cuba or Iran or North Korea; or
- 3. claims or actions to which the laws of the United States of America or Canada or Cuba or Iran or North Korea apply.

Provided that:

- 4. Clauses 2 and 3 above do not apply to claims and actions arising from the presence outside Australia of any Employees and/or directors, partners or proprietors of the Insured who are normally resident in Australia and who are not undertaking manual work or supervision of work of any kind while in the United States of America or Canada.

#### **Testing and Commissioning Period means**

The period which commences when live load is introduced, including the use of gas, electricity, water, utilities, feedstock or other materials for processing or other media to simulate working conditions and ends:

- 1. at the completion of testing and commissioning under the Insured Contract; or
- 2. at the expiration of the maximum testing and commissioning period; or
- 3. at the expiration of the Maximum Construction Period specified in the Schedule for each Insured Contract;

whichever occurs first.

Simple functional testing without the application of live load or simple functional checks of components of individual machines which do not involve any loading are not considered part of the testing and commissioning period.

#### **Turnover means**

- 1. Where this insurance is specified in the Schedule as being on an Annual Turnover Basis: the total expended value of all Insured Contracts (excluding GST) including all materials components and Principal Supplied Materials on Insured Contracts indemnifiable under this Policy during the Policy Period.
- 2. Where this insurance is specified in the Schedule as being on a Run-Off Basis: the total value of all Insured Contracts (excluding GST) commenced including all materials components and Principal Supplied Materials on Insured Contracts indemnifiable under this Policy during the Policy Period;

#### **Underwriters means**

The Insurer.

#### **Vehicle means**

Any type of machine on wheels or on self-laid tracks made or intended to be propelled other than by manual or animal power and any trailer made or intended to be drawn by, or attached to, any such machine.

#### **Water Damage means**

Any damage caused by water including water ingress, or escape of liquids.

#### **Watercraft means**

Any vessel, hovercraft, craft or thing made or intended to float on or in or travel on or through or under water.

#### **We, Our, Us means**

For Section 1 & 3: Certain underwriters at Lloyd's and Hutch Underwriting acting as agent for certain underwriters at Lloyd's.

For Section 2: Sompo Japan Insurance Inc. Australia Branch and Hutch Underwriting acting as agent for Sompo Japan Insurance Inc. Australia Branch.

#### **Workers means**

- 1. any person provided to You on a temporary or permanent basis under a contract with a provider of contract labour hire personnel and such person remains an employee of that provider;

2. any person (including a person who may be a director, executive officer or an employee of a contractor), contracted to perform work for You or under Your direct supervision or control in the performance of such work but does not include any person where the nature of the contracted work is the trade or service of such contractor and not that of Your Business;
3. any person (including a person who may be a director, executive officer or an employee of a subcontractor or any of their contractors or subcontractors ) subcontracted to perform work on the same work site as You.

#### **You, Your, Insured means**

The person or entities described in 1 to 4 below.

1. the Named Insured in the Schedule;
2. additional insured(s) with whom the Named Insured has entered into a contract for the performance of any part or parts of the Contract Works, including:
  - a. any Principal;
  - b. any head contractor;
  - c. any project manager;
  - d. any sub-contractors

provided that:

- i. their interests are required by written contractual obligation to be insured jointly by the Named Insured; and
- ii. only to the extent required by the contract; and
- iii. the obligation was in effect before anything happened that could give rise to a claim; and

in respect of work performed as a part of the Contract Works whilst at the Contract Site, the value of which is included in the declaration of Turnover and Contract Value, and only to the extent to which they are not insured for the same loss under any other contract of insurance.

3. any office bearer or member of social and sporting clubs, canteen and welfare organisations and first aid, fire and ambulance services formed with the consent of the insured parties shown in paragraphs 1 and 2 in respect of claims arising from their duties connected with the activities of any such club, organisation or service;
4. any professional consultants, engineers, architects, manufacturers, suppliers or distributors required by the Insured Contract to be included as an insured party, but solely for their manual on site activities associated with the Contract Works while at the Contract Site.

#### **GENERAL EXCLUSIONS**

The following general exclusions apply to this Policy. There are also exclusions which apply exclusively to Section 1, Section 2, and Section 3 which are detailed separately.

##### **Aircraft**

The Policy does not cover any claim, loss, damage, destruction, Compensation, liability, cost or expense of any nature arising out of or in any way connected with Aircraft (including any plant or equipment mounted thereon) or Damage to Property Insured on such Aircraft.

##### **Asbestos**

This Policy does not cover any claims of any kind whatsoever directly or indirectly relating to, aggravated by, arising out of or in consequence of:

1. the actual, alleged or threatened presence of asbestos in any form whatsoever, or any material or product containing, or alleged to contain, asbestos in whatever form or quantity; or
2. any obligation, request, demand, order, or statutory or regulatory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, neutralize, protect against or in any other way respond to the actual, alleged or threatened presence of asbestos or any material or product containing, or alleged to contain, asbestos in whatever form or quantity.

Notwithstanding any other provisions of this Policy, Insurers will have no duty to investigate, defend or pay defence costs in respect of any claim excluded in whole or in part under paragraphs 1 or 2 hereof.

##### **Cessation of Work**

In the event of stoppage of work by the Insured on the Contract Site from any cause for more than sixty (60) days, cover under this Policy shall be suspended unless its continuance is agreed in writing by Us (such agreement not to be unreasonably refused). In the event of such total or partial cessation of work the Insured shall use due diligence and do all things reasonably practicable to protect the Property Insured and secure the Contract Site.

##### **Cladding**

The Policy does not cover any claim, loss, damage, destruction, Compensation, liability, cost or expense of any nature arising out of or in any way connected with any external insulation and finishing system, wall panelling, cladding or façade material of any kind, that is:

1. not compliant with or does not conform to any relevant legislation, regulation, standard, instructions, ordinance or Building Codes; or
2. installed, applied, specified or utilised in such a manner that is not compliant with or does not conform to any relevant legislation, regulation, standard, instructions, ordinance or Building Codes.

For the purpose of this exclusion, Building Codes means:

1. Australian Standards, as published and amended from time to time, by Standards Australia Limited; or
2. the National Construction Code, including the Building Code of Australia, or any superseding document, published and amended from time to time, by the Australian Building Codes Board; or
3. any conditions of use or application approved by a recognised, and relevant, building standards organisation; or
4. any equivalent organisations to those outlines in 1. to 3. above, in any other relevant jurisdiction.

##### **Civil Commotion**

The Policy does not cover any, claim, loss, damage, destruction, Compensation, liability, cost or expense of any nature arising out of or in any way connected with civil commotion, riot, strike, lock-out, labour disturbances, acts of persons operating on behalf of or in connections with any political organisation.

## Communicable Disease

1. Notwithstanding any provision to the contrary within this insurance, this Policy does not insure any loss, damage, Liability, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of, or in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease regardless of any other cause or event contributing concurrently or in any other sequence thereto.
2. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - a. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - b. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - c. the disease, substance or agent can cause or threaten bodily injury, illness, damage to human health, human welfare or property.

## Corrosion, Deterioration, and Wear and Tear

The Policy does not cover any, claim, loss, damage, destruction, Compensation, liability, cost or expense of any nature arising out of or in any way connected with oxidation, corrosion, wear and tear, gradual deterioration, change of colour, dampness of atmosphere or other variations in temperature or atmospheric conditions, deterioration due to lack of use, evaporation, latent defect, change in texture or finish, or smog or smoke from industrial operations; but this exclusion shall not apply to Damage to any other part of the Property Insured free from any such condition.

## Electronic Data Exclusion

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:-

1. This Policy does not insure loss, damage, destruction, distortion, erasure, corruption or alteration of Electronic Data from any cause whatsoever (including but not limited to Computer Virus) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

Electronic Data means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

Computer Virus means a set of corrupting, harmful or otherwise unauthorised instructions or code including a set of maliciously introduced unauthorised instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. Computer Virus

includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs'.

2. However, in the event that a peril listed below results from any of the matters described in paragraph 1 above, this Policy, subject to all its terms, conditions and exclusions, will cover physical damage occurring during the Policy Period to property insured by this Policy directly caused by such listed peril.

### Listed Perils

- Fire
- Explosion

### Partial Occupancy

The Policy will not cover any loss or damage or Liability or cost caused by or arising out of the use, or any preparation for the use of any part taken over by the Principal or put in to use, where such use or preparation was not included or documented in the original Project specifications or Project design.

### Pathogenic Organisms Exclusion

This Policy will not provide indemnity:

1. For loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising there from or any consequential loss; or
2. Against any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from any Pathogenic Organism.

For the purposes of this Exclusion Pathogenic Organism shall include but not limited to the following: -

Mould or fungi or its spores, bacteria, yeasts, mildew, algae, mycotoxins or any other metabolic products enzymes or protein secreted by the above whether toxic or otherwise.

It is understood and agreed that Insurers shall not be under any duty to defend the insured in any proceedings in connection with any Pathogenic Organism claims or incidents.

This exclusion shall apply irrespective of when the claim arose or was made and irrespective of when the exposure to any Pathogenic Organism occurred.

### Pests, vermin, and biological contaminants

The Policy does not cover any, claim, loss, damage, destruction, Compensation, liability, cost or expense of any nature arising out of or in any way connected with moths, termites or other insects, vermin or other pests, wet or dry rot.

### Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons

This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith.

In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from

4. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
5. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof

6. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
7. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes
8. any chemical, biological, bio-chemical, or electromagnetic weapon.

#### Sanctions

No insurer shall be deemed to provide cover and no insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, Japan, New Zealand, United Kingdom or United States of America.

#### Terrorism

Notwithstanding any provision to the contrary within this insurance or any Endorsement thereto it is agreed that this insurance excludes loss, 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.

This endorsement also excludes loss, 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 We allege that by reason of this exclusion, any loss, 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.

#### Transit by Air & Sea

This Policy does not cover damage occurring whilst the Property Insured is in transit by sea or air.

#### Vehicles

The Policy does not cover any, claim, loss, damage, destruction, Compensation, liability, cost or expense of any nature arising out of or in any way connected with Vehicles required by law to be registered for road use or insured for third party bodily injury liability (whether or not that insurance is effected). However this exclusion will not apply where such Vehicles are in use on or within 100 metres of any Contract Site in direct connection with the Contract Works or within 100 metres of the place where it is normally stored.

#### War and Civil War

Notwithstanding anything to the contrary contained herein this Policy does not cover loss or damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war,

rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation, or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

#### Watercraft

This Policy does not cover Watercraft (including any plant or equipment mounted thereon).

#### Water Table Level

This Policy does not cover damage attributable solely to a change in the water table level.

#### Wilful Act

This Policy does not cover damage caused by the wilful act or wilful neglect of the Insured.

### GENERAL CONDITIONS

#### Observance of Terms and Condition

The following General Conditions apply to the Policy. The General Conditions impact the way the Policy works and if you fail to fulfil your obligations under them, or under any other term of the Policy, it may have an adverse effect on the cover provided to you or your claim under the Policy.

#### Alteration

Any alteration in any material fact or otherwise regarding construction methods or procedures or any other information contained in or omitted from any underwriting information supplied to Us shall not prejudice this Policy which shall be held covered subject to notification to Us as soon reasonably practicable upon the alteration or omission becoming known to the Insured, and then subject to any variation in the terms and conditions which may be mutually agreed between the Insured and Us.

We will not pay for damage, injury, loss or Your liability if You make or allow any material alteration that increases the risk, that We would have not agreed.

#### Cancellation

The Policy may be cancelled:

1. by You at any time by giving notice to Us in writing. The cancellation will take effect from the date We receive Your notice.
2. by Us in accordance with the provisions of the Insurance Contracts Act 1984 (Cth) and its amendments.
3. automatically from the time Your Business is wound up or carried on by a liquidator, receiver, administrator or is permanently discontinued.

Upon cancellation, You must provide your actual Turnover and We will calculate your adjusted premium.

No refund will be payable where the adjusted premium is less than the minimum deposit premium, pro-rated for time on risk.

#### Contracts Covered

We will only indemnify You for contracts of the type listed in the Schedule as Insured Contracts.



## Declaration Adjustment

The premium payable under this Policy is provisional and subject to adjustment. Within 30 days of the end of each Policy Period the Insured shall declare to Us:

1. If the insurance is on an Annual Turnover basis the actual annual Turnover including the total value of any Principal Supplied Materials in respect of Section 1 and the actual Turnover for each Insured Contract
2. If the insurance is on a Run-Off basis the total value of all Contracts commenced during that period.
3. the total value of all Property Insured covered under Contractors Plant, Tools and Equipment
4. the hiring charges paid or due in respect of Damage to Hired-in Plant
5. the total value of payments made to contractors, sub-contractors or labour hire engaged during the Policy Period and under Your direct supervision

The actual premium shall be calculated at the rates applicable on the amounts so declared. If the actual premium differs from the provisional premium You shall pay or we will refund the difference as the case may be subject to any minimum and deposit premium.

If the turnover of value associated with any Contract has been omitted from the declaration that Contract will not be covered by this Policy.

## Interpretation

1. The headings in this Policy are included for descriptive purposes only and do not form part of this Policy for the purpose of its construction or interpretation.
2. In this Policy, words used in the singular can include the plural and vice versa.
3. References in this Policy to any statute, legislation, regulation, code or other law or other provision of any of them include:
  - a. any amendment, replacement or equivalent of them; and
  - b. any regulation or other statutory instrument made under them, or made under them as amended, replaced or under their equivalent.
4. The term "includes" in any form is not a word of limitations.
5. a reference to "\$" shall mean Australian Dollars.

## Law & Jurisdiction

This Policy shall be governed by the laws of the Commonwealth of Australia and subject to the exclusive jurisdiction of the courts of the Commonwealth of Australia.

## Minimum and Deposit Premium

Unless otherwise specified in the Schedule this Policy is subject to a minimum and deposit premium of 100% of the premium specified in the Schedule at the commencement of this Policy.

## Precautions

The Insured shall take and cause to be taken all reasonable care and precautions to:

1. prevent Damage to the Property Insured;

2. minimise the cost of any claim under this Policy
3. prevent loss, Damage, or Personal Injury in the selection of labour, contractors and consultants;
4. ensure that all applicable statutory requirements and other regulations relating to the Contract Site and Property Insured are observed;
5. ensure the operations and activities at the Contract Site are performed so as to minimize the risk of any loss or damage;
6. ensure that they maintain in efficient condition all premises, fittings, plant and appliances used in connection with the Contracts covered by this Policy.

We shall not pay for Damage, injury, loss or Your liability to which Your failure to take reasonable care is a contributing factor.

## Right to Inspect

We or Our representatives shall have the right to examine at all reasonable times any Property Insured including but not limited to premises works, machinery and appliances thereof, or financial or other records, as reasonably required for this insurance or a claim hereunder, but We assume no responsibility by reason of such inspection.

If an inspection reveals any risk which We consider unsatisfactory We may reasonably alter the terms and conditions of cover including requiring You to take additional reasonable precautions to minimise the risk that are reasonable in the circumstances.

## Run Off

If this Policy is placed on an Annual Turnover Basis and is not renewed or replaced on expiry, and the Insured requests so in writing at least fourteen (14) days before the end of the Policy Period, this Policy will continue in full effect for any Contract covered hereunder in accordance with the current terms and Conditions or any updated terms We may require.

We will be entitled to receive a further Premium calculated by applying the current rates to the estimated Turnover to be derived from these Contracts after the expiry date.

## Series Defects

If the development or discovery of a defect in any part of the Property Insured by Section 1 shall indicate or suggest that similar defects exist in other parts of the said property the Insured shall forthwith investigate and if necessary rectify the defects in such other parts at their own expense or alternatively bear all losses arising out of the said defects.

## 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.

## Taken Into Use

Coverage for any Insured Contract will cease only when all operations to be performed by or on behalf of the Insured under the Insured Contract have been completed.

This Policy will continue in force in respect of works including (if applicable) Existing Structures and/or facades and/or other property in the Insured's custody or control



for which the Insured remains responsible notwithstanding such works including Existing Structures and/or facades and/or other property in the Insured's custody or control shall be occupied or taken into use, in whole or in part, however, this insurance will not cover any loss or damage or Liability or cost caused by or arising out of the use, or any preparation for the use of such part where such use or preparation was not included or documented in the original Project specifications or design.

## CLAIMS CONDITIONS

All conditions set out below are conditions precedent to Our liability under this Policy.

### Abandoned Undamaged Portion of a Structure

Where any Property Insured being a structure is Damaged but not destroyed and due to the requirement of any law or of any local government or other statutory authority, reinstatement of such structure has to be carried out upon another site, the abandoned undamaged portion of such structure shall be deemed to have been destroyed.

If however, the resale value of the original site is increased by virtue of the presence of the abandoned portion of such structure, then such increase in resale value shall be regarded as salvage and that amount shall be paid to Us by the Insured upon completion of the sale of the site or shall be deducted from the final amount of any moneys payable by Us under this Policy, whichever shall occur later.

### Abandonment

The Insured shall not be entitled to abandon any property to Us whether taken into possession by Us or not.

### Action by the Insured

The Insured shall:

1. give Us notice as soon as reasonably practicable by telephone and in writing and at their own expense supply:
  - a. such proofs of claim as may be reasonably be required by Us;
  - b. and any evidence and information that may be reasonably required by Us for the purposes of investigating or verifying the claim;
  - c. and (if demanded) a statutory declaration of truth of the claim and any matters connected therewith;
  - d. and details of all other policies covering the event or part of it;

No settlement, admission of liability, payment or promise of payment shall be made to a third party without Our written consent;

2. preserve any damaged or defective property which might prove necessary as evidence for examination by Us or Our representatives;
3. in the case of property lost stolen or maliciously Damaged take all practicable steps (including the giving of notice to the Police as soon as reasonably practicable) to discover any guilty person and to trace and recover the missing property.

The Police must be informed as soon as reasonably practicable in all cases in respect of Damage due to theft, burglary or malicious act;

4. in the case of any claim made upon the Insured by any third party forward to Us as soon as reasonably practicable and unacknowledged every written communication or information as to any verbal notice of claim and all proceedings. Any writ or summons issued against the Insured by a third party should be notified to Us as soon as reasonably practicable;
5. take action to minimise, and prevent further Damage, to avoid interruption or interference with the Insured's Business and if relevant, take all practicable steps to discover any persons responsible for the theft or Damage and to trace and recover missing property.

No claim shall be payable unless the terms of this condition have been complied with and in the event of non-compliance any payment on account of the claim already made shall be repaid to Us forthwith.

### Arbitration

The Insured agrees:

1. subject to a reasonable request by Us for permission, to permit Us to pursue legal, arbitration or other proceedings in the name of and on behalf of the Insured to challenge, appeal, open up or amend any decision, direction, award or the exercise of any power of an adjudicator or to stay the enforcement of any decision, direction, award or exercise of any power of the adjudicator.

The Insured will give all such assistance as We may reasonably require in relation to such proceedings.

2. not to accept the decision of any adjudicator as finally determining the related dispute without Our prior consent (which will not be unreasonably withheld).

### Automatic Reinstatement

In respect of Section 1 and Section 2, in consideration of the Sum Insured not being reduced by the amount of any claim, the Insured shall pay a pro rata premium on the amount of such Occurrence from the date thereof to the date of the expiry of the Policy Period. Such additional premium shall be disregarded for the purpose of any Premium under the Declaration Adjustment condition.

### Fraudulent Claims

If any claim is made by or on behalf of the Insured which is in any respect unfounded or fraudulent or intentionally exaggerated or if any false declaration or statement is made in support thereof then no claim shall be recoverable hereunder, and We may by law have the right to cancel this Policy.

### Marine / Non Marine Sharing Agreement

In the event of Damage to the Property Insured being discovered after the risk has terminated under a marine cargo insurance policy and if after proper investigation it is not possible to ascertain whether the cause of such Damage to the Property Insured happened prior to termination of the marine or transit venture or subsequently, it is understood and agreed that this Policy shall respond to 50% of the properly adjusted claim provided that the marine cargo insurance policy also includes a similar clause and similar payment is made thereunder, such payment to be without prejudice to subsequent final apportionment of the claim.

## Notice of Claims

Notice of an incident or of an event or circumstances which may lead to a claim by any one Insured or their agent shall be accepted by Us as notice of that Occurrence by all of the Insured parties.

## Options for Claims Settlement

We may at Our sole option repair, reinstate or replace any Property Insured lost or Damaged or pay the amount of the Damage in money. We shall not be responsible for temporary repairs carried out without Our consent (which will not be unreasonably withheld) and any consequences thereof nor for the cost of any alterations, additions, improvements or overhauls carried out on the occasion of a repair, unless such temporary repairs are made in accordance with an Expediting Expenses clause. Where Damage is confined to a part of a machine or structure We shall be liable for only the value of that part plus the cost of any necessary dismantling and erection for which the Insured is responsible.

## Other Insurance

You must notify Us of any other insurance which will or may, whether in whole or in part, cover any loss insured under Your Policy.

If at the time of any loss, Damage or liability there is any other insurance (whether effected by You or by any other person) which covers the same loss, Damage or liability You must provide Us with any reasonable assistance We require to make a claim for contribution from any other insurer(s).

## Payment on Account

At Our discretion, payments on account may be made to the Insured following covered Damage under this Policy but in no case shall any payment exceed Our liability in respect of such Damage.

## Subrogation

The Insured shall, at Our request and expense, do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by Us for the purpose of enforcing any rights and remedies, or of obtaining relief or indemnity from other parties to which We shall be or would become entitled or subrogated upon its paying for or making good any Damage under this Policy, whether such acts and things shall be or become necessary or required before or after the Insured's indemnification by Us.

If We make any recovery as a result of such action, You may only recover from Us any amount by which the amount recovered by Us exceeded the amount paid to You by Us in relation to the loss.

## Undamaged Foundations

Where any Property Insured constructed on its own foundations is Damaged but its foundations are not destroyed and due to the requirement of any law or of any local government or statutory authority, reinstatement of the building has to be carried out upon another site, the abandoned foundations shall be considered as having been destroyed. If, however, the resale value of the original building site is increased by virtue of the presence of the abandoned foundations, then such increase in resale value shall be regarded as salvage and that amount shall be paid to Us by the Insured upon completion of the sale of the site, or shall be deducted from the final amount of any

moneys payable by Us under this Policy, whichever shall occur later.

Foundations are deemed to include services such as, but not limited to, conduits, pipes, cables and wiring built into the footings and foundations (including concrete floor slabs).

## Our Rights

On the happening of any Damage in respect of which a claim is or may be made under this Policy We and every person authorised by Us may, without thereby incurring any liability, and without diminishing Our right to rely upon any Conditions of this Policy, enter, take or keep possession of any building or premises where the Damage has happened and may take possession of or require to be delivered to Us any of the property hereby insured and may keep possession of and deal with such property for all reasonable purposes and in any reasonable manner. This condition shall be evidence of the leave and licence, of the insured to Us so to do. If the Insured or anyone acting on the Insured's behalf shall not comply with Our requirements or shall hinder or obstruct Us in doing any of the abovementioned acts, then all benefits under this Policy shall be forfeited. The Insured shall not in any case be entitled to abandon any property to Us whether taken possession of by Us or not.

## 72 Hours

All Damage to Property Insured which occurs during any period of seventy-two (72) consecutive hours and which is caused by Flood, Storm, tempest, Water Damage, Subsidence, collapse or earthquake shall be considered for the purpose of the application of any Deductible as resulting from the one original source or cause. Each period shall be deemed to have commenced on the first happening of any such Damage which does not occur within any prior period of seventy-two (72) consecutive hours. This condition shall apply to any of these causes whether continuous or sporadic in their sweep or scope and whether the Damage was due to the same seismological condition. The Insured shall select the time from which any such period shall commence but no two (2) such selected periods shall overlap.

## SPECIAL CONDITIONS

### Special Precautions

The Insured shall maintain the property Insured hereunder in an efficient condition and fit for its purpose and shall ensure that any property requiring inspection or test under any statute or order or regulation shall be so inspected or tested.

### Subrogation Waiver

Notwithstanding the Subrogation Claims Condition We agree to waive any rights and remedies or relief to which We may become entitled by subrogation against any Insured named or described by this Policy.

This Subrogation Waiver extends to include all directors, officers, Employees or servants of any of the Insured entities.

## SECTION 1 – MATERIAL DAMAGE

### INSURANCE PROVIDED

#### Contract Works

We will indemnify You, in accordance with the basis of settlement, for Damage to the Contract Works, not otherwise excluded:

1. whilst You are undertaking the Insured Contract and happening at the Contract Site during the Period of Insurance;
2. during testing and commissioning of the Contract Works (where specified in the Schedule), provided that such Damage:
  - a. arises out of electrical or mechanical breakdown, failure or derangement resulting from testing or commissioning at the Contract Site; and
  - b. occurs during the Testing and Commissioning Period.
3. which manifests itself during the Maintenance Period provided such Damage originates from a cause arising out of the:
  - a. Contract Works carried out by You during the Period of Insurance at the Contract Site; or
  - b. course of operations carried out by You in complying with the obligations of the maintenance clause(s) of the Insured Contract at the Contract Site.

Provided always, that Our liability for any one loss in respect to 1, 2 and 3 above will not exceed the total Sum Insured specified in the Schedule.

#### OPTIONAL COVER

The following covers only take effect if a Sum Insured is shown for that item in the Schedule

##### Optional Cover 1 – Contractors Plant, Tools and Equipment

Where specified in the Schedule We will indemnify You, in accordance with the basis of settlement, for Damage not otherwise excluded, occurring during the Policy Period to:

1. Major Plant owned by or on Deferred Purchase or lease to the Named Insured whilst on or about the Construction Site;
2. Minor Plant owned by the Named Insured, or Employees' Tools, which is used in the performance of the Business anywhere within the Territorial Limits provided that such plant, tools and equipment are kept out of sight and in a locked secure receptacle when not in use.

Provided always that Our total liability for any one loss in respect of 1 and 2 above will not exceed the sub-limits in the Schedule for Contractors Plant, Tools and Equipment, with a maximum of \$5,000 any one item unless the item is declared to, and agreed by Us prior to the Damage occurring.

Our liability in respect of Employees' Tools will not exceed a maximum sum of \$5,000 in respect of any one Employee.

3. Damage to Hired-in Plant

In the event of Damage (subject to any Exclusions) to Hired-In Plant happening during the Period of Insurance whilst situated or in transit anywhere within the Territorial Limits We will pay to the Insured all sums which the Insured shall become legally liable to pay for:

- a) Damage to the Hired-In Plant
- b) hiring charges levied upon the Insured in consequence of such Damage

Provided always that Our liability for any one loss in respect of Hired-in Plant will not exceed

- c) the Limit of Liability specified in the Schedule for Hired-in Plant
- d) the Limit of Liability specified in the Schedule for Hired-in Charges provided that we shall not cover payments due within forty-eight (48) hours after the Occurrence of the Damage.

Where this Policy is not renewed, the insurance does not extend beyond the Policy Period for Contractor's Plant, Tools and Equipment.

##### Optional Cover 2 – Existing Structures

Where specified in the Schedule We will indemnify You for Damage occurring during the Period of Insurance to Existing Structures for which You are contractually responsible.

Provided that We will not indemnify You for Damage to:

1. the building(s) where they have not been made waterproof and secured at the close of each day's work; and/or
2. wall and floor finishes or covering or any contents therein.

Subject to:

1. the limit specified in the Schedule for Existing Structures any one building;
2. a total annual aggregate limit specified in the Schedule for all claims under this item.

##### Optional Cover 3 – Display Building(s)

Where specified in the Schedule We will indemnify You for Damage occurring during the Policy Period to Display Buildings and/or contents.

Contents for Display Buildings includes fine art, painting, works of art, antiques or curios. Provided always that the cover provided under this item will only apply where Display Buildings are kept in a locked and secure manner with appropriate smoke alarm and firefighting facilities in place.

Subject to:

3. the limit specified in the Schedule for Display Buildings each and every Display Building
4. \$50,000 for contents contained within an individual Display Building
5. \$1,000 for any one article, pair, or set up to a maximum of \$10,000 for fine art, painting, works of art, antique or curios arising from any one event.

The total aggregate amount payable during any one Policy Period for all claims under this item shall not exceed \$1,500,000.

Where this Policy is not renewed, the insurance does not extend beyond the Policy Period for Display Building(s).

## SPECIFIC EXCLUSIONS TO SECTION 1

The following exclusions apply to this Section 1. There are also exclusions which apply exclusively to Section 2 and 3 and General Exclusions which apply to all sections of this Policy and are detailed separately.

This section does not cover:

### 1 – Breakdown

loss or damage to any

1. machinery forming part of the Contract Works
2. Contractors Plant, Tools and Equipment

caused by its own explosion, mechanical, electrical or electronic breakdown, failure, breakage or derangement.

This exclusion does not apply to resultant Damage to the Property Insured (other than in respect of jibs and booms on cranes or similar lifting appliances) which results from explosion mechanical or electrical breakdown, failure, breakage or derangement.

### 2 – Money and the like

loss, damage, or destruction to deeds, bonds, bills of exchange, promissory notes, cash, bank notes, cheques, securities, money or stamps.

For the avoidance of doubt, loss of money includes that money paid to a supplier for services, goods or materials which the supplier fails to supply to You, unless the cause of non-supply is sudden and accidental physical damage to such goods or materials.

### 3 – Consequential Loss

financial loss, loss of profits, loss of income, loss of earnings, loss of revenue, loss of use, penalties for detention or in connection with guarantees of performance or efficiency, fines, loss of contract, indirect loss or consequential loss of any kind whatsoever.

### 4 – Penalties

liquidated damages, penalties incurred by the Insured for delay, non-completion or non-compliance with Contract conditions or aggravated, punitive or exemplary damages.

### 5 – Defects

loss of or damage to and the cost necessary to replace, repair or rectify

1. any component part or individual item of Property Insured which is defective in design plan specification materials or workmanship
2. Property Insured lost or damaged to enable replacement repair or rectification of Property Insured excluded by 1 above.

Paragraph 1 above shall not apply to other parts or items of Property Insured which are free from defect but are physically lost or physically damaged in consequence thereof.

For the purpose of the section and not merely this exclusion, Property Insured shall not be regarded as lost or damaged solely by virtue of the existence of any defect in design plan specification materials or workmanship in the Property Insured or any part thereof.

Despite anything in this exclusion to the contrary, the cost of removal and disposal of undamaged parts of the Contract Works necessary to enable the lost or damaged parts of the Contract Works to be replaced, repaired or rectified are covered up to \$50,000 for any one claim event.

### 6 – Inventory Losses

cover loss of any property by its disappearance or by shortage if such disappearance or shortage is only revealed when an inventory is made or loss of the property is discovered due to its being stolen or otherwise missing unless such loss is identifiable by the Insured with a specific incident which has been the subject of notification to the Police.

### 7 – Legal Liability

any legal liability of whatever nature caused by or arising from third party Property Damage or bodily Injury.

### 8 – Pollution or Contamination

any claim, loss, damage, destruction, cost or expense of any nature arising out of or in any way connected with pollution or contamination except (unless otherwise excluded) Damage caused by pollution or contamination which itself results from any Damage.

### 9 – Testing and commissioning

Damage caused during testing and /or commissioning:

1. by intentional overloading, overheating or experimental operation;
2. for which the supplier or manufacturer is responsible by law or under contract; or
3. to the Contract Works which is second hand or prototypical in nature.

### 10 – Upkeep

normal upkeep or normal making good costs.

### 11 - Cyber and Data

any:

1. Cyber Loss, unless subject to the provisions of paragraph 3;
2. loss, damage, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any Data, including any amount pertaining to the value of such Data, unless subject to the provisions of paragraph 4;

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

3. This exclusion does not apply Damage to Property Insured under this section caused by any ensuing fire or explosion which directly results from a Cyber Incident, unless that Cyber Incident is caused by, contributed to by, resulting from, arising out of or in connection with a Cyber Act including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act.
4. Should Data Processing Media owned or operated by the Insured suffer physical loss or physical damage insured by this section, then this section will cover the cost to repair or replace the Data Processing Media itself plus the costs of copying the Data from back-up

or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling the Data. If such media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank Data Processing Media. However, this section excludes any amount pertaining to the value of such Data, to the Insured or any other party, even if such Data cannot be recreated, gathered or assembled.

## SPECIAL CONDITIONS TO SECTION 1

The following conditions apply to Section 1. There are also Special Conditions which apply to Section 2 and Section 3 of this Policy and General Conditions which apply to all sections of this Policy and are detailed separately.

### Adequacy of Sum Insured

Where specified in the Schedule or this section, the sums insured selected by You, for the following insured items must not be less than:

1. the Replacement Value for Existing Structures located on or about the Contract Site;
2. the Replacement Value for individual Display Buildings within the Territorial Limits;

If in the event of Damage it is found that the sums insured are less than ninety percent (90%) of the amounts required to be insured as per 1 above, the amount recoverable by You under this section in respect of these additional insured benefits and additional insured items will be reduced by such proportion as the sums insured bears to ninety percent (90%) of the amounts required to be insured.

Provided that the above will not apply if the cost to repair or replace the Damage does not exceed five percent (5%) of the Replacement Value of 1, or 2 above.

## ADDITIONAL BENEFITS TO SECTION 1

Unless otherwise stated following Additional Benefits are in addition to the Sum Insured, any one Occurrence, any one Insured Contract:

### 1 – Removal of Debris

This section is extended in respect of removal of debris and clean up costs necessarily and reasonably incurred by or on behalf of the Insured

1. in dismantling and/or demolishing and/or removing any of the Property Insured no longer useful for the purpose for which it was intended;
2. in cleaning up, removing, storing and/or disposing of debris, detritus, and substances from and around the Contract Site; provided such dismantling and/or demolishing and or removing, cleaning up, storing and/or disposing of debris and detritus is necessary for the reinstatement or replacement of Property insured under this section.
3. for the recovery or retrieval of the Property Insured, consequent upon Damage insured against hereunder.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed 10% of the Contract Value.

### 2 – Expediting Expenses

This section is extended in respect of costs necessarily and reasonably incurred by or on behalf of the insured in

connection with or incidental to expediting the commencement, carrying out or completion of the repair, reinstatement or replacement of the Property Insured consequent upon Damage insured against hereunder.

Such additional expenses shall include;

1. express carriage or delivery, including delivery by sea, road, rail or air, however, cover on the cost of airfreight only applies to the use of licensed airlines operating regular scheduled services. It does not include the use of chartered Aircraft.
2. chartered or other travel of the Insured's directors, partners, officers, Employees, agents, sub-contractors, consultants and representatives recovery and retrieval
3. overtime or penalty rates of labour and other related allowances or payments
4. hire of additional labour, plant, machinery, equipment, materials, expertise and/or services
5. accommodation and boarding costs, including meals and other costs associated therewith
6. additional administrative and/or overhead costs and expenses

Expediting expenses will not include reimbursement solely to compensate for a delay in completion of the Contract Works.

Unless otherwise specified in the Schedule Our liability in respect of these expenses shall not exceed 5% of the Contract Value.

### 3 – Professional Fees

This section is extended to indemnify the Insured in respect of architects', surveyors', consulting engineers', project and construction managers', legal and other such professional fees, costs and expenses, and clerks of works' salaries for estimates, plans, specifications, quantities, tenders and supervision all necessarily and reasonably incurred for the purpose of repairing, reinstating or replacing the Property Insured consequent upon Damage insured against hereunder, but excluding fees for the preparation or negotiation of claims, or estimation of a loss.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed 10% of the Contract Value.

### 4 – Mitigation/Temporary Protection

This section is extended in respect of costs necessarily and reasonably incurred by or on behalf of the insured in taking emergency action to reduce the size of an insured loss after Damage has commenced or when it is otherwise imminent and inevitable.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed 5% of the Contract Value any one loss or series of losses arising out of any one event.

### 5 – Claims Preparation Costs

This section is extended in respect of costs and expenses necessarily incurred by or on behalf of the Insured in the preparation of claims for submission to Us including, but not limited to clerical labour costs and consultant fees consequent upon Damage insured against hereunder.

These costs and expenses incurred by or on behalf of the Insured exclude any loss adjuster or legal fees incurred by the Insured but this does not mean loss adjuster costs or



legal fees incurred by Us in settlement of a claim for which cover is provided for elsewhere under this section.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed \$10,000 each and every event.

#### **6 – Leak Search and Repair Costs**

This section is extended in respect of costs and expenses necessarily incurred by or on behalf of the Insured in searching for and repairing leaks in pipelines that suffered Damage, but only where the Damage discovered in the pipeline falls within the scope of cover under this section.

Cover under this Additional Benefit shall be limited to the cost of:

1. searching for and locating leaks, including the cost of excavation for that purpose;
2. effecting repairs; and
3. replacing the excavated material.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed \$100,000 in the aggregate for the Period of Insurance.

#### **7 – Plans**

This section is extended to indemnify the Insured in respect of costs necessarily and reasonably incurred to restore plans, drawings or other documents held at the Contract Site consequent upon Damage insured against hereunder.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed \$10,000.

#### **8 – Fire Brigade Charges**

This section is extended to indemnify the Insured in respect of Fire Brigade attendance charges as may be levied by any Local Authority in dealing with the consequence of Damage insured against hereunder.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed \$10,000.

#### **9 – Escalation in Costs**

If any Contract covered by this section should, during the Period of Insurance, escalate in value above the price agreed at the date of award of the Contract due to contract variations (alterations and extensions), or inflation, then the Sum Insured specified in the Schedule for Property Insured item 1 shall be increased by a corresponding amount, subject however to the increase not exceeding 15% of the Sum Insured presently stated in the Schedule without Our further agreement endorsed herein.

#### **10 – Government Expenses**

This section is extended to indemnify the Insured in respect of any fee, contribution or other impost payable to any Government, Local Government or other Statutory Authority; where payment of such fee, contribution or impost is a condition precedent to the obtaining of consent to reinstate any building(s) consequent upon Damage insured hereunder, provided We shall not be liable for payment of any fines and/or penalties imposed upon the Insured by any such Authorities.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed \$10,000.

#### **11 – Access Costs**

This section is extended to cover the costs of dewatering, demolition or removal of undamaged parts of the Contract Works necessary to

1. provide initial access to; and
2. allow repairs to be effected to

the completed sections of the Contract Works whether damaged or undamaged consequent upon Damage insured against hereunder.

Unless otherwise specified in the Schedule Our liability in respect of these charges shall not exceed \$50,000.

#### **12 – Offsite Storage**

This section is extended to cover the Insured in respect of Damage to Property Insured whilst in storage at any location in the Territorial Limits other than the Contract Site for a period not exceeding six (6) months. Cover will cease under this additional item once materials are loaded for transit to the Contract Site.

Unless otherwise specified in the Schedule Our liability in respect of this Additional Benefit shall not exceed \$250,000.

This Additional Benefit is included within the Section 1 Sum Insured Limit.

#### **13 – Transit**

This section is extended to cover the Insured against Damage to Property Insured during the Period of Insurance

1. arising from fire, Flood, collision and overturning of the conveyance or by theft or malicious Damage
2. within the Territorial Limits
3. whilst in transit other than by sea or air to the Contract Site(s) (including incidental storage for a period not exceeding seven (7) days)
4. from the commencement of loading onto to transport vehicles until the completion of unloading in connection therewith.

Where such property was loaded in an undamaged condition.

Unless otherwise specified in the Schedule Our liability in respect of this extension shall not exceed \$250,000.

This Additional Benefit is included within the Section 1 Sum Insured Limit.

#### **14 - Indemnity to Other Parties**

Where they are noted in the Schedule this Policy is extended to include the Insured's Employer/purchaser/principal/financier/head contractor/property owner/other party solely to the extent required by the conditions of contract in force between the Insured and the Employer/purchaser/principal/financier/head contractor/property owner/other party provided always that such Employer/purchaser/principal/financier/head contractor/property owner/other party shall act as if they were the Insured observe fulfil and be subject to the terms, exclusions and conditions of the Policy.

#### **15 – Speculative Buildings**



Where the Contract Works is a Speculative Building the Construction Period will expire ninety (90) days after Practical Completion, 24 months from the date of commencement of construction, or on the date of settlement of sale of the Speculative Building, whichever is the earlier.

This Additional Benefit shall be limited to the Contract Value.

The minimum Deductible applicable to this cover is \$5,000, or as otherwise specified in the Schedule.

This clause has no effect on the end date of the Maintenance Period which applied before the application of this clause.

#### **16 – Strata Developments**

Where the Contract Works is a strata development which is awaiting strata registration the Construction Period will expire ninety (90) days after Practical Completion, 24 months from the date of commencement of construction, or on the date of strata registration, whichever is the earlier.

This Additional Benefit shall be limited to the Contract Value.

The minimum Deductible applicable to this cover is \$10,000 or as otherwise specified in the Schedule.

This clause has no effect on the end date of the Maintenance Period which applied before the application of this clause.

#### **BASIS OF SETTLEMENT**

We will not be liable to make any payment under this section unless You have produced to Our reasonable satisfaction, all accounts, invoices, receipts and other documentation, indicating that repairs have been effected or replacement has taken place.

The amount of each claim will be reduced by the amount of the Deductible.

#### **Property Insured, Existing Structure(s) and Display Building(s)**

The amount payable in respect of claims for Damage to the Property Insured, Existing Structure(s) and Display Building(s) shall be the cost of reinstatement of the Property Insured at the time of reinstatement.

For the purpose of this section reinstatement shall mean:

1. where the Property Insured is lost or destroyed:
  - a. in the case of a building, the rebuilding thereof; or
  - b. in the case of Property Insured other than a building, the replacement thereof by similar property;

in either case in a condition equal to, but not better or more extensive than, its condition immediately before the Damage;

2. where the Property Insured is Damaged: the repair of the Damage and the restoration of the Damaged portion of the Property Insured to a condition the same as, but not better or more extensive than, its condition immediately before the Damage;

notwithstanding the provisions of clauses 1 and 2 above, the cost of reinstatement shall also extend to include the extra cost of reinstatement (including demolition or

dismantling) of Damaged property necessarily incurred to comply with the requirements of any statute (or regulation made under the statute) or any by-law or regulation of any municipal or other statutory authority, limited to the applicable Sum Insured specified in the Schedule.

Provided always that the amount recoverable shall not include the additional cost incurred in complying with any such statute, regulation, by-law or requirement with which the insured had been required to comply prior to the happening of the Damage to the Property Insured.

In all cases the cost of reinstatement, as described above, shall mean the final cost to the Insured after completion of the work of reinstatement, replacement or repair of the Property Insured. Where such work is carried out wholly or in part by the insured, such final costs shall include a reasonable margin for overheads and profit.

#### **Contractors Plant, Tools and Equipment**

The amount payable in respect of claims for Damage to Contractors Plant, Tools, and Equipment will be based on the lesser of the Market Value of such property insured at the time of the Damage and the cost of repair, unless such property is not more than 24 months past its purchase date when new, in which case we will pay the lesser of the current new replacement value of such property or the cost to repair such property.

Subject to the Sum Insured specified in the Schedule.

## SECTION 2 – LEGAL LIABILITY

### INSURANCE PROVIDED

#### Legal Liability

We will indemnify You for all sums which You become legally liable to pay as Compensation, and all costs awarded against You, in respect of Personal Injury and/or Property Damage resulting from an Occurrence within the Territorial Limits happening during the Period of Insurance in connection with carrying out the Insured Contracts specified in the Schedule, and during the Policy Period in connection with the Named Insured's Business and Products.

#### LIMIT OF LIABILITY

##### Public Liability

Our maximum liability in respect of any claim or any series of claims for Personal Injury or Property Damage caused by or arising out of one Occurrence will not exceed the Limit of Liability specified in the Schedule. The Limit of Liability will be automatically reinstated to its original amount as and when We make an indemnity payment in relation to such item.

##### Products Liability

Our total liability for all claims arising out of Your Product(s) will not exceed the Limit of Liability specified in the Schedule in the aggregate in the Policy Period. This limit will not be reinstated unless, and until, any additional premium determined by Us has been paid to reinstate these limits.

##### Vibration, Weakening or the Removal of Support

This section is extended to cover all Property Damage or Personal Injury caused by or arising out of vibration, weakening or the removal of support. The most We will pay in the aggregate for all Property Damage or Personal Injury caused by or arising out of vibration, weakening or removal of support during the Policy Period is \$20,000,000 or as otherwise specified in the Schedule.

##### Property in Care, Custody or Control

If specified in the Schedule this section extends to cover liability for Property Damage to Property in Care, Custody or Control. The most We will pay in the aggregate for all such Property Damage in the Policy Period is specified in the Schedule.

##### Exhibitions and Publicity

This section is extended in respect of exhibitions, publicity events, site visits and demonstrations, all of which shall be regarded by Us as activities in the performance of the Insured Contracts which are covered by this section.

### SPECIFIC EXCLUSIONS TO SECTION 2

The following exclusions apply to this Policy Section 2. There are also exclusions which apply exclusively to Section 1, and Section 3, and General Exclusions which apply to all sections of this Policy and are detailed separately.

This section does not cover any claims arising directly or indirectly out of:

#### 1 – Contractual Liability

Any obligation assumed by You under any agreement or contract which requires You to:

1. effect insurance over property, either real or personal;
2. assume liability for Personal Injury or Property Damage regardless of fault.

However, this exclusion shall not apply to

3. any liabilities that would have been implied by law in the absence of such contract or agreement;
4. any liabilities assumed under incidental contracts;
5. any liability assumed under Contract.

#### 2 – Property Insured

1. Damage to any property that is insured under Section 1 of this Policy including the Contract Works, Contractors Plant and Equipment, Existing Structures, Display Buildings, Speculative Buildings or Your Products or work completed by or for You; or
2. Any costs or expenses incurred in restoring, correcting, improving, repairing, replacing, or making good any of Your Products; or
3. Making any refund in respect of Your Products or such work.

#### 3 - Defamation

Defamation made before the beginning of the Period of Insurance; or made by You or at Your direction if You could reasonably have known that it was false or unlawful.

#### 4 - Demolition

Demolition work on any structure over 15 metres high at any part of the structure. This exclusion does not apply to internal demolition work on non-structural property.

#### 5 - Explosives

Any blasting operation or the handling or use of explosives.

#### 6 - Personal Injury to Employees

1. Personal Injury to any of Your Employees arising out of, or in the course of their employment in the Business;
2. Personal Injury to any person who is deemed to be Your Employee pursuant to any legislation relating to workers' compensation;
3. Any claim that is within the scope of compulsory workers' compensation insurance, even if the compulsory insurance has not been taken out.
4. The provisions of any workers' Compensation legislation or any industrial award or agreement or determination;
5. Employment Practices.

#### 7 - Fines, penalties

Aggravated, punitive or exemplary damages; or any fine; or any liquidated damages or a penalty imposed under the terms of any contract, warranty or agreement.

#### 8 - Loss of use

The loss of use of property which has not been Damaged resulting from:

1. a delay in or lack of performance of any agreement by You or by someone on Your behalf;

2. any design defect; or
3. Your failure to comply with any project specification.

#### 9 - Pollution

1. Personal Injury or Property Damage arising from the actual, alleged, or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants into or upon land, the atmosphere, or any water course or body of water;
2. any costs and expenses incurred in the prevention, removing, nullifying or clean-up of the actual, alleged, or threatened discharge, dispersal, release, seepage, migration or escape of such contamination or Pollutants;
3. the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants caused by any product that has been discarded, dumped, abandoned or thrown away by You or on Your behalf.

Exclusions 1 and 2 do not apply if the discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended and takes place in its entirety at a specific time and place and which results in Personal Injury and/or Property Damage.

Our liability under 1 and 2 above in respect of any one discharge, dispersal, release, seepage, migration or escape and for all discharges, dispersals, releases, and escape of Pollutants during any one Policy Period will not exceed \$250,000 any one occurrence and in the aggregate unless otherwise stated in the Schedule.

#### 10 - Product guarantee

Personal Injury or Property Damage occurring as a consequence of the failure of any of Your Product(s), or any part thereof, to fulfil the purpose for which it was intended to perform as specified, warranted, guaranteed or contractually required by You or which is imposed by law or statute.

#### 11 - Product recall

Any costs, expenses or damages for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of Your Product(s) or work completed by You or on Your behalf or any property of which Your Product(s) or work form a part, if such Product(s), work or property are recalled from the market or from use because of any known or suspected defect, deficiency, inadequacy or dangerous condition therein.

#### 12 - Professional liability

1. The rendering of or failure to render professional advice or service by You or on Your behalf for a fee or any related error or omission. Provided that this exclusion shall not apply to qualified medical persons employed by You to provide first aid and other emergency medical services at the Contract Site or Your premises provided Your Business is not involved in the provision of medical services.
2. Any confirmation of compliance required under the Design and Building Practitioners Act (2020) or any amendment or replacement of that Act.

#### 13 - Property in Care, Custody or Control

Property Damage to Property in Care, Custody or Control:

1. Caused to the part of such property by work that You have done on that part. However, this exclusion does

not apply whilst such property which is being worked on is on a hook or whilst being lifted, lowered, positioned, re-positioned, located or re-located by means of a crane or any other similar mechanical lifting device. The Limit of Liability in respect of any Property Damage under this clause is limited per the Limit of Liability shown for Property in Care Custody Control in the Schedule.

2. Which is owned by You or any of Your relatives or anyone who normally resides with You.
3. To any Vehicle with a Market Value greater than \$100,000, subject to the General Exclusion for Vehicles.
4. Where legal liability has been assumed by You under any contract or agreement which requires You to effect Material Damage insurance on premises, property or goods which You do not own.

#### 14 - Property Owners – Alterations and Additions

Injury or Damage arising directly or indirectly out of or caused by or in connection with the erection, demolition, alteration of and/or addition to buildings owned by You, by or on Your behalf except such erection, demolition, alteration and/or addition not exceeding the sum of \$250,000.

#### 15 - Underground Services

Any claim arising from the presence of pre-existing underground services, cables, pipes property and/or structure of any kind unless prior to the commencement of any work You or others on Your behalf:

1. Have enquired by written request with the relevant public authorities or "Dial Before You Dig" information service or owners of such pre-existing underground services;
2. Have obtained from relevant public authorities or "Dial Before You Dig" information service or the owners of such underground services written confirmation of the exact position of such services; and
3. Have subsequently taken reasonable care to locate the position of such underground services and indicated the location in situ.

#### 16 - Cyber and Data Total Exclusion

This section does not cover any loss, damage, liability, claim, fines, penalties, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:

1. Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident; or
2. Loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any Data, including any amount pertaining to the value of such Data;

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

#### SPECIAL CONDITIONS TO SECTION 2

The following Conditions apply to this Policy Section 2. There are also Special Conditions which apply to Section 1 and Section 3 of this Policy and General Conditions which apply to all sections of this Policy and are detailed separately.

### 1 - Cross Liability

Each of the parties comprising the Insured shall for the purpose of this section be considered as separate and distinct entity and the "Insured" shall be considered as applying to each such party in the same manner as if a separate Insurance policy has been issued to each of them in its name alone. Provided that nothing in this Condition shall be deemed to increase the Limit of Liability under this section in respect of any Occurrence or Policy Period.

### 2 - Discharge of Liability

We may at any time pay to the Insured in connection with any claim or series of claims the amount of the Limit(s) of Indemnity (after deduction of sums already paid as Compensation in respect of such claim or claims or other relevant claims) or any lesser amount for which such claim or claims can be settled. Upon such payment being made We relinquish the conduct and control of and be under no further liability in connection with such claim or claims other than the payment of costs and expenses

1. recoverable from You for all or part of the period to the date of such payment;
2. incurred by Us;
3. incurred by You with Our written consent prior to the date of such payment.

### 3 - Admission of Liability

Unless You have obtained Our prior written consent, neither You nor any of Your Employees may:

1. admit liability or guilt in connection with any Occurrence; or
2. do anything that might be seen as an admission of liability or guilt unless permissible in law; or
3. settle any third-party claim, even though it may be within the amount of the Deductible.

## ADDITIONAL BENEFITS TO SECTION 2

The following Additional Benefits are available under this policy provided that:

1. We will not be obliged to pay any claim or judgment or to defend any claim or legal action if the Limit of Liability has been exhausted by payment of judgments or settlements;
2. if a payment exceeding the Limit of Liability has to be made to dispose of a claim, Our liability to pay any costs, expenses and interest under this section will be limited to that proportion of those costs, expenses and interest as the Limit of Liability bears to the amount paid to dispose of the claim. The costs incurred in the defence of claims are inclusive to the Limit of Liability.
3. Our written consent (which will not be unreasonably withheld), must be obtained before any costs are incurred and We shall be entitled to nominate a solicitor to represent the Insured.

### 1 - Defence of Claims

This Policy is extended to include:

1. defence and associated costs incurred in connection with any claim or legal action against You seeking damages on account of Personal Injury or Property Damage to which this insurance applies, even if the action is groundless, false or fraudulent. This includes bringing or defending appeals in connection with such

claim or legal action. We will investigate, negotiate and settle any claim or legal action as We see fit;

2. all legal costs and expenses incurred by Us and all interest accruing after judgment until We have paid, tendered or deposited in court such part of the judgment as does not exceed the Limit of Liability;
3. reimburse You for all reasonable expenses, other than loss of earnings, incurred in connection with the defence of a claim or legal action with Our consent (which will not be unreasonably withheld)

### 2 – Temporary Repairs

This Policy is extended to include the cost of temporary repairs undertaken to prevent the immediate threat of Property Damage or Personal Injury which would otherwise be covered by this Policy.

### 3 - Legal Costs

This Policy is extended to include the legal costs incurred at any coronial inquest or inquiry.

### 4 - First Aid Costs

This Policy is extended to include reasonable expenses incurred by You for first aid to others at the time of Personal Injury caused by an Occurrence.

### 5 - Claims Preparation Costs

This Policy is extended to include costs reasonably and necessarily incurred by You in the preparation of any claim data and the like requested by Us. The most that We will pay for these costs is \$20,000 for each claim.

## SECTION 3: CYBER

### INSURANCE PROVIDED

We will cover You, up to the Limit of Liability shown in the Schedule for Section 3 against:

1. loss of Funds as a result of Cyber Crime; and
2. Defence Costs incurred as a result of a Data Breach

where such Cyber Crime or Data Breach first occurs during the Policy Period and which is discovered no more than twelve (12) months of the expiry of the Policy Period.

The Cyber and Data exclusion shall not apply to this section.

### SPECIFIC DEFINITIONS APPLICABLE TO SECTION 3

The meaning of some of the important words and terms used in Section 3 only are shown below.

#### Cyber Crime means

Fraudulent misappropriation of Funds by any person acting without any participation or knowledge on Your part from Social Engineering Fraud, phishing, phreaking or other forms of cyber fraud.

#### Data Breach means

The unauthorised access to, deletion, modification or disclosure of Personal Information in Your care, custody or control and for which You are legally responsible.

#### Defence Costs means

Legal costs and disbursements and related expenses incurred by You with Our prior written consent (which will not be unreasonably withheld) in the investigation, defence, monitoring, or settlement of any claim relating to a Data Breach.

However defence costs does not include:

1. Any internal or overhead expenses incurred by You;
2. Any cost of Your time in investigating, defending or settling any Claim; or
3. Any salaries or remuneration of Your employees or agents.

#### Funds means

Money, securities, negotiable instruments or other tangible property belonging to You or in your care custody or control.

#### Personal Information means

The personal information of your customers, employees or sub-contractors held digitally.

#### Social Engineering Fraud means

Impersonation by digital media (including but not limited to email and social media) of:

1. Your director, officer, employee or agent
2. Your customer
3. Your sub-contractor
4. a party with whom You have a written contract for the sale or purchase of goods or services

by a Third Party to manipulate Your officer, employee or agent to issue an instruction to a financial institution to

debit, pay, deliver or transfer Funds to that Third Party or another person or entity.

#### Third Party means

A person or persons who are not a Named Insured or their employee, sub-contractor, or related party to the Named Insured.

#### You, Your and Yours means

The Named Insured.

### SPECIFIC CONDITIONS APPLICABLE TO SECTION 3

In addition to the General Conditions applying to all Sections, the following conditions apply to Section 3:

1. It is a condition of cover that prior to transferring funds You validate any new or amended bank details by telephone with a known contact at the transferee
2. You must give Us written notice as soon as reasonably practicable of the discovery of any conduct that is fraudulent or dishonest by any person with access to or control of Your Funds or any lack of integrity by such person whether giving rise to a claim or not.
3. On discovering a loss or circumstances likely to give rise to a loss covered by Section 3, You must, at Your own expense:
  - a. As soon as reasonably practicable give written notice to Us;
  - b. As soon as reasonably practicable give written notice to the police;
  - c. Within 28 days of discovering a loss or circumstances likely to give rise to a loss covered by Section 3, provide to Us a written statement containing details of the cause, description and amount of the loss and any other information that We may reasonably require;
  - d. Complete any claim form or sworn proof of loss that We may require;
  - e. Provide full assistance and cooperation to Us in investigating the loss; and
  - f. Take all reasonable steps to obtain recovery of the loss and prevent any further loss.

### SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 3

In addition to the general exclusions applying to all Sections, under Section 3 We will not be liable for any claim:

1. Resulting directly or indirectly from a failure to follow Specific Condition 1 to Section 3.
2. Covered under any other section of this policy;
3. Unless You have previously exhausted Your rights and entitlements under any other fidelity bond or fund, whether of a statutory nature or not;
4. Connected with any further Cyber Crime or Data Breach committed after the initial discovery of loss;
5. arising out of a Cyber Crime or Data Breach committed prior to the Policy Period;
6. for consequential loss;
7. arising out of the conduct of any person if You have any prior knowledge of any prior act of fraud or dishonesty by that person;

8. where proof of the existence or amount of loss depends on any comparison of inventory records with a physical count or a profit and loss computation, except that this exclusion will not apply to the extent that You are able to prove the amount of the loss through other evidence unrelated to comparison or computation;
9. arising from a failure to make payment or of default under a loan or other credit transaction.