

# **Hospitality Insurance Policy Wording**

## **Mark IV Industrial Special Risks**

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# Hospitality Insurance Policy Wording



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## Your Policy

The information **you** have given **us** forms part of the contract of **insurance**. This document, which is **your** policy wording, the **schedule** and **endorsements** set out the terms of that contract, the property that **you** have **insured** and limits and sub-limits of the cover provided, and the cover **you** have selected. **You** should read this policy wording, the **schedule** and **endorsements** carefully and keep them in a safe place.

In return for having accepted **premium**, **we** will provide **insurance** as described in this policy wording, subject to the **schedule** and **endorsements**.

The **schedule** and any **endorsements** are part of this contract of **insurance**.

## Important

**We** recommend that **you** read this policy wording with **your** **schedule** to make sure that it meets with **your** needs. If **you** have any questions, please contact **us** or **your** **insurance** broker. Please read the complaints procedure in 'Complaints', below.

## Proportion of Liability

Unless there is "signing" (see below), the proportion of liability under this contract underwritten by each **insurer** (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp and is referred to as its "written line".

Where this contract permits, written lines, or certain written lines, may be adjusted ("signed"). In that case a **schedule** is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each **insurer** (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together). A definitive proportion (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of a Lloyd's syndicate taken together) is referred to as a "signed line". The signed lines shown in the **schedule** will prevail over the written lines unless a proven error in calculation has occurred.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

## Welcome to the Lloyd's Market

Lloyd's is the world's specialist **insurance** and **reinsurance** market, bringing together an outstanding concentration of underwriting expertise and talent. It is often the first to insure emerging, unusual and complex risks.

Around 80 syndicates are underwriting **insurance** at Lloyd's, covering all classes of **business**. Together they interact with thousands of brokers daily to create **insurance** solutions for **businesses** in over 200 countries and territories around the world. Lloyd's insures the majority of FTSE 100 and Dow Jones industrial average companies.

Lloyd's enjoys strong financial security supported by excellent ratings. Visit [www.lloyds.com](http://www.lloyds.com) for more information.

## Who is 360 Complex Risks Pty Ltd?

360 Complex Risks Pty Ltd **ABN 95 648 007 989** (360 Complex Risks) is an Authorised Representative of 360 Underwriting Solutions Pty Ltd (360 Underwriting) **ABN 18 120 261 270** **AFSL 319 181**.

In issuing this **policy**, 360 Complex Risks will be acting under an authority given to it by the insurers. This means that when issuing this **policy**, 360 Complex Risks will be acting as an agent for the insurers, not for **you**. 360 Complex Risks has an authority from the **insurer** to arrange, enter into/bind and administer this **insurance**.

### Our contact details are:

Suite 1, Level 18, 201 Kent Street,  
Sydney, NSW 2000  
Telephone. 1800 411 580  
Email. [complexrisks@360uw.com.au](mailto:complexrisks@360uw.com.au)

## Who is the Insurer?

The **policy** is underwritten by Certain Underwriters at Lloyd's.

## Privacy Statement: Australian Privacy Principles

In this Privacy Statement the use of "**we**", "**our**" or "**us**" means 360 Complex Risks, its related bodies corporate, and the **insurers** unless specified otherwise.

In this Privacy Statement, the use of "personal information" includes sensitive information.

**We** are committed to protecting the privacy of the personal information **you** provide to **us**.

The *Privacy Act 1988 (Cth)* contains the Australian Privacy Principles which require **us** to tell **you** that **we** collect, handle, store and disclose **your** personal and sensitive information for the specific purpose of:

- + deciding whether to issue a **policy**;
- + determining the terms and conditions of **your policy**;
- + compiling **data** to help develop and identify other products and services that may interest clients; and
- + handling claims.

Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- + whether the information or opinion is true or not;
- + whether the information or opinion is recorded in a material form or not.

Sensitive information includes, amongst other things, information about an individual's racial or ethnic origin, political opinions, membership of a political organisation, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual orientation or practices, criminal record, health information about an individual, genetic information, biometric information or templates.

**You** have given **us your** consent to collect, use and disclose **your** personal and sensitive information in order to provide **you** with the relevant services and/or products.

When **you** give **us** personal information about other individuals, **we** rely on **you** to have made or make the individual aware that **you** will or may provide their personal information to **us** and the types of other parties and service providers **we** may provide it to, the relevant purposes **we** and the other parties and service providers will use it for, and how they can access it. If **you** have not done or will not do either of these things, **you** must tell **us** before **you** provide the relevant personal information to **us**.

**We** disclose personal information to other parties and service providers whom **we** believe are necessary to assist **us** and them in providing the relevant services and/or products. For example, in handling claims, **we** may have to disclose **your** personal and other information to other parties and service providers such as **our** claim management partner, other insurers, reinsurers, loss adjusters, external claims **data** collectors, investigators and agents, facilitators, assessors or other parties as required by law. **We** limit the use and disclosure of any personal information provided by **us** to them to the specific purpose for which **we** supplied it.

**We** may disclose **your** personal information to **our** insurers, reinsurers, related entities and service providers overseas, including but not limited to New Zealand, Singapore, United Kingdom, the Philippines, India, the European Union and the United States of America.

If **you** do not provide the personal information requested and/or do not provide **us** with **your** consent to the use and disclosure of **your** personal information as set out in this Privacy Statement, **your insurance** application may not be accepted, or **we** may not be able to administer **your policy**, or **you** may be in breach of **your** duty of disclosure, the consequences of which are set out under the heading Duty of Disclosure in this document.

If **you** would like a copy of **our** Privacy Policies, would like to seek access to or correct **your** personal information, opt out of receiving materials **we** send, complain about a breach of **our** privacy or **you** have any query on how **your** personal information is collected or used, or any other query relating to **our** Privacy Policies, please contact **us**.

## How the Goods and Services Tax (GST) Affects this Insurance

The **premium** includes an amount for GST.

**You** must inform **us** of the extent to which **you** are entitled to an input tax credit (ITC) for **your premium**, and any claim under the **policy** each time that **you** make a claim. No payment will be made to **you** for any GST liability that **you** may incur on the settlement of a claim if **you** do not inform **us** of **your** entitlement or correct entitlement to an ITC.

GST has an impact on the way in which claim payments are calculated under the **policy**. **We** will calculate the amount of any payment **we** make to **you** having regard to **your** GST status. The amount **we** pay **you** for any claim will be calculated taking into account any ITC to which **you** are entitled for any acquisition which is relevant to **your** claim, or to which **you** would have been entitled were **you** to have made a relevant acquisition.

If **you** are not entitled to an ITC on **your premium**, all **insured** amounts and limits of liability stated in **your policy** are GST inclusive (unless **your policy** states otherwise).

If **you** are entitled to an ITC on any part of **your premium**, the **insured** amounts and limits of liability stated in **your policy** are exclusive of GST to the extent of **your** ITC entitlement.

In respect of **your policy**, where **you** are registered for GST purposes **you** should calculate the **insured** amounts having regard to **your** entitlement to any ITC. **You** should, therefore, consider the net amount (after any ITC have been taken into account) which is to be **insured** and calculate and advise to **us** an **insured** amount on a GST exclusive basis.

For the purposes of this clause, 'GST', 'input tax credit', 'acquisition' and 'supply' have the meaning given in *A New Tax System (Goods and Services Tax) Act 1999*.

## Duty of Disclosure Notice

### Your 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

If **you** do not tell **us** anything **you** are required to, **we** may cancel **your** contract or reduce the amount **we** will pay **you** if **you** make a claim, 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](http://www.codeofpractice.com.au)

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

## Complaints and Disputes

In this 'Complaints and disputes' section, the use of "**we**", "**our**" or "**us**" means 360 Complex Risks only.

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 360 Complex Risks as follows:

**Complaints Officer**  
**360 Complex Risks Pty Ltd**  
 Email. [idr@360uw.com.au](mailto:idr@360uw.com.au)  
 Telephone. 1800 411 580  
 Suite 1, Level 18  
 201 Kent Street  
 Sydney 2000

**We** will acknowledge receipt of **your** complaint and, together with the insurers, do **our** utmost to resolve the complaint to **your** satisfaction within 10 **business** days.

A final decision will be provided to **you** within 30 calendar days of the date on which **you** first made the complaint unless certain exceptions apply.

**You** may refer **your** complaint to the Australian Financial Complaints Authority (AFCA), if **your** complaint is not resolved to **your** satisfaction within 30 calendar days of the date on which **you** first made the complaint or at any time.

#### AFCA can be contacted as follows:

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

**Your** complaint must be referred to AFCA within 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**.

## In the Event of a Claim

In the event of a claim arising under this **insurance** notification should be given as soon as reasonably practicable to:

**Berkshire Hathaway Specialty Insurance Company Limited**  
 Email. [claimsnoticeaustralia@bhspecialty.com](mailto:claimsnoticeaustralia@bhspecialty.com)  
 Telephone. 1300 021 415 (24 hours)  
 Post. Berkshire Hathaway Specialty Insurance  
 GPO Box 650, Sydney NSW 2001

## Industrial Special Risks Policy

This **policy** contains sections of cover, the Schedule, Definitions, Conditions, Exclusions, Endorsements, Memoranda and Warranties (if any) and all terms are to be read together. Words or expression to which a specific meaning has been given in any part of this **policy** shall bear this meaning wherever they appear in the **policy**.

Where the **insured** has paid or agreed to pay to the **insurer(s)** the **premium**, the **insurer(s)** agree(s), subject to the terms of the **policy** to indemnify the **insured** against loss arising from any **insured** events which occur during the **period of insurance**.

Provided that the total liability of the **insurer(s)** at any one **situation** shall not exceed the applicable limit(s) or sub-limit(s) of liability as stated in the **schedule** or such amount(s) as may be substituted therefore by **endorsement** or memorandum and that each **insurer** shall only be liable to contribute to any loss covered by this **policy** in that proportion of the loss as is specified beside its name.

# Definitions

## Interpretation

### In this policy:

- a. A reference to memorandum and memoranda shall be a reference to a clause and clauses in the **policy**, as the case may be.
- b. Clauses in the **section** headed “*endorsements*” amend, delete, modify or replace other memorandum and take precedence over such memorandum to the extent of any inconsistency, and as specified in the **endorsement**.
- c. A reference to perils exclusion is a reference to the exclusions under the heading “*perils exclusions*” in the **policy**.
- d. A reference to property exclusions is a reference to the exclusions under the heading “*property exclusions*” in the **policy**.
- e. Clauses which have been defined in *Section 1* and *Section 2* shall have the same meaning in the **schedule** for the purpose of **sub limits of liability**.
- f. Words and phrases defined in a **section** have the same meaning in all sections, except for words and phrases defined below. Where words or phrases are defined below, those words and phrases shall have the meaning given to them in all sections of the **policy**, other than where words or phrases are otherwise defined in a **section**, and in that case, the definition of the words and phrases in that **section** will apply in that **section**.
- g. In this **policy** the following words and phrases have the meaning given to them below:

### Additional Endorsements means:

Any amendment to the **policy** issued by the **insurer** by a separate **endorsement** to the **policy**.

### Basis of Settlement means:

The basis of the indemnity for physical loss, destruction or physical **damage of property insured** provided by this **insurance** set out under the heading “*Basis of Settlement*” in *Section 1* of the **policy** and the basis of the indemnity for **damage** under the heading “*Basis of Settlement*” in *Section 2*, as the case may be.

### Buildings means:

The building(s) situated at the **premises**.

### Business means:

The business of the **insured** specified in the **schedule**.

### Co-insurance Clause means:

The clause in the **policy** headed “*co-insurance*” in *Section 1*.

### Damage means:

In *Section 1* of the **policy** only, direct physical loss, destruction or physical damage with “*damaged*” having a corresponding meaning.

### Damaged means:

Physical loss, destruction or physical **damage of property insured** during the **period of insurance** by any cause or event for which is covered under *Section 1* of the **policy** and is not excluded by a term in the **policy**.

### Deductible means:

The amount specified in the **schedule** which must be borne by the **insured** for a claim under the **policy** as set out in the **schedule**.

### Endorsement means:

A term of the **policy** set out under the heading “*endorsements*”.

### Indemnity Value means:

The fair market value of the property at the time of loss or **damage**, and in respect of obsolete stock the value is nil.

### Insurance means:

The insurance provided to the **insured** pursuant to the terms of the **policy**.

### Insured means:

The persons and entities specified as the “insured” in the **schedule**.

### Insurer means:

The details of each insurer on this contract of **insurance**, shall be provided to the **insured**.

### Limit(s) of Liability and Sub Limits of Liability means:

The maximum liability of the **insurer** for:

- I. An item of **property insured**, or
- II. For a category of **property insured**, or
- III. For an item under *Section 1*;
- IV. For an item under *Section 2*;
- V. For any one claim under the **policy**, or
- VI. For all claims in respect of **property insured** at a **situation**; or
- VII. For all claims under the **policy**,
- VIII. For any circumstance, event, loss, benefit or entitlement;

As specified in the **schedule**, which shall be the maximum liability of the **insurer** for the, item, category, claim, circumstance, event, loss, benefit and entitlement, as the case may be.

### Not hereinafter excluded means:

Not excluded by the terms of the **policy**.

### Peril insured against means:

A peril **insured** under *Section 1* of the **policy** not otherwise excluded by any term of the **policy**.

### Period of Insurance means:

The period specified as “period of insurance” in the **schedule**.

### Policy means:

**Your** contract of **insurance**, the terms of which are detailed in this policy wording, the **schedule**, the **schedule of declared values**, and any **additional endorsements**.



**Premium** means:

The premium payable to the **insurer** for this **insurance** and includes all taxes and government charges.

**Property Insured** means:

The property noted under the heading "*The Property Insured*" in **Section 1** of the **policy**.

**Schedule of Declared Values** means:

The **schedule** provided by **you** to **insurers** declaring the value of **property insured** at the commencement of the **period of insurance**, and where no **schedule** is provided, a **schedule** comprising a list of **property insured** and the values of **property insured** declared by **you** to the **insurer**.

**Schedule** means

The schedule to **policy** that **insurers** issue, or that is set out in this policy wording and which forms part of the **policy**.

**Section** means:

That part of the **policy** under the headings "*Section 1 - Material Loss or Damage*", "*Section 2 - Consequential Loss*", "*Exclusions To All Sections*", "*Memorandum Applicable to All Sections*", "*Conditions Applicable to All Sections*" and "*Endorsements*", as the case may be.

**"Situation"** or **"Premises"** means:

The locations specified as the "situation or premises" in the **schedule**.

**Underwriter** means:

Each **insurer**.

**Uninsured Working Expenses** means:

The amount for uninsured working expenses specified in the **schedule**.

**We/Us/Our** means:

360 Complex Risks Pty Ltd and the **insurer**.

**You/your** means:

The **insured**.

# Section 1 – Material Loss or Damage

## The Indemnity

In the event of any physical loss, destruction or physical **damage** (hereinafter in **Section 1** referred to as “**damage**” with “**damaged**” having a corresponding meaning) not otherwise excluded by terms of the **policy**, happening at the **situation** to the **property insured** described in **Section 1** the **insurer(s)** will, subject to the provisions of this **policy** including the limitation on the **insurer(s)** liability, indemnify the **insured** in accordance with the applicable **basis of settlement**.

Subject to the liability of the **insurer(s)** not being increased beyond the **limit(s) of liability** and subject to the applicable sub-limit, the **insurer(s)** will also indemnify the **insured** for:

- a. Architects’, surveyors’, consulting engineers’, legal and clerks of works’ salaries for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in reinstatement consequent upon **damage to property insured** but not such costs, fees and salaries for preparing any claim under the **policy** (“Professional Fees”).
  - b. Any fee, contribution or other impost payable to any government, local government or other statutory authority; where payment of such fees, contribution or impost is a condition precedent to the obtaining of consent to reinstate or repair any **property insured**; provided that the **insurer(s)** shall not be liable for payment of any fines and/or penalties imposed upon the **insured** by any such authorities (“statutory authority fees”).
  - c. Costs and expenses necessarily and reasonably incurred for the purpose of extinguishing fire at or in the vicinity of **property insured** or threatening to involve such property or for the purpose of preventing or diminishing imminent **damage to property insured** by any **peril insured against** by this **policy**, including **damage** to gain access, and the cost of replenishment of fire fighting appliances, and charges incurred for the purpose of shutting off the supply of water or other substance following accidental discharge from any fire protection equipment or otherwise escaping from intended confines.
  - d. Costs and expenses necessarily and reasonably incurred for the temporary protection and safety of **property insured** pending repair or replacement consequent upon **damage**.
  - e. Costs of replacing locks and/or keys and/or combinations where if as a result of **damage to property insured** caused by **burglary**, theft or any attempt thereat, keys and/or combinations are stolen, or if there are reasonable grounds to believe the keys may have been duplicated, and the cost of opening safes and/or strongrooms as a result of theft of keys and/or combinations (“Costs of replacing keys, locks, combinations”).
  - f. Costs and expenses necessarily and reasonably incurred in respect of:
    - I. The removal, storage and/or disposal of debris and anything which caused the **damage**, and the demolition, dismantling, shoring up, propping, underpinning or other temporary repairs consequent upon **damage to property insured** occasioned by a **peril insured against**;
    - II. The **insured’s** legal liability in respect of removal, storage and/or disposal of debris, notwithstanding Excluded Peril 8 in relation to **premises**, on roadways, services, railway or waterways of others, for such costs together with the cost of cleaning, provided that such liability was not assumed by the **insured** under an agreement entered into after the commencement of the **period of insurance** unless liability would have attached in the absence of such agreement;

Provided that the **insurance** under this **section** does not extend to any liability that the **insured** may incur as a consequence of pollution of any kind.

    - III. The demolition and removal of any property belonging to the **insured** which is no longer useful for the purpose it was intended, provided such demolition and removal is necessary for the purpose of the reinstatement or replacement of **property insured** and is consequent upon **damage to the property insured** by a **peril insured against**, (collectively “removal of debris”).
  - g. In the repair or replacement of personal property (including money and tools of trade) belonging to directors, employees, ministers, trustees and volunteers of the **insured** and the property of welfare, sport, recreational and social clubs and childcare facilities of the **insured** which are **damaged**. The **property insured** under this clause is covered anywhere in Australia, including whilst in transit (“Directors / Employees Personal Property, Money, Tools of Trade”).
- For the purposes of this clause, Property Exclusion 1 shall not apply; nor shall any **co-insurance clause** under this **policy**.
- Provided that the cover afforded in respect to personal property belonging to the persons described above:
- I. Only applies in so far as that property is not **insured** by another **policy of insurance**;
  - II. Where **damage** occurs beyond the **premises**; only applies, if the directors, employees and / or ministers are on authorised **business** of the **insured** at the time of the **damage**.

- h. Customs, excise and other duties which the **insured** is liable to pay as the result of **damage** ("customs, excise and other duties").
  - i. Any liability to pay additional income tax or additional capital gains tax, pursuant to any Australian government taxation legislation, incurred solely consequent upon payment by the **insurer(s)** of any amount claimable under **Section 1** of this **policy** ("additional income tax").
  - j. Any legal liability to make enquiries consequent upon **damage to property insured** ("liability to make enquiries").
  - k. Expediting reinstatement or repair of the **property insured** including (but not limited to) identifying and locating the source of the **damage**, penalty rates for wages during overtime, shift, night, sunday or holiday working, payment for carriage by express passenger, fast goods, or other rail or road transport, for carriage by air freight where such costs are incurred as the result of any peril or circumstance **insured** by this **policy** ("expediting expenses").
  - l. Taking inventory (including unpacking, re-packing and re-stocking) to identify, quantify and value any **damaged property insured** by any peril or circumstance **insured** by this **policy** including examination of property not belonging to but in the care, custody or control of the **insured** ("unpacking expenses").
  - m. Any statutory liability incurred by the **insured** for fire brigade attendance fees solely because any part of the **insured's** claim for **damage to property insured** is within the amount of any **deductible** applicable under this **policy**, provided that the **deductible** shall be applied to any other benefit payable to the **insured**.
  - n. Any amount the **insured** is liable to pay to a recognised emergency service or any statutory authority (other than as provided in clause (m) above) including but not limited to, the police, ambulance, and environmental protection services as a consequence of **damage to property insured**.
  - o. Any costs and expenses incurred by the **insured** as the result of statutory inquiries following **damage to property insured**. For the purposes of this clause, the term statutory inquiries shall mean any judicial, coronial or other form of inquiry or hearing established by or at the direction of any government, semi-government, local or planning authority as a direct result of **damage to property insured**. Provided that the **insurer(s)** shall not be liable for payment of any fine or penalty imposed by any such authorities ("liability for inquiries").
  - p. Costs of cleaning and decontamination of property (but not stock) used by the **insured** for the purposes of the **business**, as the result of the entry of contaminated water and/or in clearing and/or repairing blocked pipes, drains, gutters, sewers, filters, pumping equipment and the like, including exploratory costs, at the **premises** used by the **insured** provided such costs are incurred as the result of any peril or circumstance **insured** by this **policy** ("costs of cleaning, decontamination").
  - q. Costs of replacing landscaping **damaged** (notwithstanding any property exclusion to the contrary) as the result of any **peril insured against** by this **policy**. For the purposes of this clause, landscaping shall include rockwork, paving, ornamentation, trees, shrubs, plants and lawns ("landscaping cover").
  - r. The payment of any reward by the **insured** to protect or recover **property insured**. Provided that:
    - I. No such payment shall be made by the **insured** unless it contributes to the protection or recovery of such property;
    - II. The **insurer(s)** shall have agreed to the terms of the reward before it is offered.

The **insurer(s)** will not unreasonably withhold or refuse consent to the terms of any reward payable under this clause.
- Provided that the clauses above shall not be subject to any co-insurance.

## The Property Insured

All real and personal property of every kind and description (except as hereinafter excluded) belonging to the **insured** or for which the **insured** is responsible, or has assumed responsibility to insure prior to the occurrence of any **damage**, including all such property in which the **insured** may acquire an insurable interest or property where the **insured** becomes legally responsible or assumes responsibility during the **period of insurance**.

It is understood and agreed that the term "personal property" shall include money (which shall mean current coin, bank notes, currency notes, cheques, credit card sales and/or discount house vouchers, postal orders, money orders, unused postage and revenue stamps and including the value of stamps contained in franking machines) whilst contained in the **situation** and whilst in transit to and from the **situation** anywhere in Australia, including whilst contained in the night safe of any bank or financial institution where the **insured** transacts **business**, and in the personal custody of the **insured** and/or persons authorised by the **insured** whilst contained in their private residences.

## Basis of Settlement

For the purposes of ascertaining the classification under which any property is **insured**, the **insurer(s)** agree(s) to accept the designation applied to such property in the **insured's** records.

The amounts which the **insurer** is liable to pay to the **insured** under this **insurance** is calculated pursuant to the following paragraphs.

- a. On **buildings**, machinery, plant and all other property and contents (other than those specified below); the cost of reinstatement, replacement or repair in accordance with the provisions of the reinstatement and replacement and extra cost of reinstatement memoranda as set out herein.

Provided that if the **insured** elects not to reinstate, repair or replace and claims the **indemnity value** of any **damaged** property, the **insurer(s)** will pay to the **insured** the value of such property at the time of the happening of the **damage** or reinstate, replace or repair such property or any part thereof, whichever is the lesser cost.

In any event the **insurer(s)** will pay costs incurred by the **insured** in accordance with the provisions of the extra cost of reinstatement memorandum.

- b. On raw materials, supplies and other merchandise not manufactured by the **insured**; the replacement cost including labels, containers or wrappings, calculated at the time and the place of replacement, or if such property is not replaced, the cost at the time and place of the **damage**.
- c. On materials in process of manufacture; the replacement cost of the raw materials and the cost of labour and other overhead charges expended thereon, valued at the time and the place of the **damage**.
- d. On finished goods manufactured by the **insured**, either; the replacement cost of the raw materials and the cost of labour and other manufacturing costs expended including replacement cost of labels, containers or wrappings thereon before any allowance for profit calculated at the time and place of the **damage**; or the cost of re stocking such goods within a reasonable time, whichever is the lesser cost.
- e. On **computer systems** records (which includes electronic **data**), documents, manuscripts, securities deeds, specifications, plans, drawings, designs, **business** books and other records of every description; the cost of reinstating, replacing, reproducing or restoring same, including information contained therein or thereon but excluding the value to the **insured** of that information; or if repair, replacement, reproduction or restoration is not required, the replacement cost of materials as blank stationery at the time and place of the **damage**.

- f. On patterns, models, moulds, dies or lasts, jigs or templates; the cost of repair or replacement (if replaced); or the value to the **insured** of such property, whichever is the lesser cost.
- g. On glass; the cost of repairing or replacing the broken glass in accordance with Australian standards at the time of replacement, and including:
- I. Temporary shuttering and/or hiring of security service pending replacement of broken glass;
  - II. Sign writing or ornamentation on glass;
  - III. Replacement burglar alarm tapes, and protective films on glass;
  - IV. Removing and re-fixing of window and show case frames and fittings; and
  - V. Heat reflecting material or process on glass;
- (collectively "costs of replacing plate glass").
- h. On directors' and employees' personal property, money and tools of trade, and property of welfare, sport, recreational and social clubs and childcare facilities; the replacement cost at the time of replacement.
- i. On empty **premises** awaiting demolition; the salvage value of the **building** materials and/or landlord's fixtures and fittings.
- j. On securities:
- I. If the securities can be replaced (with the approval of the **insurers**) the cost of replacement paid or payable by the **insured**; or
  - II. If the securities cannot or are not to be replaced by the **insured**, the closing market value on the last **business** day prior to the date of discovery by the **insured** of the loss or destruction of the securities, or if the time of discovery by the **insured** is after the close of market, the closing value on the day of discovery of such loss or destruction;
- Such valuation being in the currency in which the loss was sustained. Losses sustained in currencies other than Australian dollars will be settled by converting the amount of loss to Australian dollars at the market rate at the time of settlement of the loss.
- k. In the case of art works and curios; the cost of restoring or repairing to a condition substantially the same as before the **damage**, plus the reduction in market value caused by such **damage**. When restoration or repair is not possible, the market value of the **property insured** immediately before the **damage**.
- l. In the case of **property insured** being machinery, plant and equipment leased on a residual value basis: if the residual value exceeds the reinstatement value, then in the event of actual or **constructive total loss**, the

amount for which the **insured** is contractually liable to pay, but not exceeding the sum represented by rents payable under such lease for the for the period commencing on the date of loss and ending on the retirement date of such lease, plus the current market value of the property immediately before loss, or the residual value, whichever is the greater, less any salvage value.

For the purposes of this clause, the term **residual value** means:

The minimum amount which the **insured** has guaranteed that the leased property will realise, being the same amount which the **insured** has agreed would be payable to acquire such property upon the retirement date of the lease.

- m. Where any **property insured** consists of equipment, machinery or plant having a measurable function, capability or output and, if it is necessary to replace such property with a new item or items which perform a similar function or functions, then:
- I. Where any property is to be replaced by an item or items which have the same or lesser total function, capability or output, the new installed cost of such replacement item or items as would give the same total function, capability or output as the property **damaged**;
  - II. Where any property is to be replaced by an item or items which have a greater total function, capability or output, and the new installed cost of such replacement property is no greater than the replacement value of the property **damaged**, the new installed cost of the item or items so replaced;
  - III. Where any property is to be replaced by an item or items which have a greater total function, capability or output and the new installed cost of such replacement property is greater than the replacement value of the property **damaged**, the appropriate portion of the new installed cost of the replacement item or items. appropriate portion means the proportion determined by comparing the output of the item or items of property **damaged** to the output of the replacement item or items.

## Memoranda to Section 1

The following memoranda apply to **Section 1** only.

### Interests of other parties

Where the insurable interest of lessors, financiers, trustees, mortgagees, owners, and other parties are specifically noted in the records, to the extent insurers are liable to indemnify the **insured** for **damage** to the **property insured** the subject of any insurable interest, insurers will automatically note that insurable interest without any notification or specification by the **insured** and where **property insured** the subject of that insurable interest is **damaged**, make payment for **damage** to that **property insured** in accordance with the priority agreed between the **insured** and the party with the insurable interest.

Where the **insurance** covers the interest of more than one party, any act or neglect of an individual party will not prejudice the rights of the remaining party/parties; provided the remaining party/parties shall immediately on becoming aware of any act or neglect whereby the risk of **damage** to **property insured** has increased, give notice in writing to the **insurer(s)** and on demand pay such reasonable additional **premium** as the **insurer(s)** may require.

### Branded goods

Any salvage of branded goods and/or merchandise, in respect of the **insured's** own or those held by the **insured** in trust or on commission, and/or goods sold but not delivered, is not to be disposed of by sale without the consent of the **insured**. If such salvage is not disposed of by sale then the **damage** will be assessed at the value agreed between the **insured** and the **insurer(s)** after brands, labels or names have been removed by or on behalf of the **insured**.

### Goods sold but not delivered

Notwithstanding any clause to the contrary, where there is **damage** to goods and/or merchandise sold but not delivered, and where the sale contract is either wholly or partially cancelled by reason of **damage**, the **basis of settlement** for **damage** to good and merchandise shall be their price in the sale contract.

### Declared values

The **schedule of declared values** at each **situation** attaches to and forms part of this **policy** for the purpose of the application of the **co-insurance clause** and the values declared shall be applied when determining benefits under each provision in the **basis of settlement**.

### Reinstatement and replacement

(Applicable to **buildings**, machinery, plant and all other property and contents, as specified in item (a) under the **Basis of Settlement** in **Section 1**.)

The basis upon which the amount payable is to be calculated shall be the cost to replace, repair, reinstate or rebuild the **damaged property insured** on the **reinstatement basis**, at the time of replacing, repairing, reinstating or rebuilding the **damaged property insured**, subject to the provisions set out below, and subject to the **limit(s) of liability** and **sub-limit(s) of liability**.

For the purpose of the **insurance** under this memorandum:

“**Applicable Amount**” means:

the amount which would have been payable under this **policy** if this memorandum was not a term of the **policy**.

“**Indemnity Value**” means:

the market value of the **property insured** at the time of **damage**.

“**Incurred Reinstatement Cost**” means:

the cost incurred by the **insured** to reinstate or replace the **damaged property insured**.

“**Reinstatement Amount**” means:

the cost to replace, repair, reinstate or rebuild the **damaged property insured** on the **reinstatement basis**.

“**Reinstatement Basis**” means:

- a. Where property is lost or destroyed; in the case of a **building**, the rebuilding thereof, or in the case of property 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 when new.
- b. 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.

#### Provisions

- I. The work of rebuilding, or replacing, or repairing, or reinstating, as the case may be (which may be carried out on any other site(s) and in any manner suitable to the requirements of the **insured**, subject to the liability of the **Insurer(s)** not being increased), must be commenced and carried out with reasonable despatch, failing which the Insurer(s) shall not be liable to make any payment greater than the **indemnity value** of the **damaged property insured** at the time of the happening of the **damage**. The claim will not be affected to the extent that the **insurer(s)** caused or contributed to the delay;
- II. When any **property insured** to which this memorandum applies is **damaged** in part only, the liability of the **insurer(s)** shall not exceed the sum representing the cost which the **insurer(s)** could have been called on to pay for reinstatement or replacement on a **reinstatement basis** if such property had been wholly destroyed;

- III. **Property insured** under this memorandum is separately subject to the following co-insurance provision:

In the event of **damage** to **property insured** at any **situation** caused by any **peril insured against**, the **insurer(s)** shall be liable for no greater proportion of such **damage** than the amount that the **insured's** declaration of value of **property insured** at a **situation** at the commencement of the **period of insurance** (“commencement date”) bears to the sum representing eighty five (85) per cent of the **reinstatement amount** for all **property insured** assuming it is destroyed on the commencement date, but not exceeding the **limit of liability** for the **property insured**; provided that if the **incurred reinstatement cost**, exceeds such **limit of liability** which is **our** maximum amount of liability, this clause shall not apply. Then the sum so actually incurred or expended shall, for all purposes of this memorandum, be deemed to be the cost of reinstatement on a **reinstatement basis** of the **insured** property;

- IV. This clause shall not apply if the cost of reinstatement of **damage to property insured** does not exceed five (5) per cent of the amount of the **insured's** declaration of value for all **property insured**;
- V. No payment beyond the maximum amount shall be made until a sum equal to the reinstatement cost is has been incurred by the **insured**; provided that where the **insured** reinstates or replaces any lost or destroyed **property insured** at a cost which is less than reinstatement cost but greater than the **indemnity value** of such property at the time of the happening of its loss or destruction, then the cost so incurred shall be deemed to be the **reinstatement amount** for all **property insured** assuming it is destroyed on the commencement date;
- VI. The **insured** may elect to reinstate destroyed **insured** property with dissimilar property whether or not to be used for a similar purpose as the destroyed **property insured**, in which case the **insurer(s)** shall pay the lesser of:
  - The cost of the dissimilar property; or
  - An amount equal to the cost which would have been payable if the destroyed property had been reinstated on the **reinstatement basis**.
- VII. The **insured** may elect to purchase an existing **building** or **buildings** instead of replacing a **building** or **buildings** which are **property insured** which have been destroyed, in which case such replacements shall be deemed to be the **reinstatement amount**. If both the total replacement value and the total volume (measured

over the roof and external walls) of the **buildings** purchased are less than both the total replacement value and the total volume (measured over the roof and external walls) of the **buildings** destroyed, then the total amount recoverable shall include, in respect of that proportion of the total **building** volume which is not replaced, an additional amount equal to but not exceeding the equivalent proportion of the **indemnity value**;

- VIII. If the **insured** chooses (after obtaining the consent of the **insurer(s)**) to reinstate **damaged property insured**, the **insurer(s)** shall pay the cost of such reinstatement including the value of labour and overhead costs of the **insured** reasonably and necessarily incurred in the reinstatement together with a reasonable margin for profit. The liability of the **insurer(s)** shall not exceed the amount which would otherwise have been payable to the **insured** had such reinstatement been carried out by outside contractors;
- IX. In the case of a **building** with architectural features and/or structural materials possessing an ornamental or historical character, or for which the original materials are not available, which:
- Is legally protected for preservation by national, state or local legislation or regulation, reinstatement on a **reinstatement basis** shall be deemed to be the replacement, repair, rebuilding or restoration of the **building** to a reasonably equivalent appearance and capacity, using the original design and suitably equivalent modern materials;
  - Is not legally protected for preservation by national, state or local legislation or regulation, reinstatement on a **reinstatement basis** shall be deemed to be the work necessary to repair the **damage** and restore the **damaged** portion to a condition substantially the same as, but not better or more extensive than, its condition when new. If the cost of repairing the **damage** and restoring the **damaged** portion exceeds the **reinstatement amount** of the **building**, the **building** is deemed to be destroyed. If the **building** is destroyed, or deemed to be destroyed, reinstatement value is the cost necessary to replace the **building** with one which is no more extensive but of equivalent or improved utility using current design techniques and modern materials without the need to restore the ornamental or historical character of the **building**. The cost payable to the **insured** will not exceed the reinstatement cost of all **property insured** where all of that property is destroyed.

### Extra cost of reinstatement

(Applicable to **buildings**, machinery, plant and all other property and contents, as specified in item (a) under the *Basis of Settlement*.)

The **insurer(s)**' liability under this clause shall not exceed the sub-limit stated in the **schedule** for "Extra Cost of Reinstatement".

This **policy** extends to include the extra cost of reinstatement (including demolition or dismantling) of **damaged** property necessarily incurred to comply with the requirements of any act of parliament or regulation made thereunder or any by-law or regulation of any local government, municipal or other statutory authority; subject to the following provisions and **limit(s) of liability** and **sub-limit(s) of liability**.

#### Provisions

- I. The work of reinstatement (which may be carried out wholly or partially on any other site(s), if the requirements of the aforesaid act, regulation or by-law so necessitate, subject to the liability of the **insurer(s)** not being increased), must be commenced and carried out with reasonable despatch, failing which the **insurer(s)** shall not be liable to make any payment beyond the amount which would have been payable under this **policy** if this memorandum was not a term of the **policy**. The claim will not be affected to the extent that the **insurer(s)** caused or contributed to the delay.
- II. The amount recoverable shall not include the additional cost incurred in complying with any such act, regulation, by-law or requirement with which the **insured** was required to comply with prior to the happening of the **damage**.
- III. The **co-insurance clause** shall not be applied to the amount recoverable under this memorandum and any amount specified for extra cost of reinstatement in the **schedule** shall not be taken into account in the application of the **co-insurance clause**.
- IV. If the cost of reinstatement of **damaged property insured** is less than fifty (50) per cent of that which would have been the cost of reinstatement if such property had been destroyed, the amount recoverable under this clause shall be limited to the lesser of:-
  - The extra cost necessarily incurred in reinstating only that portion **damaged**; or
  - The sub-limit stated in the **schedule** for extra cost of reinstatement.

### Additional extra cost of reinstatement

(Applicable to **buildings**, machinery, plant and all other property and contents; as specified in item (a) under the *Basis of Settlement* in *Section 1*.)

The **insurer(s)**' liability under this clause shall not exceed the sub-limit stated in the **schedule** for "additional extra cost of reinstatement".

The **insurer** shall have no liability under this clause unless an amount is included in the **schedule** as a sub-limit for additional extra cost of reinstatement.

The **insurer(s)** will also pay the additional extra cost of reinstatement (including demolition or dismantling) of the **damaged property insured** necessarily incurred by the **insured** to comply with the requirements of acts of parliament or regulations made thereunder or any by-law or regulation of any local, municipal or other statutory authority; subject to the following provisions, **limit(s) of liability** or sub limit(s).

#### Provisions

- I. The work of reinstatement (which may be carried out wholly or partially on any other site(s), if the requirements of the aforesaid act, regulation or by-law so necessitate, subject to the liability of the **insurer(s)** not being increased), must be commenced and carried out with reasonable despatch, failing which the **insurer(s)** shall not be liable to make any payment beyond the amount which would have been payable under this **policy** if this clause was not a term of the **policy**. The claim will not be affected to the extent that the **insurer(s)** caused or contributed to the delay.
- II. The amount recoverable shall not include the additional cost incurred in complying with any such act, regulation, by-law or requirement with which the **insured** was required to comply with prior to the happening of the **damage**.
- III. The **co-insurance clause** shall not be applied to the amount recoverable under this memorandum and any amount specified for additional extra cost of reinstatement in the **schedule** shall not be taken into account in the application of the **co-insurance clause**.

### Constructive total loss

For the purposes of this **policy**:

"Constructive total loss" means:

- I. When the cost to repair the **damage to insured** property exceeds the cost necessary to replace such property with similar property in a condition equal to, but not better than or more extensive than the condition of such property when new.

### Abandoned undamaged portion of building

Where any **property insured** being a **building** 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 **building** has to be carried out on another site, the abandoned undamaged portion of such **building** shall be considered as having been destroyed. If however, the resale value of the original site is increased by virtue of the presence of the abandoned portion of such **building**, then such increase in resale value shall be regarded as salvage and that amount shall be paid to the **insurer** by the **insured** on completion of the sale of the site, or shall be deducted from the final amount payable by the **insurer(s)** to the **insured** under this **policy**, whichever shall occur later.

### Undamaged foundations

Where any **property insured** being a **building** or an installation 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 on 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 the **insurer(s)** by the **insured** upon completion of the sale of the site, or shall be deducted from the final amount payable by the **insurer(s)** to the **insured** under this **policy**, whichever shall occur later.

For the purposes of this clause, the term foundations shall include services, conduits, pipes, cables, wiring built into footings and foundations (including the concrete floor slabs).

### Undamaged ancillary and/or peripheral equipment

If plant and/or machinery is destroyed but its ancillary and/or peripheral equipment is not destroyed, and upon replacement of the destroyed plant and/or machinery the ancillary and/or peripheral equipment is rendered superfluous, then such equipment shall be deemed to be destroyed and the salvage value shall be payable to the **insurer(s)** by the **insured** upon completion of any sale of the equipment, or shall be deducted from the final amount otherwise payable by the **insurer(s)** to the **insured** under the **policy**, whichever shall occur later.

### Depreciation of undamaged stock

The **insurer(s)** will be liable for **damage to insured** property or property used by the **insured**, which is caused by deterioration or depreciation of goods in storage that are **insured** by this **policy**, provided the **insured's** inability to process the goods in the usual way results from **damage** caused by a **peril insured against**.



### Floor space ratio index (Plot ratio)

In the event of **building(s)** that are **property insured** being **damaged**, and the cost of reinstatement is more than fifty (50) per cent of the cost of reinstatement if the **building** had been totally destroyed, and reinstatement is only permissible subject to a requirement of, or the exercise of statutory powers and/or authority by any government departments, local government or any other statutory authorities, and reinstatement of such **building(s)** to a similar floor space ratio index as when the **building was damaged** is prohibited and reinstatement is only permissible subject to a reduced floor space ratio index, the **insurer(s)** agree(s) to pay in addition to any amount payable on reinstatement of such **building(s)** the difference between:

- a. The actual cost of reinstatement incurred in accordance with the reduced floor space ratio index, and
- b. The cost of reinstatement which would have been incurred had a reduced floor space ratio index not been imposed.

In arriving at the amount payable under (a) and (b) above, any payments made by the **insurer(s)** shall include the extra cost of reinstatement, including demolition or dismantling of the **property insured**, necessarily incurred to comply with the requirements of any acts of parliament or regulations made thereunder or any by-law or regulation of any local, municipal or other statutory authority.

Any payment made for the difference between (a) and (b) above shall be made as soon as the said difference is ascertained upon completion of the rebuilding works and certified by the architect acting on behalf of the **insured** in the reinstatement of the **building(s)**.

### Acquired companies

This **policy** extends to include property located in Australia belonging to corporations and organisations, a controlling interest in which is acquired by the **insured** during the **period of insurance**; subject to the **insured** declaring details of such acquisition within a reasonable period following the date of acquisition, provided the **business** of the new acquisition shall be similar to the **business** as stated in the **schedule**.

For the purposes of this memorandum "a controlling interest in which is acquired" shall:

- a. In the case of a corporation mean the acquisition of shares carrying more than fifty per cent (50%) of votes capable of being cast at a general meeting of ordinary shareholders in such corporation; and
- b. In any other case, mean acquiring interests that comprise 50% or more of the equity interests in the **business** or the legal entities that operate the **business**.

### Co-insurance

In the event of **damage** to **property insured** at any **situation** caused by any **peril insured against**, the **insurer(s)** shall be liable for no greater proportion of such **damage** than the amount of the **insured's** declaration of value of such property on the day of the commencement of the **period of insurance** bears to the sum representing eighty-five per cent (85%) of the actual value of **property insured** at such **situation** on the day of commencement of the **period of insurance**, but not exceeding the **limit(s) of liability** expressed in the **schedule**.

Provided that this clause shall not apply if the amount payable to the **insured** pursuant to **Section 1** for **damage to property insured** does not exceed 5% of the value of the **property insured** in the **schedule of declared values**.

The provisions in this clause do not apply in respect of that part of any claim which is made under the provisions of the reinstatement and replacement memorandum.

### Accidental damage definition

For the purpose of this **policy**,

**Accidental Damage** shall mean:

Physical loss, destruction of or **damage** to the **property insured** arising out of any one source or original cause other than: fire, lightning, thunderbolt, earthquake, subterranean fire and/or volcanic eruption, aircraft and/or other aerial devices and/or articles dropped or falling therefrom and/or impact by space debris, sonic boom, explosion, implosion or collapse, smoke and/or steam, spontaneous fermentation or heating, spontaneous combustion, subsidence, earth movement or collapse resulting therefrom or landslip, flood, water from or action by the sea, tsunami, tidal wave or high water, storm, tempest, wind, hail and/or rainwater, water and/or other substance discharged, overflowing and/or leaking from apparatus, appliances, pipes, sprinkler and/or any other system(s), the acts of persons taking part in riots or civil commotions or the acts of strikers or locked out workers or persons taking part in labour disturbances, the acts of malicious persons impact by any waterborne craft, land vehicles or animals, **burglary**, **theft**, loss of money, the acts of lawfully constituted authority in connection with any of the aforementioned events, or any other event or circumstance which is more specifically mentioned under any other **sub-limit of liability**.

### Burglary and theft definitions

For the purpose of this **policy**, the terms **burglary** and **theft** shall have the following meanings:

**Burglary** shall mean:

Physical loss of or **damage** to **property insured** as the result of:

- a. Theft consequent upon actual forcible and violent entry to the **premises** where the property is located;
- b. Theft or any attempt thereof by a person feloniously concealed on the **premises** before the theft.

# Section 2 – Consequential Loss

## The Indemnity

In the event of any **building** or any other property or any part thereof used by the **insured** at the **premises** for the purpose of the **business** being physically lost, destroyed or physically **damaged** by any cause or event **not hereinafter excluded** (loss, destruction or **damage** so caused being termed **damage**) and the **business** carried on by the **insured** being in consequence thereof interrupted or interfered with, the **insurer(s)** will, subject to the provisions of this **policy** including the limitations of liability, pay to the **insured** the amount of loss resulting from such interruption or interference in accordance with the applicable **basis of settlement** in this **section**.

Provided that the **insurer(s)** will not be liable for any loss under this **section** unless:

- + The **insurer** has paid for or admitted liability in respect of such **damage**; and
- + No such payment has been made or liability has not been admitted solely owing to the operation of a provision in the **insurance** excluding liability for loss below a specific amount.

### Basis of settlement

#### Item No.1 – Gross Profits

The **insurance** under this item is limited to loss of **gross profit** due to:

- a. Reduction in **turnover**; and
- b. Increase in cost of working; and

The amount payable as indemnity thereunder shall be:

- a. In respect of reduction in **turnover**:

The sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** shall, in consequence of the **damage**, fall short of the **standard turnover**;

- b. In respect of increase in cost of working:

The additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **turnover** which, but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the sum produced by applying the **rate of gross profit** to the amount of the reduction thereby avoided;

Less any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross profit** as may cease or be reduced in consequence of the **damage**.

Provided that if, the value of **gross profit** at the commencement of the **period of insurance**, declared by the **insured**, is less than the sum produced by applying the **rate of gross profit** to the **annual turnover**, (or its proportionately increased multiple thereof, where the **indemnity period** exceeds twelve (12) months) the amount payable under this item shall be proportionately reduced by the proportion that these amounts bear to each other.

#### Item No.2 – Claims Preparation Costs

The **insurance** under this item is to cover such reasonable professional fees and expenses as may be payable by the **insured**, and such other reasonable expenses necessarily incurred by the **insured** and not otherwise recoverable under the **policy** for preparation of claims, claims negotiation, progress and finalisation of claims under **Section 1 - Material Damage** and **Section 2 - Consequential Loss** and the **insurer** shall indemnify the **insured** for such reasonable fees and expenses.

#### Item No.3 – Pay-Roll

The **insurance** under this item is limited to loss in respect of **pay-roll** and the amount payable as indemnity thereunder shall be:

- a. In respect of reduction of **turnover**:
  - I. During the portion of the **indemnity period** beginning with the occurrence of the **damage** and ending not later than the number of weeks thereafter specified in the **schedule** for item 3: the sum produced by applying the **rate of pay-roll** to the **shortage in turnover** during the said portion of the **indemnity period** less any saving during the said portion of the **indemnity period**, through reduction in consequence of the **damage**, in the amount of **pay-roll** paid;
  - II. During the remaining portion of the **indemnity period**: the sum produced by applying the **rate of pay-roll** to the **shortage in turnover** during the said remaining portion of the **indemnity period** less any saving during the said remaining portion of the **indemnity period** through reduction in consequence of the **damage**, in the amount of **pay-roll** paid; but not exceeding the sum produced by applying the percentage of the **rate of pay-roll** specified in the **schedule** to the **shortage in turnover** during the said remaining portion of the **indemnity period**, increased by such amount as is deducted for savings under the terms of clause (a) (I):

**Note:** at the option of the **insured** the number of weeks referred to in clause (a) (I) above may be increased to the number of weeks specified in the **schedule** under the heading 'consolidated period'; provided that the amount arrived at under the provisions of clause (a) (II) shall not exceed such amount as is deducted under clause (a) (I) for savings effected during the said increased number of weeks.

b. In respect of increase in cost of working:

So much of the additional expenditure described in clause (b) of *Item 1* as exceeds the amount payable thereunder, but not more than the additional amount which would have been payable in respect of reduction in **turnover** under the provisions of clauses (a) (I) and (II) of this item had such expenditure not been incurred.

Provided that if the declared value of **insured pay-roll** at the commencement of each **period of insurance** be less than the sum produced by applying the **pay-roll** limits to the sum produced by applying the **rate of pay-roll** to the **annual turnover** (or its proportionately increased multiple thereof, where the **indemnity period** exceeds 12 months) the amount payable shall be proportionately reduced.

**Item No.4 – Additional Increase in Cost of Working**

The **insurance** under this item is limited to increase in cost of working (not otherwise recoverable under this **policy**) necessarily and reasonably incurred during the **indemnity period** in consequence of the **damage** for the purpose of avoiding or diminishing reduction in **turnover** and/or resuming and/or maintaining normal **business** operations and/or services.

**Item No.5 – Severance Pay**

The **insured** shall be indemnified with respect to such further additional expenditure not otherwise recoverable as the **insured** is obligated or has agreed to pay under industrial awards, determinations, decisions or employment agreements, for severance pay and/or payments in lieu of notice to employees whose services are terminated during the **indemnity period** in consequence of a **damage**.

**General**

The **insurance** under *Item 1*, *Item 2*, *Item 3*, *Item 4* and *Item 5* above, is subject to the **limit(s) of liability** and **sub limits of liability**, as the case may be.

The **insurance** under each item in this clause shall apply where the **schedule** specifies **limit(s) of liability** and or **sub limits of liability** for that item, or where that item is noted as covered in the **schedule**.

**Definitions**

**Annual Turnover** means:

The **turnover** during the 12 months immediately before the date of the **damage**.\*

**Gross Profit** means:

The amount by which:

- a. The sum of the **turnover** and the amount of the closing stock and work in progress shall exceed
- b. The sum of the amount of the opening stock and work in progress and the amount of the **uninsured working expenses** as set out in the **schedule**.

**Note:** The amounts of the opening and closing stocks and work in progress shall be arrived at in accordance with the **insured's** normal accountancy methods, due provision being made for depreciation.

**Indemnity Period** means:

The period beginning with the occurrence of the **damage** and ending not later than the number of months specified in the **schedule** for the "indemnity period", during which the results of the **business** shall be affected in consequence of the **damage**.

**Pay-Roll** means:

The remuneration (including but not limited to payroll tax, bonuses, holiday pay, workers' compensation **insurance premiums** and/or accident compensation levies, superannuation and pension fund contributions) of all employees.

**Rate of Gross Profit** means:

The rate of gross profit earned on the **turnover** during the financial year immediately before the date of the **damage**.\*

**Rate of Pay-Roll** means:

The rate of pay-roll to **turnover** during the financial year immediately before the date of the **damage**.\*

**Shortage in Turnover** means:

The amount by which the **turnover** during a period shall, in consequence of the **damage**, falls short of the part of the **standard turnover** which relates to that period.

**Standard Turnover** means:

The **turnover** during that period in the 12 months immediately before the date of the **damage** which corresponds with the **indemnity period**.\*

**Turnover** means:

The money (less discounts, if any allowed) paid or payable to the **insured** for goods sold and delivered and for services rendered in course of the **business** at the **premises**.

\*To which such adjustments shall be made as may be necessary to provide for the trend of the **business** and for variations in or other circumstances affecting the **business** either before or after the **damage** or which would have affected the **business** had the **damage** not occurred, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the **damage** would have been obtained during the relative period after the **damage**.

## Memoranda to Section 2

The following memoranda apply to *Section 2* except as modified by the memoranda in the *Endorsements Section*.

### Turnover elsewhere after damage

If during the **indemnity period** goods shall be sold or services shall be rendered elsewhere than at the **premises** for the benefit of the **business** either by the **insured** or by others on the **insured's** behalf, the money paid or payable in respect of such sales or services shall be brought into account in arriving at the **turnover** during the **indemnity period**.

### Departmental clause

If the **business** is conducted in departments or **business** units and the independent trading results of each department or **business** unit (as the case may be) are ascertainable, the provisions of clauses (a) and (b) of *Item Nos. 1* and *3* shall apply separately to each department or **business** unit affected by the **damage**.

### New business

In the event of **damage** occurring at **premises** before the completion of the first year's trading of **business** the terms "rate of gross profit", "annual turnover", "standard turnover" and "rate of pay-roll" shall bear the following meanings and not as within stated:

#### Annual Turnover means:

The proportional equivalent, for a period of 12 months, of the **turnover** realised during the period between the commencement of the **business** and the date of the **damage**.\*

#### Rate of Gross Profit means:

The rate of gross profit earned on the **turnover** during the period between the date of the commencement of the **business** and the date of the **damage**.\*

#### Rate of Pay-Roll means:

The rate of pay-roll to **turnover** during the period between the date of the commencement of the **business** and the date of the **damage**.\*

#### Standard Turnover means:

The proportional equivalent, for a period equal to the **indemnity period**, of the **turnover** realised during the period between the commencement of the **business** and the date of the **damage**.\*

\*To which such adjustments shall be made as may be necessary to provide for the trend of the **business** and for variations in or other circumstances affecting the **business** either before or after the **damage** or which would have affected the **business** had the **damage** not occurred, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the **damage** would have been obtained during the relative period after the **damage**.

### Accumulated stocks

In adjusting any loss, account shall be taken and equitable allowance made if any **shortage in turnover** due to the **damage** is postponed by reason of the **turnover** being temporarily maintained from accumulated stocks.

### Books of accounts

Any particulars or details contained in the **insured's** books of account or other **business** books or documents which may be reasonably required by the **insurer(s)** for the purpose of investigating or verifying any claim under the **policy** may be produced and certified by the **insured's** accountants which shall be prima-facie evidence of the particulars and details to which such certificate relates.

The words and expressions used in this **section** shall have the meaning usually attached to them in the books and accounts of the **insured** unless defined in this **section**.

### Public utilities extension

Any loss resulting from interruption of or interference with the **business** in consequence of **damage**, caused by a **peril insured against**, to property at any electricity station or sub-station, power station, gas works, natural gas supplier or water works of a public supply undertaking or any distribution network, which is situated anywhere in Australia shall be deemed to be loss resulting from **damage** to property used by the **insured** at the **premises**, for the purpose of a claim under *Section 2* only.

### Turnover/output alternative

At the option of the **insured** the term output may be substituted for the term **turnover** in *Section 2* and shall mean the sale and/or invoice value of goods manufactured and/or processed by the **insured** in the course of the **business** at the **premises**. Provided that only one such defined term shall be operative in connection with any one event involving **damage**.

If the meaning set out above is used, the memorandum **turnover** elsewhere after **damage** shall be amended to read as follows:

"If during the **indemnity period** goods shall be manufactured and/or processed other than at the **premises** for the benefit of the **business** either by the **insured** or by others on the **insured's** behalf, the sale and/or invoice value of the goods so manufactured and/or processed shall be brought to account in arriving at the output during the **indemnity period**."

### Computer

This **policy** extends to include loss (not otherwise recoverable under the **policy**) resulting from interruption of or interference with the **business** occasioned by **damage** to computer installations, including ancillary equipment and **data** processing media utilised by the **insured** anywhere in Australia.

## Salvage sale

If, following **damage** giving rise to a claim under this **policy**, the **insured** shall hold a salvage sale during the **indemnity period** for **property insured** that is **damaged**:

a. Clause (a) of *Item 1* of this **section** shall, for the purpose of such claim, read as follows:

i. In respect of reduction in **turnover**:

The sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** (less the **turnover** for the period of the salvage sale) shall, in consequence of the **damage**, fall short of the **standard turnover**, from which shall be deducted the **gross profit** actually earned during the period of the salvage sale.

b. The definition of **shortage in turnover** shall, for the purpose of such claim read as follows:

**shortage in turnover**: the amount by which the **turnover** during a period (less the **turnover** for the period of the salvage sale) shall, in consequence of the **damage**, fall short of the part of the **standard turnover** which relates to that period, from which shall be deducted the **pay-roll** paid during the period of the salvage sale.

## Premises in the vicinity (Prevention of access)

Loss as **insured** by the **policy** resulting from interruption of or interference with the **business** in consequence of **damage** to property in the vicinity of the **premises** (maximum of one (1) kilometre radius from the **insured's premises**) caused by a **peril insured against** which prevents the use thereof or access thereto, whether or not the **premises** or **property insured** is **damaged**, shall be deemed to be loss resulting from **damage** to property used by the **insured** at the **premises**.

This extension is subject to a maximum **indemnity period** of three (3) months or the **indemnity period** sub-limits of liability, whichever is the lesser.

## Registered vehicles and/or trailers

Notwithstanding the provisions of Property Exclusion 5, this **policy** extends to include loss resulting from interruption of or interference with the **business** occasioned by **damage** to registered vehicles and/or trailers whilst such vehicles or trailers are at the **premises** owned or occupied by the **insured**; provided always that this **policy** does not cover loss resulting from physical loss, destruction of or **damage** to such vehicles and/or trailers whilst they are being used on any public road, or public area where the use of motor vehicles must be covered by an **insurance policy** for personal injury arising from the use of motor vehicles.

# Exclusions to All Sections

## Property Exclusions

This **policy** does not cover physical loss, destruction of or physical **damage** to the following property or loss under **Section 2** resulting therefrom:

1. Property (except money) whilst in transit other than during the incidental movement of such property within **situations** occupied by the **insured**. This exclusion shall not apply during temporary removal of property (other than stock and/or merchandise) and unregistered motor vehicles to any **situation** in the Commonwealth of Australia, but whilst such property is in transit, cover is limited to physical loss, destruction or physical **damage** caused by fire, lightning, explosion, earthquake, aircraft, riot, strikes, malicious **damage** and storm and/or tempest, flood, collision and/ or overturning of the conveying vehicle.
2. Money:
  - a. Whilst being carried by professional money carriers, professional carriers or common carriers, which is more specifically **insured** by another **insurance policy**, excepting the amounts in excess of the amount covered by the other **insurance policy**.  
 Provided that where in the ordinary course of **business** the **insured** enters into an agreement with such carriers and such agreement provides that the **insured** must indemnify and/or hold harmless the carrier in respect of loss, destruction or **damage** which may occur as a result of any **peril insured against**, this **insurance** shall operate as if this Property Exclusion 2(a) had been deleted;
  - b. Stolen from an unlocked and unattended vehicle;
  - c. Stolen from a safe or strongroom opened by a key or by use of details of a combination, either of which has been left at the **situation** outside **business** hours, unless such key and combination details have been properly secured or unless obtained through actual or threatened violence to person(s) or property;
  - d. Where the loss is not discovered within fifteen (15) working days of the loss occurring;
  - e. Where the loss arises out of a demand made for the payment of money in connection with any:
    - I. Kidnapping;
    - II. Bomb threat;
    - III. Hoax;
    - IV. Extortion,
 or any attempt thereat.
3. Jewellery, furs, bullion, precious metals or precious stones other than as stock and/or merchandise of the **business**.
4.
  - a. Any locomotive or rolling stock or watercraft other than as stock or merchandise of the **business**; provided always that no cover shall apply under this **policy** for watercraft, whilst any watercraft is on water;
  - b. Any aircraft (including its accessories and/or spare parts) other than as stock or merchandise of the **business**; provided always that no cover shall apply under this **policy** for aircraft during taxiing, take-off, flight or landing.
5. Vehicles or trailers registered or licenced to travel on a public road, or **insured** for injury caused by the use or operation of the vehicle, provided that this exclusion shall not apply to mobile plant and equipment (excluding cars, sedans, panel vans and trucks) not otherwise **insured** for **damage** whilst on **premises** occupied or used by the **insured**.
6. Livestock, animals, birds or fish.
7. Standing timber, growing crops and pastures.
8. Land, provided that this exclusion shall not apply to structural improvements on or in the land if such structural improvements are not otherwise excluded in the **policy**.
9. Bridges, canals, roadways and tunnels, railway tracks (other than on the **premises** occupied or used by the **insured**), dams and reservoirs (other than tanks) and their contents.
10. Docks, wharves and piers not forming part of any **building**.
11. Mining property located beneath the surface of the ground unless otherwise expressly **insured** under this **policy** and included in the **schedule** as **property insured** and **schedule of declared values**.
12. Property whilst it is undergoing any process where the **damage** results from processing.
13.
  - a. gates, fences, retaining walls, textile awnings and blinds;
  - b. property in the open air unless such property comprises or forms part of a permanent structure designed to function without the protection of the walls or roof, caused by wind, rainwater or hail.
14.
  - a. Property undergoing construction, erection, alteration or addition when the value of work exceeds 10% of the **limit of liability** or \$500,000, whichever is the lesser;
  - b. Empty **premises** undergoing demolition.
15. Oil and gas drilling and/or production rigs whilst offshore.
16. All Machinery, electronic **data** processing equipment or electronic control equipment occasioned by or happening through any mechanical, electrical, electro mechanical or electronic malfunction, failure, derangement, breakdown or nonoperation of whatsoever kind.

Provided that this property exclusion shall not apply to any subsequent loss, destruction of or **damage** to such machinery, electronic **data** processing equipment or electronic control equipment occasioned by or happening through any cause or event not otherwise excluded by a term of the **policy**, which results from any of the events referred to in this exclusion.

For the purpose of this property exclusion, **machinery** means: Any apparatus whether or not functioning independently or as any component part of a collection of apparatus which generates, contains, controls, transmits, receives transforms or utilises any form or source of energy or power.

17. Any boiler (other than a boiler used for domestic purposes), economiser or other pressure vessel, including pipes, valves and other apparatus thereof in respect of which a certificate is required to be issued under the terms of any statute or regulation, occasioned by or arising from explosion, rupture, collapse, bursting, cracking or overheating provided that this exclusion shall be limited to the aforementioned items immediately affected and shall not extend to other property **damaged** as a result of such loss or destruction or **damage**.

This exclusion shall not apply to **Section 2** to the extent that **Section 2** specifies.

## Perils Exclusions

The **insurer(s)** shall not be liable under **Section 1** and/or **Section 2** in respect of:

1. Physical loss, destruction of or physical **damage** to the **property insured**:
  - a. Directly or indirectly occasioned by or happening through or connected with war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power;
  - b. Resulting from confiscation, nationalisation, requisition or **damage** to property by or under the order of any government or public or local authority.

Notwithstanding the provisions of perils exclusion 1(b), the **insurer(s)** shall be liable for loss, destruction of or **damage** to, or the cost of removal of, sound property at the **premises** for the purpose of preventing or diminishing imminent **damage** by, or inhibiting or preventing the spread of, fire or any other **peril insured against** under this **policy**, unless such order involves the demolition of property deemed unsafe following **damage** not occurring in circumstances which are excluded elsewhere under this **policy**.

Further to the above, and notwithstanding this exclusion, the **insurer(s)** will extend indemnity for reasonable cost of removal of **property insured** at the **situation** for the purpose of preventing or diminishing imminent **damage** by, or inhibiting the spread of fire or any other **peril insured against**;

- c. Loss, **damage**, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:
  - I. War, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
  - II. Any **act of terrorism**.

For the purpose of this exclusion, an **act of terrorism** means: An act, including but not limited to the use of force or violence and/or the 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), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any **section** of the public, in fear.

This exclusion 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 the events and circumstances in (I) and/or (II) above.

In the event any portion of this clause is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

2. a. Physical loss, destruction of or **damage** to the **property insured**; and
  - b. Any legal liability of whatsoever nature;
 

Directly or indirectly caused by or contributed to by or arising from:

    - I. Ionising radiations or contamination by radioactivity from any nuclear waste or from the combustion of nuclear fuel. For the purpose of this exclusion only, "combustion" shall include any self-sustaining process of nuclear fission.
    - II. Nuclear weapons materials.
3. Physical loss, destruction or **damage** occasioned by or happening through:
  - a. Flood, (which shall mean the inundation of normally dry land by water escaping or being released from the normal confines of any natural watercourse or lake (whether or not altered or modified) or any dam, reservoir or navigable canal);
  - b. Water from or action by the sea, tidal wave or high water.

Provided that perils exclusions 3(a) and 3(b) shall not apply if loss, destruction or **damage** is caused by or arises out of an earthquake or seismological disturbance.

4. Physical loss, destruction or **damage** occasioned by or happening through:

- a. Moths, termites or other insects, vermin, rust or oxidation, mildew, mould, contamination or pollution, wet or dry rot, corrosion, change of colour, dampness of atmosphere or other variations in temperature, evaporation, disease, inherent vice or latent defect, loss of weight, change in flavour texture or finish, smut or smoke from industrial operations (other than sudden and unforeseen **damage** resulting therefrom);
- b. Wear and tear, fading, scratching or marring, gradual deterioration or developing flaws, normal up-keep or making good;
- c. Error or omission in design, plan or specification or failure of design;
- d. Normal settling, seepage, shrinkage or expansion in **buildings** or foundations, walls, pavements, roads and other structural improvements, creeping, heaving and vibration;
- e. Faulty materials or faulty workmanship.

Provided that this exclusion 4(a) to (e) shall not apply to subsequent loss, destruction of or **damage** to the **property insured** occasioned by a peril **insured** by this **policy** and not otherwise excluded, resulting from any event or peril referred to in this exclusion.

5. Physical loss, destruction or **damage** occasioned by or happening through:

- a. Incorrect siting of **buildings** consequent upon:
  - I. Error in architectural design or specification;
  - II. Faulty workmanship;
  - III. Non-compliance by the **insured** (or anyone acting on behalf of the **insured**) with the necessary permits or approvals issued by government, public, local or statutory authorities;
- b. Demolitions ordered by government or public, local or statutory authorities due to failure on the part of the **insured** or their agents to obtain the necessary permits or approvals required.

6. Physical loss, destruction or **damage** occasioned by or happening through:

- a. Theft of property (other than Money in Transit) in the open air;
- b. Unexplained inventory shortage, disappearance resulting from clerical or accounting errors, shortage in the supply or delivery of materials to or from the **Insured**;
- c. Heating or any process involving the direct application of heat.

Provided that perils exclusion 6 shall be limited to the item or items immediately affected and shall not extend to other property **damaged** as a result of such heating or process involving the direct application of heat.

7. Physical loss, destruction or **damage** occasioned by or happening through:

- a. I. Fraudulent or dishonest acts, fraudulent misappropriation, embezzlement, forgery, counterfeiting, **data** corruption, unauthorised amendment of **data** and erasure by electronic or non-electronic means involving the **property insured** by the **insured** or any employee(s) of the **insured** acting alone or in collusion with any other person(s);
- II. Access by any person(s) other than the **insured** or the **insured's** employee(s) to the **insured's computer system** via **data** communication media that terminate in the **insured's computer system**;
- III. Arising from criminal, deliberate or intentional acts or omission caused or incurred by the **insured** or by any person acting with the **insured's** express or implied consent.

Provided that perils exclusions 7(a)(I), 7(a)(II) and 7(a)(III) shall not apply to theft consequent upon forcible and violent entry upon **premises** or felonious concealment upon **premises** committed by an employee of the **insured** or theft of money whilst in transit.

- b. I. The cessation of work whether total or partial;
- II. The cessation, interruption or retarding of any process or operation as a result of strikes, labour disturbances or locked out workers.

Provided that perils exclusions 7(b)(I) and 7(b)(II) shall not apply in respect of physical loss, destruction or physical **damage** directly caused by strikers, locked out workers or similar persons.

- c. Erosion subsidence, heave, earth movement or collapse or movement resulting therefrom;
- d. Kidnapping, bomb threat, threat of contamination, hoax, extortion or any attempt of any of these.

Provided that this exclusion 7(a) to (d) shall not apply to subsequent loss, destruction or **damage** to **property insured** occasioned by a peril not otherwise excluded by a term of the **policy**, resulting from any event or peril referred to in this exclusion.

8. Any physical legal liability of whatsoever nature other than as provided by a term of the **policy**.
9. Consequential loss of any kind including consequential loss due to delay, lack of performance, loss of contract or depreciation in the value of any **undamaged** property, except as specifically provided by a term in this **policy**.



10. Loss, **damage**, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.
11. **Damage**, claim, cost, expense or other sum directly or indirectly arising out of, in consequence of, or relating to mould, mildew, fungus, spores, or other micro-organism of any type, nature, or description, including but not limited to any substance which poses an actual or potential threat to human health.

This exclusion applies regardless of whether there is:

- I. Any physical loss or **damage** to **property insured**;
- II. Any **insured** peril or cause, whether or not contributing concurrently or in any sequence;
- III. Any loss of use, occupancy, or functionality; or
- IV. Any action required, including but not limited to repair, replacement, removal, clean up, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

## Memoranda Applicable to All Sections

The following memoranda apply to all sections of the **policy** except as modified by the memoranda in the **endorsements**.

### Amount of policy not reduced by loss

The **insurance** under each **section** and/or item of the **policy** and the **indemnity period** shall be automatically reinstated in the event of any loss in consideration of the payment by the **insured** of a pro-rata additional **premium** calculated on the amount of the loss settlement, at the rate(s) applied by insurers for the **insured's** declared values for the **period of insurance** ("agreed rate").

### Event

Only for the purpose of the application of any **deductible** all loss, destruction or **damage** resulting from earthquake occurring during each period of seventy-two (72) consecutive hours shall be considered as one Event whether continuous or sporadic in its sweep and/or scope and the loss, destruction or **damage** was due to the same conditions. Each Event shall be deemed to have commenced on the first happening of any such loss, destruction or **damage** not within the period of any previous event.

### Subrogation waiver

The **insurer(s)** agree(s) to waive any rights and remedies or relief to which it/they may become entitled by subrogation against:

- a. Any corporation or organisation (including directors, officers, employees or servants) owned or controlled by any **insured**, and any subsidiary of any **insured** and any co-owner of the **property insured**; and

- b. Any **insured** named or described in the **schedule** and their employees, and for an **insured** that is a corporation its directors and officers.

### Contractual agreements

When in the ordinary course of **business** the **insured** enters into a contractual agreement which provides that the **insured** shall release from liability another party in respect of **damage** which may occur as a result of any peril or circumstance **insured** under a term of the **policy**, this **insurance** shall not be prejudiced by the **insured** entering into such agreement.

### Adjustment of premium

- a. The **premium** shown is provisional and is calculated on the declared values in the **schedule of declared values** of:
  - I. **Property insured**; and
  - II. **Gross profit and insured pay-roll**,
 on the day of commencement of each **period of insurance**.
- b. The **insured** undertakes to declare to the **insurer(s)** within a reasonable time after the day of expiry of the **period of insurance**:
  - I. The value of **property insured** on the day of expiry of the **period of insurance**. For purpose of this declaration stock in trade and merchandise shall be taken at its average value during the **period of insurance**;
  - II. The amount of the **gross profit** earned and **pay-roll** paid in accordance with the cover afforded in the respective items of **Section 2**, in the course of the **business** during the accounting period of twelve (12) months most nearly concurrent with the **period of insurance**.
- c. The provisional **premium** shall be adjusted by payment to the **insurer(s)** of an additional **premium** or by allowance to the **insured** of a return **premium**, as the case may be, calculated at the agreed rate on:
  - I. Fifty (50) per cent of the difference between the value of property declared in accordance with clauses 5 (a)(I) and (b)(I);
  - II. The agreed rate hereunder on the difference between the amounts declared under clauses 5 (a)(II) and (b)(II).
- d. It is agreed to make allowance for any abnormal fluctuation in values and to charge a **premium** commensurate with the risk, such **premium** to be agreed between the parties to this **policy**.
- e. The declaration of values at the expiry of the **period of insurance** declared in accordance with this memorandum shall not be reduced as the result of loss, destruction or **damage** in respect of which a claim has been paid or is payable under the **policy**.

## Goods and services tax

The words and phrases, GST, input tax credit, acquisition and supply have the same meaning as given to those expressions in *A New Tax System (Goods and Services Tax) Act 1999* and related legislation as amended from time to time.

Taxable percentage is the **insured's** entitlement to an input tax credit on the **premium** as a percentage of the total GST on that **premium**.

Where the **insurer(s)** makes a payment under this **policy** for the acquisition of goods, services or other supply, the amount of the payment will be reduced by the amount of any input tax credit that the **insured** is, or will be, entitled to in relation to that acquisition, whether or not the **insured** makes that acquisition.

Where the **insurer(s)** makes a payment under this **policy** as compensation instead of payment for the acquisition of goods, services or other supply, the **insurer(s)** will reduce the amount of the payment by the amount of any input tax credit that the **insured** would have been entitled to had the payment been applied to the acquisition of such goods, services or other supply.

Any GST amount paid by the **insurer(s)** shall be in addition to the **limit(s) of liability** specified in the **schedule**.

No payment shall be made to the **insured** for any GST liability upon settlement of a claim if the **insured** has not informed the **insurer(s)** of its correct taxable percentage.

## Australia terrorism and cyclone insurance act 2003 notice

The **underwriters** have treated this **insurance** (or part of it) as an **insurance** to which the *Australia Terrorism and Cyclone Insurance Act 2003* (ATACIA) applies.

ATACIA and the supporting regulations made under the Act deem cover into certain policies and provide that the Terrorism exclusion to which this **insurance** is subject shall not apply to any "eligible terrorism loss" as defined in ATACIA.

Any coverage established by ATACIA is only in respect of any "eligible terrorism loss" resulting from a "terrorist act" which is a "declared terrorist incident" as defined in ATACIA. The Terrorism exclusion to which this **insurance** is subject applies in full force and effect to any other loss and any act or event that is not a "declared terrorist incident".

All other terms, conditions, **insured** coverage and exclusions of this **insurance** including applicable limits and **deductibles** remain unchanged.

If any or all of the **underwriters** have reinsured this **insurance** with the Australian Reinsurance Pool Corporation, then any such **underwriters** will not be liable for any amounts for which they are not responsible under the terms of ATACIA due to the application of a "reduction percentage" as defined in ATACIA which results in a cap on the **underwriter's** liability for payment for "eligible terrorism losses".

## Conditions Applicable to All Sections

### Misrepresentation and Non-Disclosure

If the **insured**:

- a. Failed to disclose any matter which the **insured** was under a duty to disclose to the **insurer(s)**; or
- b. Made a misrepresentation to the **insurer(s)** before this **policy** was entered into.

And if the **insurer(s)** would not have entered into this **policy** for the same **premium** and on the same terms and conditions expressed in this **policy** but for the failure to disclose or the misrepresentation; then:

- I. The liability of the **insurer(s)** in respect of any claim may be reduced to an amount to place the **insurer(s)** in the same position in which the **insurer(s)** would have been placed if such non-disclosure had not occurred or such misrepresentation had not been made; or
- II. If the non-disclosure or misrepresentation was fraudulent, the **insurer(s)** may avoid this **policy**.

### Alteration

The **insurer(s)** shall not be liable for loss, destruction of or **damage** to any **property insured** caused or contributed to by any alteration of risk after the commencement of this **policy**:

- a. By removal of such property from the **premises** other than as provided under the terms of *Property Exclusion 1*;
- b. In the trade or processes of manufacture carried on at the **premises** or the nature of the occupation of the **premises** and/or the **insured's** property used in the **business**, changed in a way which increases the risk of loss, destruction or **damage**;
- c. Whereby any **premises** containing any **property insured** shall become unoccupied, and so remain for a period of more than thirty (30) days; or
- d. Whereby the **insured's** interest in **property insured** ceases except by will or the operation of law.

Provided that this condition shall have no application if any such alteration, upon coming to the knowledge of the **insured's** officer responsible for **insurance**, is as soon as reasonably practicable to the **insurer(s)** and, if agreed to by the **insurer(s)** in writing, any additional **premium** required by the **insurer** is paid.

## Sprinkler installations – applicable to owned premises or installations for which the insured is responsible

The **insured** warrants that in such of the **premises** as are protected or as are required by law to be protected by an approved installation of automatic sprinklers, automatic external signal and automatic alarm signal connected with a fire brigade station (collectively “fire protection”), in or on the **premises**, due diligence shall be used by the **insured** so that fire protection shall at all times be maintained in good working order.

The **insured** further warrants that the fire protection will be maintained in accordance with *Australian Standard AS 1851* (Part 3 – automatic sprinkler installation) by the installing engineers or firm or, by an appropriately qualified engineer or organisation who must be approved by the **insurer(s)** to carry out such maintenance. Such approval will not be unreasonably withheld.

Notice of all alterations and additions to the automatic sprinkler installation shall be given by the **insured** to the **insurer(s)** as soon as reasonably practicable.

## Other Insurance

The **insured** shall give written notice as soon as reasonably practicable to the **insurer(s)** of any other **insurance** or **insurances** effected covering the **property insured**.

## Cancellation

- a. This **policy** may be cancelled at any time at the request of the **insured**, in which case the **insurer(s)** will retain a pro rata portion of the **premium** subject to any adjustment for the time this **policy** has been in force.
- b. The **insurer(s)** may also cancel this **policy** by giving the **insured** written notice to that effect where:
  - I. The **insured** or any person who was at any time the **insured** failed to comply with the duty of utmost good faith;
  - II. The person who was the **insured** at the time when this **policy** was entered into failed to comply with the duty of disclosure;
  - III. The person who was the **insured** at the time when this **policy** was entered into made a misrepresentation to the **insurer(s)** during the negotiations for this **policy** but before it was entered into;
  - IV. The **insured** or any person who was at any time the **insured** failed to comply with a provision or condition of this **policy**, including a provision with respect of the payment of the **premium**;
  - V. The **insured** has made a fraudulent claim under this **policy** or any other **policy of insurance** (whether with the **insurer(s)** or some other **insurer**) that provided **insurance** cover during any part of the period during which this **policy** provides **insurance** cover;

- VI. The **insured** failed to notify the **insurer(s)** of any specific act or omission where such notification is required under the terms of this **policy**;
  - VII. The **insured** acted in contravention of or omitted to act in compliance with any condition of this **policy** which empowers the **insurer(s)** to refuse to pay, or reduce their liability in respect of, a claim in the event of such contravention or omission; or
  - VIII. An act or omission by **you** has the effect of altering the state of condition of the subject matter of the contract or of allowing the state or condition of that subject matter to alter.
- c. The **insurer(s)** notice of cancellation takes effect at the earlier of the following times:
    - I. The time when another **policy of insurance** between the **insured** and the **insurer(s)** or some other **insurer**, being a **policy** that is intended by the **insured** to replace this **policy**, is entered into; or
    - II. Thirty (30) **business** days after the day on which notice was given to the **insured**, at 4.00 p.m. on such day.

In the event that the **insurer(s)** cancel(s) this **policy**, the **insurer(s)** will repay to the **insured** a rateable proportion of the **premium** for the unexpired **period of insurance** from the date of cancellation.

## Notification of claims

On the discovery of any loss, destruction or **damage**, the **insured** shall as soon as reasonably practicable give notice thereof in writing to the **insurer(s)** and shall (after such loss, destruction or **damage** or such further time as the **insurer(s)** may in writing allow), at the **insured's** own expense, deliver to the **insurer(s)** a claim in writing containing as particular an account as may be reasonably practicable of the property lost, destroyed or **damaged** and of the amount of loss, destruction or **damage** thereto, having regard to the value at the time of the loss, destruction or **damage**, together with details of any other **insurances** which may apply to the losses the subject of the claim.

The **insured** shall use due diligence and do and concur in doing all things reasonably practicable to minimise any interruption of or interference with the **business** to avoid or diminish the loss and shall also deliver to the **insurer(s)** a statement in writing of any claim certified by the **insured's** accountant, with all particulars and details reasonably practicable of the loss and shall produce and furnish all books of accounts and other **business** books, invoices, vouchers and all other documents, proofs, information, explanations and other evidence and facilities as may reasonably be required for investigation and verification of the claim.

## Fraud claims clause (Australia)

If any claim be in any respect fraudulent or if any fraudulent means or devices be used by the Assured or anyone acting on the Assured's behalf to obtain any benefit under this **policy**, or if any loss hereunder be occasioned by the wilful act or with the connivance of the Assured, the **underwriters**, without prejudice to any other right(s) they might have under this **policy**, shall be entitled to refuse to pay such claim.

## Reinstatement

If the **insurer(s)** elect(s) or become(s) bound to reinstate or replace any **property insured**, the **insured** shall at the **insured's** own expense produce and deliver to the **insurer(s)** all such plans, documents and information as the **insurer(s)** may reasonably require. Where the **insurer(s)** is/are not able to reinstate exactly or completely (for example, if the exact materials are no longer manufactured), the **insurer** will reinstate in a reasonable manner and shall not in any case be bound to expend more than the applicable **limit(s) of liability**.

## Insurer(s) rights

On the discovery of any loss, destruction or **damage** in respect of which a claim is or may be made under the **policy** the **insurer(s)** may, without thereby incurring any liability and without diminishing the right of the **insurer(s)** to rely upon any terms of this **policy**, enter, take or keep possession of the **building** or **premises** where the loss destruction or **damage** has happened, and may take possession of or require to be delivered to the **insurer(s)** any of the **property 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 permission, leave and licence of the **insured** to the **insurer(s)** so to do.

The **insured** shall not in any case be entitled to abandon any property to the **insurer(s)** whether taken possession of by the **insurer(s)** or not.

## Subrogation

- a. Any person claiming under this **policy** shall at the request and at the expense of the **insurer(s)** do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the **insurer(s)** for the purpose of enforcing any rights and remedies of the **insured**, and obtaining relief or indemnity from other parties where the rights and remedies are subrogated to the **insurer(s)** upon the **insurer** paying for or making good any destruction or **damage** under this **policy** or paying any monies under **Section 2** of this **policy**.
- b. If the **insurer** makes any recovery as a result of such action, the **insured** may only recover from the **insurer** any amount by which the amount recovered by the **insurer** exceeds the amount paid to the **insured** by the **insurer(s)** in relation to the loss.

## Precautions to prevent loss

The **insured** shall take all reasonable precautions to prevent loss, destruction or **damage** to the **property insured**.

## Insured's action after theft or damage

The **insured** shall, upon becoming aware of any loss by theft or of any wilful or malicious **damage** which may give rise to a claim under this **policy**, take all reasonably practicable steps to trace and recover any missing property and to discover by whom the property was stolen or **damaged**, including reporting the matter to the police or any other responsible authority.

## Termination of cover under Section 2

Notwithstanding anything contained herein to the contrary, if during any period in respect of which this **policy** is in force:

- a. The **insured** ceases to carry on the **business** or any part of the **business** is disposed of, ceases to continue the **business**, or the **business** is permanently discontinued or the **insured's** interest in the **business** or any part of the **business** ceases otherwise than by reason of death;
- b. The **insured** (being a corporation) is placed in liquidation (or provisional liquidation), is placed under official management, enters into a scheme of arrangement, has receivers, and/or managers appointed over its assets or undertaking(s); or
- c. The **Insured** (being a natural person) becomes a bankrupt or enters into a scheme of arrangement or compromise or composition with creditors;

then the **insurance** cover provided under **Section 2** of this **policy** in respect of such **business** or **insured** shall automatically cease upon the happening of any of those events.

In the event of the **indemnity period** having begun to run in respect of any claim relating to such **business** or part thereof, the **indemnity period** shall be at the end upon the happening of the events above, unless its continuance be admitted by memorandum signed for or on behalf of the **insurer(s)**.

Such termination of cover shall not apply if any of the events stated above are caused by loss, **insured** by this **policy** resulting from interruption of or interference with the **business** in consequence of **damage** to **property insured**.

## Observance of terms and conditions

Any breach of a condition or warranty without the knowledge or consent of the **insured**, or error in name, description or location, or omission to state a material fact, shall not invalidate the **policy** provided as soon as reasonably practicable notice in writing be given to the **insurer(s)** when such breach or error or omission comes to the knowledge of the **insured's** officer responsible for **insurance** and additional **premium** for any increased hazard as the **insurer(s)** may require shall be paid.

Where the separate interests of more than one co-insured in the **property insured** are **insured** under this **policy**, any act or neglect of one co-insured will not prejudice the rights of the remaining co-insured; provided that the remaining co-insured shall, within a reasonable time after becoming aware of any act or neglect whereby the risk of loss, **damage** or destruction has increased, give notice in writing to the **insurer(s)** and shall on demand pay such reasonable additional **premium** as the **insurer(s)** may require.

### Progress payments

Provided that liability has been admitted progress payments on account of any claim may be made to the **insured** at such intervals and for such amounts as may be agreed upon production of a report by a loss adjuster appointed by the **insurer(s)** or as determined by the **insurer(s)** provided such payment(s) shall be deducted from the amount finally determined upon adjustment or settlement of the claim.

### Headings

Headings have been included for ease of reference and it is understood and agreed that the terms and conditions of this **policy** are not to be construed or interpreted by reference to such headings.

### Lloyd's Australian alternative disputes resolution clause

In the event that a dispute arises between **Underwriters** and the **Insured/Reinsured** out of or otherwise in relation to this agreement, then:

- a. Any party to the dispute shall, without prejudice to any other right or entitlement they may have, give written notice to the other party (the "Dispute Notice") requiring them within 7 days of this notice to negotiate (whether in a face to face meeting or by teleconference) in good faith as to how the dispute can be resolved;
- b. If a dispute is not resolved within 10 days of the Dispute Notice, either party can request the other party within a further 10 days to agree on either:
  1. A process for resolving the dispute through means other than litigation or arbitration, such as further negotiation, mediation, or any other alternative dispute resolution technique. The rules governing any such technique shall be agreed as between the parties and where no such agreement as to the process and or guidelines is reached within 10 days, then it shall be by mediation by a mediator selected by the Chairperson for the time being of Lawyers Engaged in Alternative Dispute Resolution (LEADR) (or other appropriate professional body as agreed by the parties); or
  2. Referral of the matters in dispute to an independent expert for an expert determination. The parties

agree that they will not be bound by the determination of the expert. The expert:

- a. Will be a person agreed between the parties within 10 days of the dispute being referred to expert determination or failing this, the expert will be a person appointed by the Australian Insurance Law Institute (or other appropriate professional body as agreed by the parties);
- b. Will act as an expert and not as an arbitrator;
- c. Will proceed in such a manner as he or she thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
- d. Will take into consideration all documents, information and other written and oral material that the parties place before him or her including documents, information and material relating to the facts in dispute and to arguments and submissions upon the matters in dispute; and
- e. Will act with expedition to provide the parties with a determination in writing within 35 days of the referral to him or her of the matters in dispute.

Both parties must use their best endeavours to achieve resolution by the selected process and further agree that neither party will initiate litigation (as set out in clause (c) below) without first pursuing such informal resolution techniques in good faith;

In the event that the dispute is not resolved by such informal process within 35 days of the Dispute Notice (or such other period as agreed in writing between the parties) the dispute shall be referred to litigation.

- c. Following either a mediation or an expert determination pursuant to clause (b) of this provision, either party may then initiate proceedings in any competent Court in the Commonwealth of Australia in relation to the matters in dispute.

Such proceedings may only be commenced on 14 days written notice to the other party and shall be determined in accordance with the law and practice applicable in such Court.

Any summons, notice or process to be served upon **underwriters** may be served upon:

#### Lloyd's Underwriters' General Representative in Australia

Suite 1603, Level 16  
1 Macquarie Place  
Sydney NSW 2000

who has authority to accept service on **underwriters'** behalf.

If proceedings are instituted against any one of the **underwriters**, all **underwriters** participating in this **insurance** will abide by the final decision of such Court or any competent Appellate Court.

- d. Except where the dispute renders it impossible to do so, the parties will continue performing their respective obligations under the **policy** while the dispute is being resolved, unless and until such obligations are terminated or expire in accordance with this agreement.
- e. Each party must use its reasonable endeavours to ensure that where a dispute is reasonably foreseeable, it is dealt with at a sufficiently early stage to ensure that there is a minimal effect on the ability of either party to perform its obligations under the **policy**.
- f. Notwithstanding anything in this **schedule**, either party may at any time commence Court proceedings in relation to any dispute or claim arising under, or in connection with the **policy** where the party seeks urgent interlocutory relief.

LMA5547  
17/05/2021

### Insurer(s) liability several not joint

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an **insurer**. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other **insurer** that may underwrite this contract. The **business** address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

LMA5096  
07/03/2008

## General Exclusions

### Property cyber and data exclusion

1. Notwithstanding any provision to the contrary within this **policy** or any **endorsement** thereto this **policy** excludes any:
  - 1.1 **Cyber loss**;
  - 1.2 Loss, **damage**, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any **data**, including any amount pertaining to the value of such **data**;

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

2. In the event any portion of this **endorsement** is found to be invalid or unenforceable, the remainder shall remain in full force and effect.
3. This **endorsement** supersedes and, if in conflict with any other wording in the **policy** or any **endorsement** thereto having a bearing on **cyber loss** or **data**, replaces that wording.

### Definitions

4. **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**.
5. **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**.
6. **Cyber Incident** means:
  - 6.1 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
  - 6.2 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**.
7. **Computer System** means:
  - 7.1 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.

8. **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**.

LMA5401  
11/11/2019

### Terrorism exclusion

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.

For the purpose of this **endorsement** an **act of terrorism** means: an act, including but not limited to the use of force or violence and/or the 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), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any **section** of the public, in fear.

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 the **underwriters** 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 Assured.

In the event any portion of this **endorsement** is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

**NMA2920**  
**08/10/2001**

### Radioactive contamination exclusion clause – physical damage – direct

This **policy** does not cover any loss or **damage** arising directly or indirectly from nuclear reaction nuclear radiation or radioactive contamination however such nuclear reaction nuclear radiation or radioactive contamination may have been caused \*NEVERTHELESS if Fire is an **insured** peril and a Fire arises directly or indirectly from nuclear reaction nuclear radiation or radioactive contamination any loss or **damage** arising directly from that Fire shall (subject to the provisions of this **policy**) be covered EXCLUDING however all loss or **damage** caused by nuclear reaction nuclear radiation or radioactive contamination arising directly or indirectly from that Fire.

\*NOTE: If Fire is not an **insured** peril under this **policy** the words "NEVERTHELESS" to the end of the clause do not apply and should be disregarded.

**NMA1191**  
**07/05/1959**

### Biological or chemical materials exclusion

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 the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

**NMA2962**  
**06/02/2003**

### Institute radioactive contamination, chemical, biological, bio-chemical and electromagnetic weapons exclusion clause

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

1. In no case shall this **insurance** cover loss **damage** liability or expense directly or indirectly caused by or contributed to by or arising from:
  - 1.1 Ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
  - 1.2 The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
  - 1.3 Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
  - 1.4 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;
  - 1.5 Any chemical, biological, bio-chemical, or electromagnetic weapon.

**CL0370**  
**10/11/2003**

### Radioactive contamination and explosive nuclear assemblies exclusion clause

This **policy** does not cover:

- a. Loss or destruction of or **damage** to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss;
- b. Any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
  - i. Ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
  - ii. The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

**NMA1622**  
**04/04/1968**

### Sanction limitation and exclusion clause

We shall not be deemed to provide cover nor 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 us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, Australia or United States of America.

LMA3100  
15/09/2020

### Sanctions suspension clause

It is a condition of this (re)insurance, and the (re)insured agrees, that the provision of any cover, the payment of any claim and the provision of any benefit hereunder shall be suspended, to the extent that the provision of such cover, payment of such claim or provision of such benefit by the (re)insurer would expose that (re)insurer to any sanction, prohibition or restriction under any:

- a. United Nations' resolution(s); or
- b. The trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

Such suspension shall continue until such time as the (re)insurer would no longer be exposed to any such sanction, prohibition or restriction.

LMA3200  
05/10/2023

### Communicable disease exclusion

1. This **policy**, subject to all applicable terms, conditions and exclusions, covers losses attributable to direct physical loss or physical **damage** occurring during the **period of insurance**. Consequently and notwithstanding any other provision of this **policy** to the contrary, this **policy** does not insure any loss, **damage**, claim, cost, expense or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. For the purposes of this **endorsement**, loss, **damage**, claim, cost, expense or other sum, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test:
  - 2.1 For a Communicable Disease; or
  - 2.2 Any **property insured** hereunder that is affected by such Communicable Disease.
3. 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:

- 3.1 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
- 3.2 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
- 3.3 The disease, substance or agent can cause or threaten **damage** to human health or human welfare or can cause or threaten **damage** to, deterioration of, loss of value of, marketability of or loss of use of **property insured** hereunder.
4. This **endorsement** applies to all coverage extensions, additional coverages, exceptions to any exclusion and other coverage grant(s).

LMA5395  
25/03/2020

### Asbestos endorsement

- a. Physically incorporated in an **insured building** or structure, and then only that part of the asbestos which has been physically **damaged** during the **period of insurance** by one of these Listed Perils:
 

fire; explosion; lightning; windstorm; hail; direct impact of vehicle, aircraft or vessel; riot or civil commotion, vandalism or malicious mischief; or accidental discharge of fire protective equipment.

This coverage is subject to each of the following specific limitations:

1. The said **building** or structure must be **insured** under this **policy** for **damage** by that Listed Peril.
2. The Listed Peril must be the immediate, sole cause of the **damage** of the asbestos.
3. The Assured must report to **underwriters** the existence and cost of the **damage** as soon as practicable after the Listed Peril first **damaged** the asbestos. However, this **policy** does not insure any such **damage** first reported to the **underwriters** more than 12 (twelve) months after the expiration, or termination, of the **period of insurance**.
4. **Insurance** under this **policy** in respect of asbestos shall not include any sum relating to:
  - i. Any faults in the design, manufacture or installation of the asbestos;
  - ii. Asbestos not physically **damaged** by the Listed Peril including any governmental or regulatory authority direction or request of whatsoever nature relating to **undamaged** asbestos.
- b. Except as set forth in the foregoing **Section A**, this **policy** does not insure asbestos or any sum relating thereto.

LMA5019  
14/09/2005



### Territorial exclusion: Russia, Ukraine and Belarus

Notwithstanding anything to the contrary in this **policy**, this **policy** excludes any loss, **damage**, liability, cost or expense of whatsoever nature, directly or indirectly arising from or in respect of any:

- i. Entity domiciled, resident, located, incorporated, registered or established in an **excluded territory**;
- ii. Property or asset located in an **excluded territory**;
- iii. Individual that is physically in an **excluded territory**;
- iv. Claim, action, suit or enforcement proceeding brought or maintained in an **excluded territory**;
- v. Payment in an **excluded territory**.

This exclusion will not apply to any coverage or benefit required to be provided by the **insurer** by law or regulation applicable to that **insurer**, however, the terms of any sanctions clause will prevail.

For purposes of this exclusion, “**Excluded Territory**” means:

- + Belarus (Republic of Belarus); and
- + Russian Federation; and
- + Ukraine (including any disputed regions of Ukraine and including the Crimean Peninsula).

All other terms, conditions and exclusions remain unchanged.

**LMA5584**  
**14/04/2022**

### War and civil war exclusion

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.

**NMA0464**  
**01/01/1939**

### Electronic date recognition exclusion (EDRE)

This **policy** does not cover any loss, **damage**, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:

- a. The calculation, comparison, differentiation, sequencing or processing of **data** involving the date change to the year 2000, or any other date change, including leap year calculations, by any **computer system**, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the **insured** or not; or
- b. Any change, alteration, or modification involving the date change to the year 2000, or any other date change, including leap year calculations, to any such **computer system**, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the **insured** or not.

This clause applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, **damage**, cost, claim or expense.

**NMA2802**  
**17/12/1997**

# Sublimit Definitions

## Co-insurance clause

Property insured under the Reinstatement or Replacement Memorandum is separately subject to the following Co-insurance clause:

In the event of damage to any property insured hereunder at any situation caused by any event hereby insured against, the Insurer(s) shall be liable for no greater proportion of such damage than the amount that the Insured's declaration of value of property insured at such situation on the day of the commencement of the Period of Insurance bears to the sum representing eighty-five percent (85%) of the cost that would have been incurred in reinstatement if the whole of such property had been destroyed on that day, but not exceeding the Limit of Liability expressed in the Schedule.

Provided that if the sum actually incurred or expended in rebuilding or replacing the damaged property, within the meaning of subparagraph (a) of the abovementioned definition of reinstatement, exceeds the amount that would have been payable under this Policy if this memorandum had not been incorporated herein, but is less than the cost of reinstatement as above defined, then the sum so actually incurred or expended shall, for all purposes of this memorandum, be deemed to be the cost of reinstatement of the property.

Provided further that the above clause shall not apply if the amount of the damage does not exceed five percent (5%) of the amount of the Insured's declaration aforementioned.

### Example of the application of co-insurance

<b>LIMIT OF LIABILITY</b>	\$ 1,400,000
Sum Insured	\$ 500,000
Value at Risk	\$ 1,000,000
Co-insurance percentage as stated in the policy	85%
Amount of loss	\$ 400,000

### How to calculate amount payable

$\frac{\text{Sum Insured}}{\text{Co-insurance percentage} \times \text{Value at risk at start of policy}}$	X	Loss amount
= $\frac{500,000}{85\% \text{ of } 1,000,000}$	X	\$ 400,000
= 58.82%	X	\$ 400,000

Insurer to pay adjusted claim amount of: \$ 235,280

Uninsured portion of the claim: \$ 164,720

# Endorsements Attaching to and Forming Part of Industrial Special Risks Insurance Policy

*Headings have been included for ease of reference and it is understood and agreed that the policy and endorsements are not to be interpreted by reference to such headings.*

*These endorsements are only operative when a sub-limit is shown in the Schedule.*

*Notwithstanding anything contained herein to the contrary it is hereby declared and agreed that the following Endorsements are made to the Policy:*

## Section 1 – Material Loss or Damage

### The Indemnity

#### ENQUIXB4

#### Liability to Make Enquiries

This **policy** extends to include costs and expenses incurred by the **Insured** in respect of any legal liability to make enquiries consequent upon physical loss, destruction or **damage insured** by this **policy**, but not exceeding the sub-limit stated in the **schedule**.

#### PAYQCXS4

#### Statutory Inquiries

Paragraph (a) of *The Indemnity* shall extend to include costs and expenses incurred by the **insured** in connection with Statutory Inquiries following **damage to property insured** but not exceeding the sub-limit stated in the **schedule**.

The term 'Statutory Inquiries' shall mean any judicial, coronial or other form of inquiry or hearing established by or at the direction of any government, semi-government, local or planning authority as a direct result of **damage to property insured**.

For the purpose of the application of Provision (iii) of the Reinstatement or Replacement Memorandum or the Co-insurance Memorandum, the **insured's** declared values at any **situation** shall not include any allowance for the costs and expenses referred to in this extension.

#### NODAMPC4

#### Damage Diminution and Accidental Discharge Costs (B)

In paragraph (c) of *The Indemnity* in *Section 1*, the words "for the purpose of preventing or diminishing imminent **damage** to property" are amended to read: "for the purpose of preventing imminent **damage** or minimising **damage to property insured**".

*The Indemnity* under paragraph (c) extends to include costs and expenses incurred to switch off and re-set alarms following an occurrence caused by an **insured** peril.

*The Indemnity* under paragraph (c) shall apply whether or not **damage** occurs to **property insured** in circumstances giving rise to indemnity under *Section 1* of this **policy**.

Our liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against "Damage Diminution and Accidental Discharge Costs (B)" for any one loss or series of losses arising out of any one event or occurrence.

#### LOSMPCB4

#### Loss Minimisation (B)

Clause (c) of *The Indemnity* in *Section 1* is extended to incorporate such reasonable costs (including travelling expenses) incurred to avert or minimise losses by perils **insured** by this **policy**, including the protection, safeguard or recovery of **property insured**. Our liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against "Loss Minimisation (B)" for any one loss or series of losses arising out of any one event or occurrence.

#### UNPAKXB4

#### Unpacking Expenses

This **policy** extends to include costs and expenses incurred by the **insured** in taking inventory (including unpacking, repacking and restocking) to identify, quantify and value any property physically lost, destroyed or **damaged** by any **peril insured against** by this section including examination of property not belonging to but in the care, custody or control of the **insured**. Our liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against "Unpacking Expenses" for any one loss or series of losses arising out of any one event or occurrence.

#### XPLORXS4

#### Exploratory Costs

Paragraph (c) of *The Indemnity* in *Section 1* of the **policy** extends to include exploratory costs necessarily and reasonably incurred by the **insured** to prevent imminent **damage** or diminish **damage to property insured** by any **peril insured against** by this **policy**. Our liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against "Exploratory Costs" for any one loss or series of losses arising out of any one event or occurrence.

**REFIXXS4 Reinstatement of Undamaged Property**

Paragraph (f) (iii) of *The Indemnity* is extended to include the cost of reinstating any property belonging to the **insured** that has been necessarily demolished and removed for the purpose of the reinstatement or replacement of **property insured damaged** by any **peril insured against** by this **policy**.

**PPROSTB4 Personal Property of Employees and Others (B)**

The wording of clause (g) of *The Indemnity* in *Section 1* of the **policy** is amended to read:

“(g) **damage** to personal property, tools and effects (excluding money) of directors and employees whilst on the **insured’s premises** and **damage** to visitor’s personal effects (excluding money) whilst on the **insured’s premises**, but only to the extent that such property is not otherwise **insured**.

**Our** liability for any one loss or series of losses arising out of any one event or occurrence is limited to the amount of the sub-limits stated in the **schedule** of the **policy** against “Personal Property of Employees and Others (B)”.

**LUGGAPC4 Accompanied Baggage in Australia (C)**

The following clause is added to *The Indemnity* in *Section 1: Material Loss or Damage*:

“**Damage** occurring anywhere in the Commonwealth of Australia other than on the **premises** of the **insured** or of directors or employees of the **insured**, to personal property belonging to directors and employees of the **insured** whilst they are engaged on the **business** of the **insured** to the extent that such property is not otherwise **insured**.”

Provided that the indemnity afforded by this clause shall be limited to the amount specified in the **schedule**.

**EXPEDXB4 Expediting Expenses**

The **policy** extends to include reasonable costs and expenses incurred by the **insured** for express carriage rates and extra payments for overtime, night, Sunday or holiday working incurred in connection with the repair or reinstatement of the **property insured** directly or indirectly arising from an event **insured** by the **policy**. **Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Expediting Expenses” for any one loss or series of losses arising out of any one event or occurrence.

**PIPESXP4 Cost of Clearing Blocked Drains, Pipes, Filters and Pumps (B)**

*The Indemnity* in *Section 1* of the **policy** is extended to include additional costs necessarily and reasonably incurred by the **insured** in the clearance of blocked pipes, drains, gutters, sewers, filters, pumping equipment and the like during the **period of insurance**, including exploratory costs, at the **premises** as a direct result of **damage** as **insured** herein. **Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Cost of Clearing Blocked Drains, Pipes, Filters and Pumps (B)” for any one loss or series of losses arising out of any one event or occurrence.

For the purpose of the application of Provision (iii) of the Reinstatement or Replacement Memorandum or the Co-Insurance Memorandum, the **insured’s** declared values at any **situation** shall not include any allowance for the costs referred to in this extension.

**LDUTYVB4 Liability for Duty**

The **policy** extends to include the **insured’s** liability for customs, excise and other duties which the **insured** becomes liable to pay in the event of **damage** to **property insured**, but not exceeding the sub-limit specified in the **schedule**.

**The property insured**

**SALESXB4 Customers’ Goods**

The **policy** extends to insure goods belonging to the **insured’s** customers at the **premises**, to the extent that such goods are not otherwise **insured**. **Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Customers’ Goods” for any one loss or series of losses arising out of any one event or occurrence.

**PROPBXS4 Property Insured (B)**

The first paragraph of the definition of the **property insured** is amended to read:

“All tangible property both real and personal property of every kind and description (except as hereinafter excluded) belonging to the **insured** or for which the **insured** is responsible, or has assumed responsibility to insure prior to the occurrence of any **damage**, including all such property in which the **insured** may acquire an insurable interest or for **damage** to which the **insured** becomes responsible or assumes responsibility to insure, after the commencement of the **period of insurance**.”

## Basis of settlement

### LANDSCP4 Landscaping (C)

This **policy** extends to include **damage** to landscaping; which term shall mean lawns, gardens, plants, shrubs, trees, rockwork, ornamentation and the like. **Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Landscaping (C)” for any one loss or series of losses arising out of any one event or occurrence.

### SECURXS4 Securities (A)

*Basis of Settlement (e)* is amended by deleting the word ‘securities’. In the case of Securities (which shall mean certificates of stock, bonds, coupons and all other types of securities), the basis of valuation shall be:

- a. “If, with the approval of the **insurer(s)**, the Securities can be replaced, the cost of replacement paid or payable by the **insured**; or
- b. If the Securities cannot or are not to be replaced by the **insured**, the greater of:
  - I. The price for which the **insured** purchased them; and
  - II. The closing market value on the last **business** day prior to the date of discovery by the **insured** of the loss or destruction of the Securities or, if the time of discovery by the **insured** is after the close of the market, their closing market value on the day of discovery by the **insured** of the loss or destruction of the Securities.
- c. In the case of a loss of subscription, conversion or redemption privileges through the loss of any Security, the value of such privileges immediately preceding the expiration thereof.

Such valuation being in the currency in which the loss was sustained. Losses sustained in currencies other than Australian dollars shall be settled by converting the amount of loss to Australian dollars at the market rate as set by the Reserve Bank of Australia at the time of settlement of the loss or such other rates as may be expressly agreed with the **insurer(s)**. If there is no market price or value on the relevant day stated herein, then the value shall be agreed between the **insured** and the **insurer(s)** or, in default thereof, the **insured** and the **insurer(s)** shall submit to arbitration and be bound by the decision of the Umpire.”

### UNDELXB4 Goods Sold But Not Delivered (A)

The *Basis of Settlement* under *Section 1(d)* of the **policy** is extended to include the following clause:

“On goods sold but not delivered for which the **insured** is responsible and with regard to which, under the conditions of sale, the sale contract is by reason of the **damage**, cancelled either wholly or to the extent of the **damage**; the contract price.”

**Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Goods Sold But Not Delivered” for any one loss or series of losses arising out of any one event or occurrence.

### ANTIQXS4 Works of Art, Antiques and Curios

The following paragraph is inserted after paragraph (i) of the *Basis of Settlement* clause in *Section 1*:

“On works of art, antiques and curios, none of which form part of the stock in trade or merchandise of the **business**:

Notwithstanding the first paragraph of *Basis of Settlement (a)*, the cost of restoring and repairing to a condition substantially the same as before the **damage** plus any reduction in market value caused by the **damage**. If restoration or repair is not possible, the market value immediately before the **damage**.”

**Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Works of Art, Antiques and Curios” for any one loss or series of losses arising out of any one event or occurrence.

## Memoranda applicable to Section 1

### LABELXB4 Labels, Containers and Wrappings

In the event of **damage** affecting labels, containers or wrappings, the **insurer(s)** shall not be liable for more than an amount sufficient to pay the cost of new labels, containers or wrappings, and the cost of reconditioning the goods, but in no case shall the **insurer(s)** be liable for more than the **insured** value of the **damaged** merchandise.

**Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Labels, Containers and Wrappings” for any one loss or series of losses arising out of any one event or occurrence.

**NODEPC4 Declared Values (B)**

The memorandum to *Section 1* under this heading is extended to include the following paragraphs:

“If asset movements between **situations** used by the **insured** have resulted in an under-declaration of value(s) at a **situation** and an offsetting over-declaration of value(s) at one or more other **situation(s)**, then such factors shall be taken into account when calculating the test for the application of Co-insurance/Under-insurance.

Declared values shall not include any allowance for Extra Cost of Reinstatement nor any of the costs and expenses referred to under any of the clauses, except clause (g), of *The Indemnity*.”

**ADDECPC4 Additional Extra Cost of Reinstatement (B)**

(Applicable to **buildings**, machinery, plant and all other property and contents other than those specified in items (b) to (i) under *Basis of Settlement*).

The **policy** extends to cover the additional extra cost of reinstatement including demolition or dismantling of the **insured** property **damaged**, necessarily incurred by the **Insured** to comply with the requirements of any Act of Parliament or regulation made thereunder or any by-law or regulation of any municipal or other statutory authority and not otherwise recoverable under the terms and conditions of the **policy**.

Provided that the indemnity afforded by this clause:

- a. shall be limited in respect of each loss or series of losses arising out of any one event to the amount shown in the **Schedule** against Additional Extra Cost of Reinstatement (B), which amount shall be separate from and additional to the **Limit of Liability** expressed in the **Schedule** of the **policy** in respect of **buildings**, machinery, plant and all other property and contents other than those specified in items (b) to (i) under *Basis of Settlement*;
- b. shall not include the additional cost incurred in complying with any such Act, regulation, by-law or requirement with which the **Insured** has been duly required to comply prior to the happening of the **damage**; and
- c. shall not be subject to the Co-insurance Memorandum contained in *Section 1* of the **policy**.

The work of reinstatement (which may be carried out wholly or partially upon another site or sites if the aforesaid Act, by-law or regulation so necessitates subject to the liability of the

**Insurer(s)** not being thereby increased) must be commenced and carried out with reasonable despatch, failing which the **Insurer(s)** shall not be liable to make any payment beyond the amount that would have been payable under the **policy** if this Memorandum had not been incorporated therein.

**Our** liability shall not exceed the amount of the sub-limit stated in the **Schedule** of the **policy** against “Additional Extra Cost of Reinstatement (B)” for any one loss or series of losses arising out of any one event or occurrence.

**RUINSXB4 Abandoned Undamaged Portion of a Building**

If any **building** is **damaged** and due to the exercise of statutory powers or delegated legislation or authority by any government department, local government or other statutory Authority, reinstatement of such **building** is carried out upon another site, then the abandoned undamaged portion of such **building** shall be deemed to have been destroyed; provided that if the presence of such abandoned **undamaged** portion of the **building** increases the sale value of the original site, the increase in sale value shall be regarded as salvage and the amount thereof shall be payable to the **Insurer(s)** by the **Insured** upon completion of any sale of the site or shall be deducted from the total amount otherwise payable by the **Insurer(s)** under this **policy**, whichever shall occur later.

**Our** liability shall not exceed the amount of the sub-limit stated in the **Schedule** of the **policy** against “Abandoned Undamaged Portion of a **Building**” for any one loss or series of losses arising out of any one event or occurrence.

All differences relating to the amount of such increase in site value shall forthwith be referred to the decision of two registered valuers; one to be appointed by each of the parties to this **policy**. If the two valuers do not agree, their differences shall be referred to the decision of a third valuer, appointed by the President of the Australian Institute of Valuers as an expert, whose decision shall be binding.

**APPLYXS4 Application of Deductibles**

**Deductibles** shall apply to the Limits and Sub-Limits of Liability in accordance with the **schedule** but the Limits and Sub-Limits of Liability shall only be applied in excess of the relevant **deductible**.

## Section 2 – Consequential Loss

### The Indemnity

#### BOILBVS4 Pressure Vessel Perils (B)

The second paragraph of *The Indemnity* in *Section 2* is amended to read:

“Provided that the **insurer(s)** will not be liable for any loss under this **section** unless the **insured’s** property lost, destroyed or **damaged** is **insured** against such **damage** (loss arising out of destruction or **damage** by the explosion, implosion, rupture, collapse, bursting, cracking or overheating of any boiler, economiser or other pressure vessel, including pipes, valves, and other apparatus forming part of any of these and in respect of any of which a certificate is required to be issued under the terms of any statute or regulation being excepted from this provision) and the **insurer** or insurers by which such property is **insured** shall have paid for or admitted liability in respect of such **damage** unless no such payment shall have been made or liability shall not have been admitted therefore solely owing to the operation of a provision in such **insurance** excluding liability for loss below a specific amount.”

### Basis of settlement

#### ITEM1PC4 Item No. 1 Amended

In the first paragraph of this *Basis of Settlement*, the words “loss of Gross Profit” are amended to read: “actual loss of Gross Profit”.

#### GP80AVP4 Gross Profit – 85% Average / Under-Insurance

The final paragraph of Item No 1 is amended to read:

“Provided that if the estimated value of **gross profit** declared at the commencement of the **period of insurance** is less than eighty five percent (85%) of the sum produced by applying the **rate of gross profit** to the **annual turnover** (appropriately increased if the **indemnity period** exceeds twelve months) which would have been achieved if the **damage** had occurred on the day of commencement of the **period of insurance**, the amount payable hereunder shall be proportionately reduced.”

This provision shall not apply if the amount of the loss does not exceed ten percent (10%) of the estimated value of **gross profit** declared at the commencement of the **period of insurance**.

**Rate of Gross Profit** means the proportion that the **gross profit** bears to the **turnover** during the financial year immediately before the date of the **damage**.

**Annual Turnover** means the **turnover** during the twelve months immediately before the day of commencement of the date of the **damage**.

#### FINESPC4 Contractual Fines and Penalties (B)

The following item is added to *Basis of Settlement* clause (*Section 2*): “*Item No. 5*”

The **insured** is indemnified with respect to fines and penalties for breach of contract and the amount payable as indemnity hereunder shall be such sum(s) as the **insured** shall be legally liable to pay and shall pay in discharge of fines and/or penalties incurred in consequence of the **damage**, for non completion or late completion of orders, inability to meet contract specifications or cancellation of orders.”

**Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Contractual Fines and Penalties (B)” for any one loss or series of losses arising out of any one event or occurrence.

#### PAY80AP4 Dual Pay-Roll – 85% Average/Under-Insurance

The final paragraph of *Item No.3* is amended to read:

“Provided that if the estimated value of **insured pay-roll** declared at the commencement of the **period of insurance** is less than eighty five percent (85%) of the amount produced by applying the **pay-roll limits** set out in the **schedule** to the amount produced by applying the **rate of pay-roll** to the **annual turnover** (or its appropriately increased multiple if the **indemnity period** exceeds twelve months) which would have been achieved if the **damage** had occurred on the day of commencement of the **period of insurance**, the amount payable hereunder shall be proportionately reduced.”

This provision shall not apply if the amount of the loss does not exceed ten percent (10%) of the estimated value of **insured pay-roll** declared at the commencement of the **period of insurance**.

#### SEVERXB4 Severance pay

The **insurance** under this item is limited to such further additional expenditure beyond that recoverable under clause (a) of *Item no. 3* of *Section 2* as the **insured** is obligated or has agreed to pay under industrial awards, determinations, decisions or agreements for severance pay and/or in lieu of notice to employees whose services are terminated during the **indemnity period** in consequence of the **damage**. The cover hereby granted shall be subject to the sub-limit stated in the **schedule** against ‘Severance pay’.

**BDEBPCB4 Accounts Receivable (B)**

The **insurance** under this item is limited to the loss sustained by the **Insured** in respect of all outstanding debit balances if the **Insured** is unable to effect collection thereof as a direct result of **damage** to records of accounts receivable. The Insurers will also pay:

- I. Interest charges at the Reserve Bank of Australia rates on any loan to offset impaired collections pending repayment of such amounts rendered uncollectible in consequence of the **damage**;
- II. Interest lost by the **insured** in consequence of such impaired collections;
- III. Additional expenditure necessarily and reasonably incurred in tracing and establishing the amounts of accounts receivable; and
- IV. Collection expenses in excess of normal collection costs, incurred in consequence of the **damage**.

Where there is proof that a loss covered by the **policy** has occurred, but the **insured** cannot accurately establish the total amount of accounts receivable outstanding at the date of **damage**, such amount shall be computed as follows:

- a. Determine the total amount of accounts receivable outstanding on the last working day of the fiscal month which ended twelve months before the beginning of the month in which the **damage** occurs.
- b. Calculate the average increase or decrease in the monthly total amounts of accounts receivable outstanding on the last working day of each of the twelve months immediately preceding the month in which **damage** occurs.
- c. The amount determined under paragraph (a), increased or decreased by the percentage calculated in accordance with paragraph (b) shall be deemed to be the total amount of accounts receivable outstanding at the time and date of the **damage**.
- d. The amount determined under paragraph (c) shall be adjusted as may be necessary to provide for any demonstrable variance from the amount so determined occurring before but during the month in which the **damage** occurs; due consideration also being given to normal monthly trends in receipts.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or **damaged**, or otherwise established or collected by the **insured**, and an equitable amount

to provide for doubtful debts. The cover hereby granted shall be subject to the sub-limit stated in the **schedule** against 'Accounts Receivable'.

**Definitions**

**BOOSTXB4 Government Incentives**

The definition of "**Turnover**" is extended to include financial incentives or concessions granted to the **insured** by any Australian or State Government Department in recognition of specific performance in the development of market opportunities or employment of disadvantaged persons.

**OPCONSXS4 Consolidated Period**

The term Consolidated Period means the sum of the number of weeks specified in the **schedule** applicable to clause (a)(i) of *Item No. 3* and the percentage specified in the **schedule** of the remaining portion of the **indemnity period** applicable to clause (a)(ii) of *Item No. 3*.

**INSPRXS4 Insured Pay-Roll**

The term **insured pay-roll** means the declared value of estimated **pay-roll** in respect of the Consolidated Period referred to in *Item No. 3* and specified in the **schedule**, declarable as at the day of commencement of the **period of insurance**.

**FBTSPVB4 Payroll: Amended Definition**

The definition of Payroll in *Section 2* of the **policy** is amended to read:

"The remuneration (including but not limited to payroll tax, fringe benefits tax, bonuses, holiday pay, sick pay, long service leave, workers' compensation **insurance premiums** and/or accident compensation levies, superannuation and pension fund contributions and the like) paid to all employees of the **insured**."

**Memoranda applicable to Section 2**

**OCPBIPC4 Other Contributing Properties (A)**

Any loss resulting from interruption of or interference with the **business** in consequence of **damage** to any other property (not more specifically mentioned in this **policy**) at any **situation** in Australia not owned or operated by the **insured**, but which wholly or partly prevents delivery of materials, goods or services to the **insured** and/or to the **insured's** customers shall be deemed to be loss resulting from **damage** to property used by the **insured** at the **premises**.

**Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against "Other Contributing Properties (A)" for any one loss or series of losses arising out of any one event or occurrence.



**SANZBPC4 Unspecified Suppliers' and/or Customers' Premises (Australia & New Zealand) (Single Limit) (B)**

Loss resulting from interruption of or interference with the **business** in consequence of **damage** to property at the **premises**, anywhere in Australia or New Zealand, of any direct producer or direct merchant shall be deemed to be loss resulting from **damage** to property used by the **insured** at the **premises**.

The liability of the **insurer(s)** under this **endorsement**, in respect of any one loss or series of losses arising out of any one event or occurrence at any one **premises**, shall be limited to amount stated in the **sub-limit of liability** noted in the **schedule** against Unspecified Suppliers and/or Customers Premises.

For the purposes of this **endorsement**, the term '**premises** of a producer' refers to **premises**, other than those described in the *Public Utilities Extension* to **Section 2** of the **policy**, at which any of the goods or services used directly by the **Insured** are produced, assembled or stored. The term '**premises** of a merchant' refers to **premises** to which the **Insured** directly provides goods or services.

**UNSPZC4 Unspecified Suppliers' and/or Customers' Premises – (Worldwide)**

Not insured.

**IDEPAXB4 Interdependency – Australia**

Loss as **insured** by **Section 2** of the **policy** resulting from interruption of or interference with the **business** in consequence of **damage** to property not **insured** by **Section 1** of the **policy** and situated at any other **premises** in Australia owned and/or occupied by the **Insured** for the purpose of the **business** shall be deemed to be resulting from **damage** to property used by the **insured** at the **premises**.

Our liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against "Interdependency" for any one loss or series of losses arising out of any one event or occurrence.

**REPELPC4 Vermin, Pests or Defective Sanitary Arrangements; Food or Drink Poisoning; Murder and Suicide – Amended**

Loss as **insured** by this **policy** resulting from interruption of or interference with the **business** directly or indirectly arising from as occurrence or outbreak at the **insured's premises** only and limited to:

Closure or evacuation of the whole or part of the **insured premises** by order of a competent Public Authority consequent upon:

- a. Vermin or pests or defects in the drains or other sanitary arrangements at the **insured premises**;
- b. Poisoning directly caused by the consumption of food or drink provided on the **insured premises**;
- c. Defects in the drains or other sanitary arrangements at the **premises**;
- d. Murder or suicide occurring in or at the **insured premises**;

shall be deemed to be loss resulting from **damage** to property used by the **insured** at the **insured premises** for the purpose of the **business**.

**ROYALPC4 Royalties Receivable (B)**

Loss of royalties receivable in consequence of **damage** to property at the specified **premises** anywhere in the world of any company, firm or person identified in the **schedule** against 'Royalties Receivable' shall, subject to the sub-limit stated in the **schedule**, be deemed to be loss resulting from **damage** to property used by the **insured** at the **premises**.

**EXHIBXB4 Trade Exhibitions (A)**

Loss as **insured** by **Section 2** of the **policy** resulting from interruption of or interference with the **business** due to curtailment of any trade exhibition anywhere in the world in consequence of **damage** thereat and/or to property exhibited therein by the **Insured** shall be deemed to be loss resulting from **damage** to property used by the **insured** at the **premises**.

Provided that the liability of the **insurer(s)** shall be limited to the sub-limit stated in the **schedule** of the **policy** against 'Trade Exhibitions' for any one loss or series of losses arising out of any one event or occurrence.

## Exclusions to all Sections

### Property exclusions

**AWAYBXS4 Temporary Removal Exemption (B)**

The final sentence of *Property Exclusion 1* is amended to read:

"This Exclusion shall not apply during temporary removal of property (other than stock and/or merchandise), including unregistered motor vehicles other than where used as stock and/or merchandise of the **business**, to any **situation**

within the Commonwealth of Australia and whilst at such **situation**. Whilst such property is in transit (excluding loading, unloading and storage in transit), cover is limited to physical loss, destruction or **damage** caused by fire, lightning, explosion, earthquake, aircraft, riot, strikes, malicious **damage** and storm and/or tempest.”

**Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Loss Minimisation (B)” for any one loss or series of losses arising out of any one event or occurrence.

#### **MONEYVS4 Money Carriers – Other Insurance**

The first paragraph of *Property Exclusion 2(a)* is amended to read:

“(a) whilst being carried by professional money carriers, professional carriers or common carriers which is **insured** by any person or entity other than the **insured** except to the extent of any **damage** in excess of the amount of that **insurance**.”

#### **BUSHRXS4 Business Hours**

For the purposes of *Property Exclusion 2(c)*, the **insured’s business** hours shall mean the period during which the **insured’s premises** are actually occupied for **business** purposes and during which the **insured** or employees of the **Insured** are in the **premises**.

#### **PRPAIRP4 Property in the Open Air (Storm) (A)**

*Property Exclusion 13(a)* is amended to read:

textile awnings and blinds;

*Property Exclusion 13(b)* is amended to read:

property in the open air unless such property is designed to function without the protection of walls or roof; caused by wind, rainwater or hail.

**Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Weather Damage to Certain Property” for any one loss or series of losses arising out of any one event or occurrence.

#### **STORMXB4 Weather Damage to Certain Property**

*Property Exclusion 13* is deleted.

**Our** liability shall not exceed the amount of the sub-limit stated in the **schedule** of the **policy** against “Weather Damage to Certain Property” for any one loss or series of losses arising out of any one event or occurrence.

#### **EXISTPC4 Contract Works – Existing Structure (B)**

This exclusion is amended to read:

“14(a) property included in a project of construction, erection, alteration or addition,

including the partial dismantlement of existing structures, where the total contract value of all work to be carried out at any one **situation** during such activity exceeds 10% of the **limit of liability** or \$500,000, whichever is the lesser. Provided that this *Exclusion 14(a)* shall apply only to the works comprising such construction, erection, alteration or addition and not to any original or existing structures.”

#### **BOIL2VS4 Pressure Vessel Perils – Section 2**

The final sentence of *Property Exclusion 17* is amended to read:

“The provisions of this Exclusion shall not apply to *Section 2* of this **policy**.”

#### **RDPVSVS4 Resulting Damage to Pressure Vessels**

*Property Exclusion 17* is extended to include the following provision: “Provided that the **insurer(s)** will indemnify the **insured** for any **damage** to the aforementioned items caused **directly** by any circumstances not excluded under *Section 1* of this **policy**, notwithstanding that these circumstances may in turn have been caused by any of the circumstances specified in this *Property Exclusion 17*.”

### **Perils exclusions**

#### **FLOODXB4 Flood**

Paragraph (a) of *Perils Exclusion 3* is deleted. The cover hereby granted shall be subject to the sub-limit stated in the **schedule** against ‘Flood’.

#### **DRAINXS4 Flood – Amended Definition**

The definition of “flood” forming part of *Perils Exclusion 3 (a)* is amended to read:

“The word ‘flood’ means the covering of normally dry land by water that has escaped or been released from the normal confines of any of the following:

- a. A lake (whether or not it has been altered or modified);
- b. A river (whether or not it has been altered or modified);
- c. A creek (whether or not it has been altered or modified);
- d. Another natural watercourse (whether or not it has been altered or modified);
- e. A reservoir;
- f. A canal;
- g. A dam.”

**THEFOAP4 Theft of Property in Open Air**

*Perils Exclusion 6(a)* is deleted for any losses arising from theft of property in the open air up to the amount of the Sub-Limit shown in the **policy schedule**.

Provided that cover is only afforded only for property within the boundaries of the **insured's situations**, as specified on the **schedule**.

**RDAIRVS4 Theft in Open – Resultant Damage**

*Perils Exclusion 6(a)* is extended to include the following additional provision:

“Provided further that the **insurer(s)** will indemnify the **insured** for any **damage to property insured** caused directly by any circumstances not excluded under *Section 1* of this **policy**, notwithstanding that these circumstances may in turn have been occasioned by or happened through theft of property (other than Money in transit) in the open air.”

**LNDVPCB4 Loss of Land Value (B)**

Notwithstanding the provisions of *Perils Exclusion 9* and *Property Exclusion 8*:

In the event of the absolute refusal by the competent local or government Authority to allow the reconstruction of the **premises** following destruction or **damage**, the **insurer(s)** shall pay by way of indemnity the amount of excess of the Land Value before the destruction or **damage** to improvements, over the Land Value after, the destruction or **damage** to improvements; or

In the event of the competent local or government Authority allowing only partial reconstruction of the **premises** after destruction or **damage**, the **insurer(s)** shall pay by way of indemnity the deficiency between the Land Value after such reconstruction and the Land Value before the destruction or **damage**;

Less any sum paid by way of compensation by such Authority arising out of the action referred to in (a) or (b) above. The liability of the **insurer(s)** shall be limited to the sub-limit stated in the **schedule** of the **policy** against ‘Loss of Land Value’ for any one loss or series of losses arising out of any one event or occurrence at any one **situation**.

**Definition**

**Land value** means:

The sum certified by the Valuer General as being the value of the land so described in the policy after due allowance has been made for variations in or other circumstances affecting such

value either before or after the damage or which would have affected the value had the damage not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the true Land Values pertaining both before and after the damage.

**Special conditions**

1. Settlement shall be made following the ruling of the competent local or government Authority resulting in the loss of land value. Should settlement have been made however and subsequently the ruling of the competent local or government Authority be changed prior to completion of the reconstruction, resulting in an increase in the Land Value, that part of the claim paid in excess of the revised Land Value shall be refunded to the **insurer(s)**.
2. All differences relating to the Land Value arising out of the **policy** shall forthwith be referred to the decision of two registered valuers; one to be appointed by each of the parties and in case the two registered valuers do not agree, of a third valuer, appointed by the President of the Australian Institute of Valuers as an expert, whose decision shall be binding.

**Memoranda applicable to all sections**

**EVNTCVS4 Event (C)**

The Memorandum applicable to all Sections and headed “Event” is amended to read:

“Only for the purpose of the application of any **deductible**: all loss, destruction or **damage** resulting from earthquake, volcanic eruption, subterranean fire or atmospheric disturbance occurring during each period of 72 consecutive hours shall be considered as one event whether continuous or sporadic in its sweep and/or scope and whether the loss, destruction or **damage** was due to the same seismological or meteorological conditions. Each event shall be deemed to have commenced on the first happening of any such loss, destruction or **damage**, not within the period of any previous event.”

**ACQPRPC4 Declarations of Acquired Property (B)**

The following paragraph is added to the Adjustment of **premium** Memorandum, at the end of paragraph (b):

“The **insured** shall also make such declarations to the **insurer(s)** under paragraph (b)(i) in respect of acquisitions of **property insured**, provided that no such declaration shall be required upon

acquisition when the value of the acquisition does not exceed the amount stated in the **schedule** against '*Declarations of Acquired Property (B)*', of the **insured's** total declaration of value under *Section 1* as at the commencement of the **period of insurance**.

Notwithstanding the acceptance of a total variation in the Declared Values up to the amount stated in the **schedule** of the **policy** against '*Declaration of Acquired Property (B)*' under sub-limits of liability, *Section 1: Material Damage*, nothing here shall be construed as automatically noting or providing an increase in the **limit of liability** under the **policy**."

### Conditions applicable to all sections

#### CANCX54 Cancellation by the Insured

Paragraph (a) of *Condition 5* is amended to read:

"This **policy** may be cancelled at any time at the request of the **insured**, in which case the **insurer(s)** will be entitled to a pro rata proportion of the **premium**, subject to any adjustment in accordance with the Adjustment of **premium** Memorandum, for the time this **policy** has been in force."

#### CLMSBVS4 Notification of Claims (B)

The first paragraph of *Condition 6* is amended to read:

"On the happening of any loss, destruction or **damage**, the **insured** shall forthwith give notice thereof in writing to the **insurer(s)** and shall as soon as reasonably practicable deliver to the **insurer(s)** a claim in writing containing as particular an account as may be reasonably practicable of the items of property lost, destroyed or **damaged** and the amount of **damage** having regard to their value at the time this occurred and of the amount of any claim under *Section 2* of this **policy**, together with details of any other **insurances** which may apply to the claim."

#### COND9VS4 Insurers' Rights

The words "without thereby incurring any liability" in *Condition 9* are amended to read "without thereby admitting any liability".

## Commercial Cooking Facility Condition

It is a condition of this **policy** that the **insured** is required to ensure compliance as per the following minimum standards in relation to any commercial cooking facility at the **insured's** locations, as specified in the **schedule**:

- a. All deep-frying and cooking equipment are installed, operated and maintained in accordance with the manufacturer's instructions;
- b. All deep-frying units are fitted with fully operable thermostat controls and over-temperature cut-out provisions;
- c. All deep frying and cooking equipment is not within 1,000mm of combustible material including any such material within or forming part of the **insured's premises**;
- d. All flues and extract system ducting is not within 300mm of combustible material including any such material within or forming part of the **insured's premises** (Refer to AS 1668);
- e. The entire internal and external area of all filters, canopies/hoods, flues and extraction ducting, including extraction motors and fans, are thoroughly cleaned by a professional contractor(s), by the removal of all greasy and oily deposits and other waste materials, in accordance to the below depending on usage frequencies:

Usage	Filters & Canopies/ Hoods	Extraction Ducting & Flues (including extraction motors and fans)
Light to Moderate use; Deemed as less than 4 hours per day	Fortnightly	6-monthly
Heavy use; Deemed as more than or equal to 4 hours per day	Weekly	3-monthly

- f. In addition to the above cleaning regime, all filters must be maintained and thoroughly cleaned by the **insured** as per the AS 1668 or have a regular filter exchange program in place;
- g. Suitable fire extinguishers and/or blankets are kept in the frying area and all staff are trained in their use (refer to AS 1841 and AS 2444);

- h. Charcoals used in cooking must either be removed from the **premises** or extinguished, or a stainless-steel lid is to be placed over the top of the charcoal bed during non-trading hours; and all fire protection equipment (installed to AS 2118 for sprinklers or AS 3772 for pre-engineered systems) is to be inspected, cleaned, maintained and certified in accordance with AS 1851.

If the entire internal and external area of all filters, canopies, flues and extraction ducting, including extraction motors and fans, have not been cleaned as outlined above within three months prior to the inception of this **insurance** or the addition of this condition, they must be cleaned within 14 days of the inception of this **insurance** and defaulting thereafter to the above minimum requirements.

A written record of all such formal cleaning including details of all professional contractor(s) together with certificates of completion and invoices for such work is kept at an alternative location and readily available for review when requested.

If **you** do not carry out or maintain these minimum standards, **we** may reduce or refuse to pay a claim or may cancel this **policy**.

In all other respects, this **policy** remains unaltered.





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Complex Risks

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