

hutch

UNDERWRITING



**The
clear
way to
better
cover.**

ANNUAL CONSTRUCTION WORKS INSURANCE

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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 Level 6, 7-15 Macquarie Place, Sydney, NSW 2000.

Hutch Underwriting issues and manages **Your** insurance **Policy** and acts on behalf of certain underwriters at Lloyd's, led by Munich Re Syndicate MRS/457, 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: Level 6, 7-15 Macquarie Place,
Sydney, NSW 2000

Telephone: 1300 256 056

Email: 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: Certain underwriters at Lloyd's, led by Munich Re Syndicate MRS/457

Section 2 & 3: 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 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.

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. For further information on the Code please visit 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

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.

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 and 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 let Us know and **We** will attempt to resolve **Your** concerns in accordance with our internal dispute resolution procedure.

Please contact:

Complaints Officer

Hutch Underwriting Pty Ltd

Telephone: 1300 256 056

Email: complaints@hutchunderwriting.com.au

We will acknowledge **We** have received **Your** complaint and aim to resolve the complaint to **Your** satisfaction.

A complaint decision will be provided to **You** within 30 calendar days. If **We** are unable to meet this timeframe **We** will inform **You** of the reason for the delay.

If **Your** complaint is not resolved to **Your** satisfaction, or **You** do not receive a complaint decision within 30 calendar days of the date on which **You** first made the complaint, **You** can refer **Your** complaint to the Australian Financial Complaints Authority (AFCA).

AFCA can be contacted as follows:

Telephone: 1800 931 678

Email: info@afca.org.au

Post: GPO Box 3 Melbourne VIC 3001

Website: www.afca.org.au

AFCA services are provided to **You** free of charge. **Your** complaint must be referred to AFCA within 2 years of the complaint decision, unless AFCA considers special circumstances apply. If **Your** complaint is not eligible for consideration by AFCA, **You** may have access to other external dispute resolution options.

The Underwriters participating on this Insurance agree that:

if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice, and the Underwriters will submit to the jurisdiction of any competent Court within the Commonwealth of Australia;

service of any originating process upon the Lloyd's Underwriters may be affected upon:

Lloyd's Underwriters' General Representative in Australia

Post: PO Box R1745

Royal Exchange NSW 1225

Email: serviceofsuitaus@lloyds.com

who has authority to accept service on the Lloyd's Underwriters' behalf until the appointment of another agent for service which is notified to the insured;

if a suit is instituted against "Certain Underwriters at Lloyd's subscribing this policy", it is binding on all Lloyd's Underwriters participating on this Insurance as if they had each been individually named as a defendant.

In the event of a claim arising under this Insurance immediate notice should be given to:

The Claims Manager

Telephone: 1300 256 056

Email: claims@hutchunderwriting.com.au

Web: hutchunderwriting.com.au/claims

With respect to **Section 2 & 3** please write to Sompo at 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 Sompco Complaints Officer on +61 2 9274 3056 between 9am and 5pm AEST, except public holidays.

When **You** first let Sompco 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

Post: GPO Box 3 Melbourne VIC 3001

Website: 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;

1. with respect to **Section 1**, any summons notice or process to be served upon the **Underwriters** may be served upon:

Lloyd's Underwriters' General Representative in Australia

PO Box R1745, Royal Exchange NSW 1225

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

2. with respect to **Section 2 & 3**, 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

2. 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

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** or speculative development 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**: Certain underwriters at Lloyd's, led by Munich Re Syndicate MRS/457; and in respect of **Section 2 & 3**: Sampo Japan Insurance Inc. Australia Branch.

Limit of Liability means

the applicable limit of **Our** total liability specified in the **Schedule** as it pertains to a **Section** or cover under this **Policy**. 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, tsunamis, 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**.

Section means

the sections of different cover available under this **Policy** as described in this document.

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:

- 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
- 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
- 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:

- 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:

- at the completion of testing and commissioning under the **Insured Contract**; or
- at the expiration of the maximum testing and commissioning period; or
- 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

- 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**.
- 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**: Certain underwriters at Lloyd's and Hutch Underwriting acting as agent for certain underwriters at Lloyd's, led by Munich Re Syndicate MRS/457.

For **Section 2 & 3**: Sompo Japan Insurance Inc. Australia Branch and Hutch Underwriting acting as agent for Sompo Japan Insurance Inc. Australia Branch.

Workers means

- 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

only where:

- 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

4. 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.
1. 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

5. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel

6. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
7. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
8. 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
9. 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.

War and Cyber Operation exclusion

Notwithstanding any provision to the contrary in this **Policy**, this **Policy** does not cover that part of any loss, damage, liability, cost, or expense, of any kind (together "loss"):

1. directly or indirectly arising from a **War**, and/or
2. arising from a **Cyber Operation** that is carried out as part of a **War** or the immediate preparation for a **War**, and/or
3. arising from a **Cyber Operation** that causes a **State** to become an **Impacted State**. This paragraph 3 shall not apply to the direct or indirect effect of a **Cyber Operation** on a **Computer System** used by the **Insured** or its third-party service providers that is not physically located in an **Impacted State** but is affected by a **Cyber Operation**.

Attribution of a **Cyber Operation** to a **State**

Notwithstanding the **Insurer's** burden of proof, which shall remain unchanged by this clause, in determining attribution of a **Cyber Operation** to a **State**, the **Insured** and **Insurer** will consider such objectively reasonable evidence that is available to them. Further to any legally permissible evidence, this may include formal or official attribution by the government of the **State** in which the **Computer System** affected by the **Cyber Operation** is physically located to another **State** or those acting at its direction or under its control.

For the purposes of this **War** and **Cyber Operation** exclusion:

Computer System means

any computer, hardware, software, communications system, electronic device (including but not limited to, smart phone, laptop, tablet, wearable device), server, cloud infrastructure 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. If there is any inconsistency between definitions of computer system in this exclusion and the **Policy**, the definition in the **Policy** shall apply.

Cyber Operation means

the use of a **Computer System** by, at the direction of, or under the control of a **State** to disrupt, deny, degrade, copy, remove, manipulate or destroy information in a **Computer System**.

Essential Service means

a service that is essential for the maintenance of vital functions of a **State** including, but not limited to, financial institutions and associated financial market infrastructure, health services or utility services.

Impacted State means

any **State** where a **Cyber Operation** has had a major detrimental impact on:

1. the functioning of that **State** due to disruption to the availability, integrity or delivery of an **Essential Service** in that **State**, and/or
2. the security or defence of that **State**.

State means

a sovereign state.

War means

armed conflict involving physical force:

1. by a **State** against another **State**, or
2. as part of a civil war, rebellion, revolution, insurrection, military or usurped power, whether **War** be declared or not.

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;

- preserve any damaged or defective property which might prove necessary as evidence for examination by **Us** or **Our** representatives;
- 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;

- 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;
- 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:

- 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.

- 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

This **Section 1** must be read together with the general definitions, general exclusions, general conditions and all other general terms, conditions and provisions of the **Policy**.

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:

4. **Major Plant** owned by or on **Deferred Purchase** or lease to the **Named Insured** whilst on or about the **Contract Site**;
1. **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**.

2. 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**
3. the **Limit of Liability** specified in the **Schedule** for **Hired-in Plant** 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**

- \$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 **Policy 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

- machinery forming part of the **Contract Works**
- 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

- any component part or individual item of **Property Insured** which is defective in design plan specification materials or workmanship
- 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:

- by intentional overloading, overheating or experimental operation;
- for which the supplier or manufacturer is responsible by law or under contract; or
- 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:

- Cyber Loss**, unless subject to the provisions of paragraph 3;
- 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.

- 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**.

- 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 this **Policy 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:

- the **Replacement Value** for **Existing Structures** located on or about the **Contract Site**;
- 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**

- in dismantling and/or demolishing and/or removing any of the **Property Insured** no longer useful for the purpose for which it was intended;
- 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**.
- 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;

- 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.
- chartered or other travel of the **Insured's** directors, partners, officers, **Employees**, agents, sub-contractors, consultants and representatives recovery and retrieval
- overtime or penalty rates of labour and other related allowances or payments
- hire of additional labour, plant, machinery, equipment, materials, expertise and/or services
- accommodation and boarding costs, including meals and other costs associated therewith
- 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

This **Policy Section** only forms part of **Your Policy** when a **Limit of Liability** or **Sum Insured** is shown in the **Policy Schedule**.

If so, this **Section 2** must be read together with the general definitions, general exclusions, general conditions and all other general terms, conditions and provisions of the **Policy**.

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 **Your** liability to pay **Compensation**, and any costs awarded against **You**, for any claims against **You** 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** caused by the failure of any of **Your Product(s)**, or any part thereof, to fulfil:

1. the purpose for which it was intended to perform as specified, warranted, guaranteed or contractually required by **You**; or
2. any requirement which is imposed by law or statute.

This exclusion applies only to the defective part of the damaged **Product(s)** where the defect arises from the failure to fulfil 1. or 2. above. It does not apply to **Property Damage** caused by that defect to any other part of the **Product(s)** or resulting **Personal Injury**.

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

Personal Injury or **Property 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 Liability** (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

INTRODUCTION

This **Policy Section** only forms part of **Your Policy** when a **Limit of Liability** or **Sum Insured** is shown in the **Policy Schedule**.

This **Section 3** must be read together with the general definitions, general exclusions, general conditions and all other general terms, conditions and provisions of the **Policy**.

COVER

Subject to the **Limit of Liability**, **We** will cover **You** against:

Loss of Funds as a direct result of a **Cyber Crime**; and **Defence Costs** incurred as a direct result of a **Data Breach**,

occurring during the **Policy Period** and within the **Territorial Limits** and **Discovered** no more than twelve (12) months of the expiry of the **Policy Period**.

The **Cyber Incident** exclusion under the General Exclusions shall not apply where cover is afforded under **Section 3**.

1.0 Definitions Applicable to Section 3

For purposes of this **Section 3** of the **Policy**, the following definitions will apply:

Consequential Loss means any loss not directly related to **Your** claim, such as but not limited to: delay; interruption in **Your Business**; loss of contract; lack of performance; loss of use of any property; depreciation in value; loss or earning capacity; or an increase in costs and expenses unless specifically covered.

Cyber Crime means fraudulent misappropriation of **Funds** by any **Third Party** acting without **Your** consent of, **Social Engineering Fraud**, phishing, phreaking or other forms of cyber fraud committed against **You** in connection with the **Business**.

Data Breach means the unauthorised

4. access to, deletion,
5. modification, or
6. disclosure,

of a **Third Party's Personal Information** in **Your Care, Custody or Control** and for which **You** are legally responsible and held in connection with the **Business**.

Discovered / Discovery / Discovering means When **You** first become aware of or had any knowledge of any act, omission or event which could reasonably be foreseen to give rise to a **Loss** covered by this **Policy**, even though the exact amount or details of such **Loss**, act, omission or event are not known at the time of discovery. Such **Discovery** shall constitute discovery by every **Insured**.

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, or settlement of any **Claim** relating to a **Data Breach**.

However **Defence Costs** do not include:

Any:

1. internal or overhead expenses incurred by **You**;
2. cost of **Your** time in investigating, monitoring, defending or settling any claim; or
3. salaries or remuneration of **Your Employees** or agents.
4. judgment or award made against **You**.

Loss means

The direct loss sustained by **You** as a result of any single act, single omission, or single event, or series of related or continuous acts, omissions or events. A series of related or continuous acts or omissions or events up to the time of **Discovery** shall be treated as a single act, omission or event.

Funds means

Money belonging to **You** and held in **Your** bank account with a financial institution.

Personal Information means

the personal information of **Your** customers or a **Third Party** held digitally, or on an electronic device owned by **You**.

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 an unauthorised **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 an unauthorised **Third Party**.

Third Party means

a person(s) or entity who is not an **Insured** or their **Employee**, sub-contractor, or related party to the **Named Insured**.

2.0 Limit of Liability and Excess

Limit of Liability

Our maximum liability to indemnify **You** in respect of cover for all **Loss of Funds** and **Defence Costs** under **Section 3** will not exceed the **Limit of Liability** specified in the **Schedule** in the aggregate for any one **Policy Period**.

Excess

The **Excess** shown in the **Schedule** in relation to this **Section 3** applies to each claim and is payable by **You**.

3.0 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 payment, **Loss**, **Defence Costs** or claim arising out of:

- a. a failure to follow Specific Condition 1 to **Section 3**.
- b. any **Loss** covered under any other **Section** of this **Policy**.

- c. **You** having failed to exhaust **Your** rights and entitlements under any other fidelity bond or fund, whether of a statutory nature or not.
- d. any further **Cyber Crime** or **Data Breach** committed after the initial discovery of loss.
- e. a **Cyber Crime** or **Data Breach** committed prior to the **Policy Period**.
- f. **Consequential Loss**
- g. 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.
- h. any **Third Party's** action if **You** have any prior knowledge of any prior act of fraud or dishonesty by that **Third Party**.
- i. where there is no identifiable fraudulent transaction.
- j. a failure to make payment or of default under a loan or other credit transaction.

In addition, the following War and Cyber Operation Exclusion applies to **Section 3**.

War and Cyber Operation Exclusion

Notwithstanding any provision to the contrary in this **Policy**, this **Policy** does not cover that part of any loss, damage, liability, cost, or expense, of any kind (together "loss"):

- a. directly or indirectly arising from a **War**, and/or
- b. arising from a **Cyber Operation** that is carried out as part of a **War**, or the immediate preparation for a **War**, and/or
- c. arising from a **Cyber Operation** that causes a State to become an **Impacted State**. This paragraph c shall not apply to the direct or indirect effect of a **Cyber Operation** on a **Computer System** used by the **Insured** or its third-party service providers that is not physically located in an **Impacted State** but is affected by a **Cyber Operation**.

Attribution of a **Cyber Operation** to a **State**:

Notwithstanding **Our** burden of proof, which shall remain unchanged by this clause, in determining attribution of a **Cyber Operation** to a **State**, **We** and **You** will consider such objectively reasonable evidence that is available to them. Further to any legally permissible evidence, this may include formal or official attribution by the government of the **State** in which the **Computer System** affected by the **Cyber Operation** is physically located to another **State** or those acting at its direction or under its control.

For the purpose interpreting of this War and Cyber Operation exclusion:

Computer System means

any computer, hardware, software, communications system, electronic device (including but not limited to, smart phone, laptop, tablet, wearable device), server, cloud infrastructure 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.

If there is any inconsistency between definitions of **Computer System** in this exclusion and the **Policy**, the definition in the **Policy** shall apply.

Cyber Operation means

the use of a **Computer System** by, at the direction of, or under the control of a State to:

- a. disrupt, deny access to, or degrade functionality of, a **Computer System**; and/or

- b. copy, remove, manipulate or destroy information in a **Computer System**.

Essential Service means

a service that is essential for the maintenance of vital functions of a State including, but not limited to, financial institutions and associated financial market infrastructure, health services or utility services.

Impacted State means

any **State** where a **Cyber Operation** has had a major detrimental impact on:

- a. the functioning of that **State** due to disruption to the availability, integrity or delivery of an **Essential Service** in that **State**, and/or
- b. the security or defence of that **State**.

State means

a sovereign state.

War means

armed conflict involving physical force:

- a. by a **State** against another **State**, or
- b. as part of a civil war, rebellion, revolution, insurrection, military or usurped power, whether **War** be declared or not.

4.0 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;
1. **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;
2. On **Discovering a Loss, Data Breach** or circumstances likely to give rise to a **Loss** or **Data Breach** 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 twenty (28) days of **Discovering a Loss, Data Breach** 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**, or **Data Breach** and prevent any further **Loss** or **Data Breach**.