

annual contract works & legal liability insurance policy



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About CGU

CGU Insurance Limited is the underwriter of this Insurance policy. Our Australian Business Number is 27 004 478 371. Our Australian Financial Services Licence Number is 238291.

CGU Insurance Limited pays remuneration to insurance intermediaries when We issue, renew or vary a policy the intermediary has arranged or referred to us. The type and amount of remuneration varies and may include commission and other payments. If You require more information about remuneration We may pay Your intermediary You should ask Your intermediary.

Important Information

General Insurance Code of Practice

CGU Insurance Limited proudly supports the General Insurance Code of Practice.

The purpose of the Code is to raise standards of practice and service in the general insurance industry.

The objectives of the Code are:

- ◆ to promote better, more informed relations between insurers and their customers;
- ◆ to improve consumer confidence in the general insurance industry;
- ◆ to provide better mechanisms for the resolution of complaints and disputes between insurers and their customers; and
- ◆ to commit insurers and the professionals they rely upon to higher standards of customer service.

Brochures on the Code are available from Your nearest CGU office.

Our Service Commitment

CGU Insurance Limited is proud of its service standards and supports the General Insurance Code of Practice. In an unlikely event that You are not satisfied with the way in which We have dealt with You, as part of Our commitment to customer service, We have an internal dispute resolution process in place to deal with any complaint You may have.

Please contact Your nearest CGU Insurance office if You have a complaint, including if You are not satisfied with any of the following:

- ◆ one of Our products;
- ◆ Our service;
- ◆ the service of Our authorised representatives, loss adjusters or investigators; or

- ◆ Our decision on Your claim.

Our staff will help You in any way they can. If they are unable to satisfy Your concerns, they will refer the matter to their supervisor or manager. If the manager cannot resolve the matter, the manager will escalate the matter to Our Internal Dispute Resolution Department.

Brochures outlining Our internal dispute resolution process are available from your nearest CGU office.

Privacy

We collect personal information from You for the purpose of providing You with insurance products and services, and processing and assessing claims. You can choose not to provide this information, however, We may not be able to process Your requests.

We treat Your personal information with care. We will not release Your personal information to anyone other than another insurer or an insurance reference service or as permitted or required by law. In the event of a claim, We may disclose information to and/or collect information about You from investigators or legal advisers.

If You wish to update the information We hold about You, please contact Your insurance adviser.

Extract from the Insurance

Contracts Act 1984

Under the terms of the Act, We must advise You about the following:

Your duty of disclosure

Before You enter into a contract of general insurance with an insurer, You have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that You know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance and, if so, on what terms.

You have the same duty to disclose those matters to the insurer before You renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of matters:

- ◆ that diminishes the risk to be undertaken by the insurer;
- ◆ that is of common knowledge;
- ◆ that Your insurer knows or, in the ordinary course of his business ought to know;
- ◆ as to which compliance with Your duty is waived by the insurer.

Non-disclosure

If You fail to comply with Your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim or may cancel the contract.

If Your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

Important notices

1. Claims

This policy does not provide cover in relation to events that occurred before the contract was entered into.

2. Deductible

A Deductible is the sum of money We will not pay in respect of a claim. This policy and the Schedule detail the Deductibles which may be applicable.

Annual Project Construction and Legal Liability Insurance

The Company and You are identified and referred to in this policy and the Schedule. You having paid, or agreed to pay, to Us the premium shown in the Schedule for the Policy Period or a premium as advised by Us as applying to any subsequent period. We will provide insurance against the risks described in each Section, subject to the terms, Conditions, Exclusions and Endorsements of this policy. In issuing this policy, We rely upon the information contained in the Application and any written statements made by You or anyone acting on Your behalf.

The insurance applies only in respect of those Items against which a Sum Insured is shown in the Schedule or which are otherwise indicated in the Schedule as being operative.

General

General Definitions Applicable to Sections 1 and 2

- Average** shall mean and apply to any claim when the amount You have specified for an Insured Item is less than the replacement amount of the Insured Item. This means that any payment We might otherwise be required to make under the terms and Conditions of this policy will be reduced in the same proportion as the amount specified bears to 90% of the replacement amount.

Average will apply to each Insured Item, as detailed in the individual Insured Item descriptions.
- Breakdown** shall mean Damage caused by mechanical, hydraulic, electrical or electronic failure resulting from defects within a machine or installation which requires repair or replacement to enable normal working to continue.
- Commissioning Period** shall mean the period commencing with the final installation of the items specified under the Contract, and continuing for 6 weeks or the time specified in the Contract, whichever is the lesser, or the time actually specified in the Schedule. Provided that any Commissioning Period shall not continue beyond the expiry of the Construction Period
- Contract** shall mean the contract or agreement between any of the Named Insured under 16 a), b), c) and d), which gives rise to the Contract Works, and includes any sub-contract or sub-contract agreement entered into pursuant to such contract or agreement.
- Contract Works** shall mean the cost of labour and all the materials incorporated in, or to be incorporated in the Project and included within the Estimated Construction Cost at the commencement of the Project.
- Construction Period** being the period commencing:
 - on the date specified in the Contract, or on the date of possession of the Project Site, or the actual date of commencement of the works, provided such date is within the Policy Period specified within the Schedule;and **expiring**:
 - (i) at the time of practical completion of the Project, being when the Contract Works are complete except for minor omissions and minor defects that do not prevent the Contract Works from being operational or reasonably capable of being used for their intended purpose; or

- (ii) with respect to any separable portion of the Project at the time it is taken into use by the Principal; or
 - (iii) with respect to any separable portion of the Project at the time it is completed and delivered up to or taken over by the Principal; or
 - (iv) with respect to any separable portion of the Project at the time it is completed pending sale or leasing; or
 - (v) with respect to any Project attaining practical completion and subject to a contract of sale cover shall continue for a maximum of 30 days; or completion of the sale whichever occurs first; or
 - (vi) on the date specified in the Schedule; whichever occurs first.
7. **Damage** means unforeseen physical loss, destruction or Damage neither intended nor expected by the Named Insured in the course of carrying out the Project.
8. **Deductible** shall mean the amount shown in the Schedule for which We shall have no liability in respect of:
- (a) Section 1, each and every loss or Damage;
 - (b) Section 2, each and every Occurrence.
9. **Defects Liability Period** being the period of months specified in the Schedule, and commencing:
- (i) at the expiry of the Construction Period; or
 - (ii) on the date each separable portion of the Project is taken over or taken into use or occupation by the Principal or for which a certificate of practical completion has been issued;
- whichever occurs first.
10. **Employee** shall mean any person engaged under a contract of service or deemed contract of service or apprenticeship with any of the Named Insured.
11. **Estimated Construction Cost** shall mean the total of all costs to complete the Project at commencement of the Period of Insurance for all Projects undertaken during the Policy Period.
12. **Existing structure** means any permanent building or structure located at the Project site prior to commencement of the Project.
13. **Insured Items** means all of the individual items shown in the Schedule.
14. **Major Perils** means fire, lightning, explosion, earthquake, collapse, storm, tempest, flood, water, subsidence, ground heave or landslide.
15. **Minor Perils** means any other cause of loss not defined as a Major Peril other than Named Cyclone,
16. **Named Insured** shall mean:
- a) You;
 - b) Your personal representatives;
 - c) any of Your directors, partners, executives, officers or Employees but only for liability incurred by them while acting within the scope of their duties in such capacity;
 - d) Additional Insured:
 - (i) any Principal; or
 - (ii) the head contractor; or
 - (iii) the project manager; or
 - (iv) all contractors and sub-contractors not being You but being a legal entity with whom You have entered into a Contract and provided their interests are required to be insured jointly by You, and then only to the extent required by the terms set out in the Contract, and only in respect of work performed as a part of the Project. For the purposes of this policy sub-contractors shall not mean suppliers, manufacturers, design consultants or consultants of any kind whatsoever;
 - e) Any officers, committees or members of Your canteen, sports, social and welfare organisations and any member of Your fire, first aid, medical or ambulance services (not being qualified medical practitioners) whilst acting in their capacity as such and in respect of activities associated with the Project;
 - f) Any legal entity identified by name in the Schedule as having a financial, legal, or equitable interest in the Project, but only in respect of the insurance provided under Section 1 and only to the extent of such financial, legal, or equitable interest.
- The Named Insured as outlined above shall represent the entire group as described unless otherwise specified in the Schedule.
17. **Period of Insurance** means the period commencing at the start of the Project or the date specified in the Schedule, whichever is the latter and ceasing at the end of the Defects Liability Period.
18. **Policy Period** is the period commencing at the inception date shown in the Schedule and ending at the expiry date shown in the Schedule.
19. **Principal** means the owner or persons or organisation (by whatever name) for or on behalf of whom the Project is being carried out.
20. **Principal Supplied Materials** means any item supplied free, by the Principal, for incorporation within the Project and in addition to the Estimated Construction Cost.
21. **Project** means each Contract Works as described in the Schedule.

22. **Project Site** shall mean the location where the Project is carried out within the Territorial Limits stated in the Schedule.
23. **Provisional Premium** shall mean the premium calculated on the basis of the estimated Turnover of all the Insured Projects at the agreed rates.
24. **Schedule** shall mean the schedule attaching to this policy.
25. **Standard Contract** shall mean a contract which is prepared and/or published by the Standards Association of Australia, Joint Contracts Committee, National Public Works Conference, Masters Builders Association, Institute of Architects, Housing Industry Association, National Capital Development Commission or other recognised contract for use by the building industry.
26. **Turnover** shall mean the total Estimated Construction Cost of all the Projects We have agreed to cover under this policy.
27. **Vehicle** shall mean any type of machine on wheels, on skids or on self-laid tracks made or intended to be propelled by other than manual or animal power and any trailer made or intended to be drawn by any such machine whilst attached thereto.
28. **We, Us, Our, Company** shall mean CGU Insurance Limited
29. **You, Your, Insured** means the Person(s) or legal entity named in the Schedule.

Insured Projects Applicable to Sections 1 and 2

We will automatically provide cover under Section 1 and Section 2 (if applicable) for each Project You undertake subject to the following

- (a) The Project must be of the type defined in the Schedule.
- (b) The Estimated Construction Cost for the Project must be less than the maximum Estimated Construction Cost shown in the Schedule.
- (c) The Construction Period for the Project at the time of commencement of the Project must be less than the maximum Construction Period shown in the Schedule.

We will automatically extend cover for Projects previously completed which fall within (a) above for Products Liability, if shown in the Schedule as an Insured Item.

We will include cover for Projects that do not fall within the automatic cover, subject to notification and acceptance prior to commencement of the Project, at terms and conditions to be agreed.

Type of Cover Applicable to Sections 1 and 2

Runoff Basis

The policy will provide cover for all Projects which commence during the Policy Period as shown in the Schedule.

In the event of cancellation or non-renewal of this policy cover will continue on all Insured Projects until expiry of the relevant Defects Liability Period. You must declare to Us any Project which has not been completed and for which You require the runoff cover to apply at the end of the Policy Period, and pay any premium adjustment.

Section 1 - Property Damage

Cover

A. Construction Period Cover

We will indemnify the Named Insured for Damage to the Project and other Insured Items as specified in the Schedule from any cause, not excluded, occurring at the Project site as set out in the Schedule during the Construction Period.

B. Commissioning Period Cover

Where either testing or commissioning of the Project is required by the Standard Contract conditions, We will indemnify the Named Insured against Breakdown which:

- (a) arises out of the performance of the testing or commissioning; and
- (b) occurs and is discovered during the Commissioning Period.

C. Defects Liability Period Cover

Where a Defects Liability Period is required by the Standard Contract conditions, We will indemnify the Named Insured for Damage to the Project from any cause, not hereafter excluded, and which

- (a) manifests itself during the Defects Liability Period; and
- (b) originates from:
 - (i) a cause (unless excluded) occurring and arising out of the Project carried out by the Named Insured during the Construction Period and at the Project Site; or
 - (ii) any cause (unless excluded) occurring and arising out of the course of operations carried out by the Named Insured on the Project Site in complying with the

requirements of the Defects Liability clause in the Standard Contract.

The insurance shall cease to attach to the whole or any separable portion of the Project following expiry of the Defects Liability Period.

Insured Items

Following Damage indemnified under Section 1 Property Damage, Cover A, B or C, We will pay up to the Sums Insured stated in the Schedule, costs and expenses necessarily incurred by the Named Insured for:

1. Contract Works

The Contract Works Sum Insured must be the full Estimated Construction Cost at the commencement of the Period of Insurance. Average will not apply to this Insured Item.

2. Removal of Debris

Shall include the cost of:

- (a) demolition, removal and disposal of the Damaged parts of the Project and any Existing structure insured hereunder;
- (b) demolition, removal and disposal of undamaged parts of the Project necessary to enable the Project to be restored or replaced and, where applicable, this Insured Item shall also apply to any insured Existing structures.

Unless another sum insured is shown in the Schedule, the sum insured will be limited to 10% of the Estimated Construction Cost. Average will not apply to this Insured Item.

3. Professional Fees

Shall include fees for architects, surveyors, consulting engineers and other such professionals not being Your Employees but employed in the reinstatement of insured Damage to the Project (but excluding any fees for the preparation of any claim under this policy).

Unless another sum insured is shown in the Schedule, this Sum Insured will be limited to 10% of the Estimated Construction Cost. Average will not apply to this Insured Item.

4. Expediting Expenses

Shall include the costs of express delivery within the Commonwealth of Australia, overtime rates of wages, the hire of additional labour and equipment, and the costs of purchasing resources necessary to reinstate repair or urgently replace lost or Damaged parts of the Project insured by this policy.

Express delivery shall include carriage by airfreight within the Commonwealth of Australia but only by licensed airline(s) utilizing regular scheduled services,

and not aircraft chartered specifically for such carriage unless agreed in writing by Us. Expediting expenses will not include reimbursement of costs incurred solely to compensate for delay in completion of the Project.

Unless another sum insured is shown in the Schedule, this Sum Insured will be limited to 5% of the Estimated Construction Cost. Average will not apply to this Insured Item.

5. Mitigation Expenses

Shall include the costs and expenses necessarily and reasonably incurred by any of the Named Insured, in containing, mitigating, suppressing or preventing further Damage to the Project.

Unless another sum insured is shown in the Schedule, this Sum Insured will be limited to 5% of the Estimated Construction Cost. Average will not apply to this Insured Item.

6. a) Construction Tools, Minor Plant and Equipment

For insured Damage to construction tools, minor plant and equipment used on or about the Project Site for the performance of the Project during the construction period and owned by You.

Average will not apply to this Insured Item. The maximum sum insured will be limited to \$25,000 or any lesser amount shown in the Schedule, with a further limit of \$5,000 current market value applying to each individual item.

b) Formwork, Hoardings, Temporary Buildings, Scaffolding, Major Plant and Equipment

For insured Damage to Insured Items under this section owned, hired, or for which You have accepted responsibility to insure, used on or about the Project Site for the performance of the Project during the Construction Period.

Average will apply to this Insured Item based on the Sum Insured being the current market value of all items falling within the scope of the above items used on the Project Site.

7. Principal Supplied Materials

The cost of replacing Principal Supplied Materials in respect of Damage, whilst at the Project site.

Average will apply to this Insured Item based on the full replacement value of all such materials.

8. Existing structure

The costs of replacing Existing Structures located at the Project Site and as shown on the Schedule.

Average will apply to this Insured Item. In applying Average the Sum Insured shall represent the full replacement cost of the structure at commencement of the Period of Insurance.

Additional benefits

The Cover under Section 1 is extended to include the following additional benefits.

1. Materials in Transit

The Construction Period cover is extended to include materials, components and equipment to be incorporated into the Project whilst in transit within the Commonwealth of Australia during the Construction Period. Cover commences after completion of loading in an undamaged condition and expires upon completion of unloading at any offsite storage facility or the Project Site. The maximum We will pay will not exceed \$100,000 or the Sum Insured stated in the Schedule, for any one carry.

2. Materials Stored Offsite

The Construction Period cover is extended to include materials, components and equipment to be incorporated into the Project whilst in storage offsite within the Commonwealth of Australia during the Construction Period. Cover commences after completion of unloading in an undamaged condition and expires upon completion of loading for transport to the Project Site. The maximum We will pay will not exceed \$100,000 or the Sum Insured stated in the Schedule, for any one location.

3. Loss Accumulation

For the purpose of the application of the Deductible, all loss or damage resulting from storm, tempest, flood, cyclone, tsunami, earthquake, subterranean fire, volcanic eruption or bushfire, occurring during any period of 72 consecutive hours shall be considered as one instance of loss or, damage whether or not such storm, tempest, flood, cyclone or earthquake is continuous or sporadic in its sweep or scope and whether or not the loss or damage was due to the same climatic or seismological conditions. Each such instance shall be deemed to have commenced on the first happening of any such damage, not within the period of any previous such instance.

4. Reinstatement of Sum(s) Insured

Following payment of a claim under this policy, We will automatically reinstate the Sum(s) Insured, provided You pay any additional premium at the original policy rate applicable.

5. Escalation and Variations

If during the Construction Period there is an increase in the Estimated Construction Cost of any Project insured, the Sum Insured for that Project shall be increased by the same proportion. The amount of such increase shall not exceed 15 per cent unless expressly agreed in writing and an additional premium shall be paid at the end of the Policy Period at the original rates in accordance with General Condition 6.

Basis of loss settlement

The amount payable in respect of Damage insured under Section 1 Property Damage will be as set below:

1. Contract Works

The costs necessary to repair or replace the affected parts of the Project to its condition immediately before the Damage, less any salvage.

2. Existing structures

The costs necessary to repair or replace the affected structure to its condition when new or pay up to the Sum Insured shown in the Schedule, less any salvage.

3. Plant and Equipment

At Our option, either:

- (a) The costs necessary to repair the item and return it to its state of serviceability immediately prior to the Damage, less allowance for depreciation in respect of parts replaced; or
- (b) In the case where the costs of repair exceed the current market value We will pay the current market value immediately prior to the Damage, less any salvage

Limitation

With respect to each Project insured, the maximum amount of Our liability will not exceed the Sum(s) Insured for each Insured Item as stated in the Schedule, less the application of any Deductible.

Exclusions applicable to Section 1

We shall not be liable for

1. The cost of repairing, replacing or rectifying loss of or damage caused by a defect in design, plan, specification, materials or workmanship. Provided that We will pay the cost of damage resulting directly from such fault, defect, error or omission, less the cost which would have been incurred in repairing replacing or rectifying such fault, defect, error or omission, immediately prior to the loss occurring.
We agree that the Project shall not be regarded as damaged solely by virtue of the existence of any defect in design, plan, specification, materials or workmanship.
 2. The cost of repairing, replacing or rectifying damage due to Breakdown of second hand machinery or any plant and equipment not forming part of the Project.
 3. Loss of or damage discovered only at the time an inventory is taken.
 4. Loss of or damage to cash, bank notes, treasury notes, cheques, postal orders, money orders, stamps, deeds, bonds, bills of exchange, promissory notes, securities and computer systems software and data.
 5. loss or damage caused by erosion, wasting or wearing away, abrasion, corrosion, rust, oxidation, gradual deterioration, creep, heave, or any gradually operating cause.
 6. loss or damage due to or caused by, moths, termites or other insects, vermin, mildew, mould, dampness, seepage, wet or dry rot, evaporation, variations in temperature, change of colour, texture or finish, contamination or pollution.
 7. The cost of normal upkeep or routine making good.
 8. Consequential loss, loss of use, penalties, fines, liquidated damages, or aggravated, punitive or exemplary damages, or loss or damage in connection with guarantees of performance or efficiency.
 9. Loss of or damage occurring during the course of ocean marine transit including unloading following ocean marine transit, other than transit within Australian coastal waters, in connection with the Project.
 10. Loss of or damage to any vessel, craft or thing made or intended to float on or in, or travel on or through, water or air, or any plant, tools, equipment or other things in, on or attached to, any such vessel or craft.
 11. Loss of or damage to property for which You are relieved of responsibility under the terms of any Contract or agreement.
 12. Loss of or damage to hoists, cranes, Vehicles of any kind, tools, Employees effects, and any other plant and equipment, unless a Sum Insured is shown in the Schedule.
 13. Loss or damage due to embezzlement or fraudulent misappropriation or induced by trickery by any Employee.
 14. Loss or damage arising out of the imposition of abnormal operational conditions, intentional overloading or overheating or experiments.
 15. Loss of or damage due to faulty packing, faulty or defective storage, inherent defect or disease during any Transit.
 16. The cost of repairing or replacing parts on any plant and equipment requiring periodic or frequent replacement repair or maintenance.
This includes but is not limited to:
 - (i) Fuses, shear-pins, rupture plates, seals or other expendable load limiting devices;
 - (ii) Bits, drills, knives, saw blades or other cutting devices;
 - (iii) Dies, moulds, patterns, pulverising and crushing surfaces, screens, sieves, filters, batteries, tyres, tracks;
 - (iv) Ropes, belts, chains, elevator and conveyor belts;
 - (v) Flexible pipes, jointing and packing material.
 17. Loss of or damage to floor and wall finishes or coverings, contents of, or consequential loss in respect of any Existing structures.
 18. Loss of or damage to any Vegetation forming part of the Project which is caused by or arises from, disease, lack of water, excess water or replanting operations.
 19. Loss of or damage to roadworks,
 20. Loss of or damage to pipe trenches, but this exclusion does not apply to pipe trenching forming part of the construction of a building.
 21. The cost of:
 - (i) additional dewatering expenses incurred because the quantities of water exceed those allowed for in the Contract;
 - (ii) expenses incurred for additional installations and facilities for the discharge of run-off or underground water;
 - (iii) expenses incurred for grouting or any other measures to remedy leakage of water into excavations, foundations or basements;
 - (iv) loss or damage due to failure of the dewatering system if such failure could have been avoided by sufficient standby facilities.
- Notwithstanding anything contained in (i) – (iii) above, We will indemnify the Named Insured

against the cost of dewatering necessary to provide initial access to, and to allow repairs to be effected to previously completed sections of the Project whether damaged or undamaged following insured Damage but not exceeding the cost of dewatering which was being incurred immediately prior to the loss or Damage occurring.

Section 2 - Legal Liability

Introduction

This Section forms part of this policy only if shown in the Schedule and, if so, must be read together with the Definitions, terms, Conditions, Exclusions and Limitations expressed in this policy and the Schedule.

Cover

We will indemnify the Named Insured against Public Liability or We will indemnify You against Products Liability if shown in the Schedule as an Insured Item.

Definitions

Applicable to Section 2 only

1. **Aircraft** means:
 - any vessel, craft or thing designed to transport people or goods in, or through, the air or space.
2. **Damage to Property** means:
 - (a) physical Damage to Property;
 - (b) physical destruction of Property; or
 - (c) loss of use of Property as a result of physical Damage to, or physical destruction of Property.
3. **Event** means:
 - (a) a single incident; or
 - (b) a series or number of incidents having the same original cause or attributable to the one source; or
 - (c) continuous or repeated exposure to substantially the same general conditions.
4. **Geographical Limits** means:
 - (a) anywhere in the World;
 - (b) but excludes North America for Occurrences in connection with:
 - (i) The performance of manual work;
 - (ii) The ownership, occupancy or tenancy of any building, land or structure;
 - (iii) An Unknown Defect in Products exported to, sold in, or supplied in North America, by You or on Your behalf.
5. **Hovercraft** means:
 - any vessel, craft or thing designed to transport people or goods over land or water, supported on a cushion of air.
6. **Loading or Unloading** means:
 - the single action of transferring the weight of goods (or of a portion of a consignment of goods) onto or from a Vehicle.
7. **Managed Operations** means:
 - any organisation other than subsidiary companies (or their subsidiaries) whose daily activities and daily decision making You directly control and manage.
8. **North America** means:
 - (a) the United States of America and Canada; and
 - (b) any state or territory incorporated in, or administered by, or from, either the United States of America or Canada.
9. **Occurrence** means:
 - Personal Injury or Damage to Property that:
 - (a) is neither intended nor expected by the Named Insured and would not be expected by a reasonable person in their position.
 - (b) is caused by an Event; and
 - (c) occurs:
 - (i) within the Geographical Limits; and
 - (ii) during the Policy Period.
10. **Personal Injury** means:
 - (a) Bodily injury, death, sickness, disease, disability;
 - (b) Shock, fright, mental anguish;
 - (c) False arrest, false imprisonment, wrongful detention, malicious prosecution;
 - (d) Libel, slander, defamation of character, humiliation;
 - (e) Wrongful eviction, wrongful entry or other invasion of privacy.
11. **Pollutants** means:
 - any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

12. Products means:

any thing (after it has passed from Your possession and control) including its packaging, that was manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied, re-supplied or distributed by You in the course of Your Project.

13. Products Liability means:

Your legal liability to pay Damages for an Occurrence caused by an Unknown Defect in Your Products, but excludes Public Liability.

14. Property means:

- (a) Tangible property not in the possession or Control of any of the Named Insured;
- (b) premises (and their Contents) occupied by the Named Insured for the purpose of carrying out the Project;
- (c) Vehicles, not owned by the Named Insured but in their possession or control while in a car park where the car park
 - (i) is owned, occupied, or leased by the Named Insured,
 - (ii) does not form part of a building construction or Project site, and
 - (iii) or the use of which the Named Insured does not charge a fee.

15. Public Liability means:

Legal liability of any of the Named Insured to pay damages for an Occurrence in the course of carrying out work in connection with the Project, but excludes Products Liability. If Products Liability is not insured, Public Liability includes liability to pay damages for an Occurrence caused by a defect, unknown to the Named Insured, in food or drink sold or supplied from their staff canteen.

16. Unknown Defect in Your Product means:

- (a) a defect in, or the harmful nature of, Products;
- (b) a defect or deficiency in any direction or advice provided by You concerning the use or storage of Products; or
- (c) a failure by You to provide direction or advice concerning the use or storage of Products that was not known to, or reasonably suspected by You or Your directors, partners or senior executives, before Your Products left Your possession or control.

17. Use as a Working Tool means:

use for excavating, digging, grading, drilling, lifting, pumping, spraying, vacuuming and the like. It does not include use for:

- (a) Loading or Unloading goods onto or from a Vehicle, by use of a Crane mounted on the Vehicle; or
- (b) transit to or from or within the Project Site; or
- (c) transport or haulage.

18. Watercraft means:

Any vessel, craft or thing designed to float on or in, or travel on or through, water.

Limitations

1. The maximum amount We will pay for Public Liability:
 - (a) For one Occurrence (other than an Occurrence in connection with Pollutants) shall be the Limit of Liability shown in the Schedule.
 - (b) For one Occurrence in connection with Pollutants, shall be the Limit of Liability shown in the Schedule, less the sum of the indemnities that We have already paid for Public Liability in connection with Pollutants, that arose during the Policy Period.
2. The maximum amount We will pay for Products Liability for any one Occurrence shall be the Limit of Liability for Products Liability shown in the Schedule, less the amounts We have already paid for Products Liability claims that arose during the Policy Period.
3. Where Personal Injury or Damage to Property is caused repeatedly, progressively or continuously by one Event, all of the Personal Injury or Damage to Property shall be deemed to be a single Occurrence.
4. Personal Injury or Damage to Property that is discovered before the Policy Period shall not be an Occurrence.
5. Where We are indemnifying more than one legal entity, for Public Liability or Products Liability in respect of the one Occurrence, the maximum amount We will pay in total for all the legal entities We are indemnifying, shall be the relevant Limit of Liability for Public Liability or Products Liability.
6. The Deductible shall apply to each and every Occurrence, and shall include the indemnity provided by Additional Benefit 1 Legal Costs, and any investigation costs associated with the claim.

Additional benefits

1. Legal Costs;

(a) In the case of:

- (i) a claim of Public Liability being made against the Named Insured; or
- (ii) a claim of Products Liability being made against You;

for which indemnity is available under this policy, or would be available under this policy if such a claim were to succeed, We will pay Legal Costs.

(b) Legal Costs means:

- (i) the legal costs and expenses, that the Named Insured incur with Our written agreement, in defending a claim of Public Liability made against the Named Insured;
- (ii) the legal costs and expenses that You incur with Our written agreement in defending a claim of Products Liability made against You;
- (iii) The legal costs and expenses of any claimant, against the Named Insured for Public Liability that the Named Insured are liable to pay, or against You for Products Liability that You are liable to pay;
- (iv) the costs reasonably incurred for representing the Named Insured at any Coroner's inquest or any court of summary jurisdiction.

(c) In relation to Public Liability or Products Liability subject to or determined by:

- (i) The law outside North America, the indemnity for Legal Costs shall not be limited by any Limit of Liability.
- (ii) The law in North America, the indemnity for Legal Costs shall be limited to the amount by which the applicable Limit of Liability is not exhausted by the indemnity for the Public Liability or Products Liability.

2. Cross Liabilities

Where more than one legal entity is insured under this Section, We shall indemnify the Named Insured against Public Liability, or You against Products Liability to another insured as if that other insured were not a party to this policy.

3. Loss of Goods in the Possession or Legal Control of the Named Insured

(a) We will also indemnify the Named Insured against Public Liability for physical loss of, or loss of use of, goods that are not owned by the Named Insured, but are in their possession or legal control as though it were Damage to

Property, if the loss was not caused by physical Damage or destruction.

(b) The maximum amount that We will pay under this additional benefit for all the Public Liability, of all of the parties We are indemnifying, arising during the Policy Period, shall be \$100,000.

4. Damage to Goods in the Possession or Legal Control of the Named Insured

(a) We will also indemnify the Named Insured against Public Liability for:

- (i) physical Damage to; or
- (ii) physical destruction of;

goods that are not owned by the Named Insured, but are in their possession or legal control as though it were Damage to Property.

(b) The maximum amount We will pay under this additional benefit for all the Public Liability, of all of the parties We are indemnifying, arising during the Policy Period, shall be \$100,000.

5. First Aid Expenses

Where We are indemnifying the Named Insured, or would indemnify the Named Insured if a claim were made against the Named Insured for Personal Injury, We will also pay the expenses reasonably incurred by the Named Insured for the first aid given to others at the time of injury.

Exclusions applicable to Section 2

Where an Exclusion nominates a cause of an Occurrence, the Exclusion shall apply and We will not indemnify the Named Insured against the Public Liability or You for Products Liability for the Occurrence, whether or not that cause is the proximate or effective cause of the Occurrence.

We will not give indemnity against the following:

1. Employer's Liability (Workers' Compensation)

- (a) Liability for or in respect of personal Injury to any person, that person's dependent, or anyone claiming through that person, where the Named Insured;
 - (i) are indemnified or entitled to be indemnified (either in whole or in part) in respect of claims for Damages under a policy of insurance (which expression includes arrangements made by the Named Insured to provide accident insurance for workers under a licence to self insure)

arranged (whether required by law or not) in accordance with any workers' compensation legislation or accident compensation legislation; or

(ii) would have been indemnified or entitled to be indemnified had the Named Insured arranged a policy of insurance as required by such legislation.

- (b) Liability for Personal Injury to any person arising out of, or sustained in the course of, the employment of such person in the service of the Named Insured in Western Australia, other than a person for whom the Named Insured are deemed to be an employer by reason only of Section 175 of the Workers' Compensation and Rehabilitation Act 1981 (WA).
- (c) Liability for mental anguish suffered by any person arising out of, or in the course of, that person's employment by, or service to, the Named Insured.
- (d) Liability for Personal Injury arising out of the harassment, libel, slander, defamation or humiliation of, or discrimination against, any person whilst in the service of, or while employed by the Named Insured.
- (e) Liability of a type in respect of which indemnity previously would have been provided under a policy of insurance arranged in accordance with any workers' compensation legislation or accident compensation legislation, but in respect of which indemnity has been withdrawn or reduced as a consequence of a change to the scope, terms, provisions, or requirements of such legislation made after the commencement of the current Policy Period of this policy.
- (f) Any other liability imposed by the provisions of any workers' compensation legislation or accident compensation legislation or any industrial award, agreement or determination.

2. Discrimination and Harassment

Liability for discrimination or harassment in violation of statute.

3. Assault or Battery

Liability for assault or battery committed by the Named Insured or at the direction of the Named Insured, unless it was committed for the purpose of preventing or eliminating danger to persons or property.

4. Waiver of Rights

Liability in respect of all, or part, of which, the Named Insured, by an agreement, have released or waived the Named Insured right to recover indemnity or contribution from another.

5. Contractual Liability

Liability assumed by the Named Insured under an agreement, unless such liability would have attached to the Named Insured in the absence of that agreement.

6. Intentional or Reckless Personal Injury or Damage to Property

Liability in connection with Personal Injury or Damage to Property intentionally or recklessly caused by the Named Insured or the risk of which the Named Insured deliberately courted.

7. Faulty Workmanship

Liability to perform, complete or rectify any work undertaken by the Named Insured or on behalf of the Named Insured, or to pay the cost of performing, completing or rectifying such work.

8. Product Recall and Repair

Liability to pay:

- (a) for the cost of recall, withdrawal from sale, inspection, repair or replacement of Your Products;
- (b) for the cost of investigation into the cause of any defect; or
- (c) in connection with the loss of use of Your Products.

9. Reinstatement, Repair or Replacement of Products

Liability:

- (a) to reinstate, repair or replace Products; or
- (b) pay the cost of reinstating, repairing or replacing Products;

where the Damage was caused by those Products.

10. Loss of Use of Property

Liability for loss of use of Property that has not been physically Damaged or destroyed, caused by or arising out of:

- (a) a delay in, or lack of, performance, by the Named Insured or on the Named Insured's behalf, of any contract or agreement; or
- (b) the failure of Your Products to meet warranties or representations as to performance, fitness, quality or durability.

11. Aircraft Products

Liability in connection with products that:

- (a) are incorporated into the structure, machinery or controls of Aircraft; and
- (b) You know are used in Aircraft.

12. Aircraft and Hovercraft

Liability in connection with the Named Insured's ownership or physical or legal control of, or use by the Named Insured or on behalf the Named Insured, of any:

- (a) Aircraft;
- (b) Land, building or structures in an area where Aircraft land or take off, or are housed, maintained or operated;
- (c) Hovercraft.

13. Vehicles

- (a) Liability for Personal Injury:
 - (1) where such liability arises out of, is caused by, or is in connection with the Named Insured's ownership, operation or use of a Vehicle; and
 - (2) where the Event that causes the Occurrence happens in circumstances in which that Vehicle is required by law to have compulsory insurance against that Occurrence, or when such insurances cover is in force; or
- (b) Liability for Damage to Property, where such liability arises out of, is caused by, or is in connection with the Named Insured's ownership, possession, operation, maintenance or use of a Vehicle that is registered.

Exclusions 13(a) and 13(b) will not apply where the liability arises from:

- (i) the delivery of goods to the Vehicle before the Loading of the goods onto the Vehicle, or arises from the collection of goods from the Vehicle after the Unloading of the goods from the Vehicle; or
- (ii) use of the Vehicle, or plant or attachment to the Vehicle, as a Working Tool.

14. Watercraft

Liability:

- (a) in connection with the Named Insured's Ownership, or use by the Named Insured or on behalf of the Named Insured, of any Watercraft greater than eight metres in length, except whilst stored on land; or
- (b) arising from Damage to Watercraft in the Named Insured's possession or legal control, where the Watercraft is greater than eight metres in length, except whilst stored on land. The maximum amount We will pay for all the Public Liability of all the parties We are indemnifying, arising during the Policy Period, from Damage to Watercraft in the Named Insured's possession or legal control, shall be \$100,000.

15. Pollution

Liability:

- (a) in connection with pollution occurring in North America or subject to jurisdiction of North America;
 - (b) to pay the cost of preventing discharge, dispersal, release or escape of Pollutants; or
 - (c) for:
 - (1) an Occurrence in connection with the discharge, dispersal, release or escape of Pollutants; or
 - (2) the cost of testing, monitoring, containing, removing, cleaning up or neutralising Pollutants.
- Exclusions 15(c)(1) and 15(c)(2) shall not apply where discharge, dispersal, release or escape of Pollutants:
- (i) is caused by a single incident;
 - (ii) is instantaneous;
 - (iii) is clearly identifiable; and
 - (iv) is confined to one specific location.

16. Asbestos

Liability caused by, arising out of, or in connection with, the use or presence of asbestos.

17. Vibrations, Weakening and Removal of Support

Liability for Damage to Property in connection with:

- (a) vibration; or
- (b) removal or weakening of, or interference with, support to land, buildings or any other property.

This exclusion shall not apply when a separate Limit of Liability is shown in the Schedule.

18. Treatment, Design and Professional Risks

Liability caused by or arising out of the Named Insured performance or failure to perform the following:

- (a) The rendering of professional advice or service;
- (b) The prescription or administration of treatment of, or to, persons, (including, but not limited to, grooming, beauty, cosmetic, pharmaceutical and therapeutic treatment) other than first aid;
- (c) Making or formulating a design or specification within the domain of the architectural, engineering, scientific, chemical, actuarial, statistical, economic, financial or medical profession.

19. Libel and Slander

Liability in connection with the publication or utterance of a libel or slander:

- (a) made before the commencement of the Policy Period;
- (b) made by the Named Insured, or at the direction of the Named Insured, with knowledge of its falsity; or
- (c) related to publishing, advertising, broadcasting or telecasting activities conducted by the Named Insured, or on Your behalf or on behalf of the Named Insured.

20. Fines, Punitive Damages

Liability for fines or penalties, or punitive, exemplary or aggravated Damages.

21. Foreign Non-admitted Cover

Liability under the law of any country, state or territory (outside the Commonwealth of Australia) that requires such liability to be insured or secured with an insurer or organisation licensed in that country, state or territory to grant such insurance or security.

22. Cranes

Liability in connection with operation of a crane that is in an unsafe condition, or where all laws, bylaws, regulations and recognised standards for the operation of the crane or for safety of persons or property, in the state or territory in which the Event occurred, have not been observed.

23. Nuclear Weapons or Nuclear Material

Liability directly or indirectly caused by or contributed to by, or arising from, nuclear weapons or nuclear material.

24. Advice for a fee

Liability caused by or arising out of the Named Insured rendering or failing to render advice (other than advice given by You in respect of the use or storage of Your Products), for a fee, but only where that fee, or a discreet part of that fee, is directly payable for the advice (whether written or oral).

25. Electronic Data and Software

There is no insurance under this policy in respect of any claim of whatsoever nature which consists of, or arises directly or indirectly out of, or in connection with:

- (a) total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data and/or Software;
- (b) error in creating, amending, entering, deleting or using electronic Data and/or Software;
- (c) total or partial inability or failure to receive, send, access or use Electronic Data and/or Software for any time or at all; from any case whatsoever, regardless of any other contributing cause or event whenever it may occur.

Electronic Data means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation, or, processing or electromechanical data processing or electronically controlled equipment.

Software means programs, procedures and routines associated with the operation of electronic or electromechanical data processing or electronically controlled equipment, including any operating systems.

26. Insured Property

Liability for the cost of repairing or replacing any of the Insured Projects, or Insured Items covered under Section 1 of this policy.

27. Underground Utilities

Liability in connection with Personal Injury or Damage to Property arising from any work undertaken on or around underground pipes and cables unless You obtained and relied upon advice in printable form from the relevant authority as to their physical location.

General exclusions

Applicable to Sections 1 and 2

We shall not be liable for:

1. War

Any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, terrorism, military or usurped power or confiscation or nationalisation, or requisition or destruction of or Damage to property by or under the orders of any government or public or local authority.

2. Terrorism

Liability directly or indirectly caused by or contributed to by, or arising from or happening through or in connection with any act of terrorism. Terrorism is defined as an act involving the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological or ethnic or similar purposes or reasons, including the intention to influence any government and/or put the public, or any section of the public in fear.

3. Radioactive Contamination

Any loss or destruction of or Damage to property, consequential loss, liability of whatsoever nature,

directly or indirectly caused by, or contributed to, by, or arising from:

- (a) Ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste;
- (b) Any nuclear assembly or nuclear component thereof, nuclear weapons or material.

4. Cessation of Work

Any loss or Damage, or legal liability directly or indirectly following any cessation of work exceeding 30 consecutive days, or immediately following abandonment.

5. Insolvency

Any loss or Damage, or legal liability of whatsoever nature, directly or indirectly caused by, or due to the non-availability of funds to finance the Project, or for the repair or replacement of the Project.

Date recognition special exclusion

There is no insurance under this policy in respect of any claim of whatsoever nature which consists of, or arises directly out of, or in connection with the failure or inability of any:

- (a) electronic circuit, microchip, integrated circuit, microprocessor, embedded system, BIOS or other instruction set, hardware, software, firmware, program, computer, data processing equipment, telecommunication equipment or systems, or any similar device; or any
- (b) media or systems used in connection with any of the foregoing, whether the property of the Named Insured or not, at any time to achieve fully and successfully any or all of the purposes and consequential effects intended by the use of any number, symbol or word to denote, represent or express a date, including, but without being limited to, any failure or inability to recognise, capture, save, retain or restore and/or correctly to manipulate, interpret, transmit, return, calculate or process any date, data, information, command, logic or instruction as a result of or in connection with:
 - (i) anything referred to in (a) or (b) recognising, using or adopting any date, day of the week or period of time, otherwise than as, or other than, the true or correct date, day of the week or period of time; or

- (ii) the operation of any command or logic which has been programmed or incorporated into anything referred to in (a) or (b) above.

Exception to date recognition special exclusion

However, this special exclusion will not exclude any claim for subsequent loss or destruction of or Damage to any property or consequential loss which is solely and directly caused by a Defined Contingency (as defined here under), arising under any of the sections listed hereunder, but only to the extent that such claim would otherwise be insured under those sections.

Section 1 – Definition

For the purposes of this special exclusion only, 'Defined Contingency' shall mean fire, lightning, explosion (other than loss or destruction of or Damage to boilers and pressure vessels), aircraft and other aerial devices or articles dropped there from, riot, civil commotion, strikers, locked out workers, persons taking part in labour disturbances, malicious persons, earthquake, storm, flood, escape of water from any tank or apparatus or pipe, impact by any road vehicle or animal, or theft (other than theft by Employees).

General conditions

Applicable to Sections 1 and 2

Precedent to Liability

1. Your Duty

Our liability is conditional upon

- (a) payment of the premium. We will not pay any claim until You have paid the premium.
- (b) notification of changes. Notification as soon as possible by You to Us, of any change materially varying any of the facts or circumstances existing at the commencement of this policy, or following any renewal of this policy.

In such an event, You must, at Your own expense, take such additional precautions as may be necessary to minimise the risk of any claim arising under this policy and must comply with any reasonable directions or requirements of Ours.

The scope of cover and premium will, if necessary, be adjusted by Us accordingly. No material alteration will be made or allowed by You whereby the risk is increased unless agreed to in writing by Us.

Material change will include (but not be limited to) alteration in design, materials, construction, programme or method of construction.

- (c) observance of policy terms. The observance of the terms of this policy by You and by any other person entitled to indemnity under this policy.

2. Reasonable Care

The Named Insured must take all reasonable precautions to prevent:

- (a) (i) Personal Injury and Damage to Property;
(ii) the manufacture, sale or supply of defective Products.
- (b) Comply with, and ensure that the Named Insured's employees, servants and agents comply with, all laws and bylaws, regulations and recognised standards for the safety of persons or property.
- (c) ensure that only competent employees use, operate, maintain and service plant and equipment.
- (d) maintain all premises, fittings, plant and equipment in sound condition.
- (e) take immediate action to trace, recall or modify all products that You know, or have reason to suspect, contain a deficiency.

3. Welding, Flame Cutting, Application of Heat

The Named Insured must ensure that all welding and flame cutting complies with the Australian Standard "AS1674.1 – 1997 and AS1674.2 – 2003 Safety and Welding in Allied Processes" and its amendments.

(It is a detailed Code, designed to protect persons and property from injury by fire or explosion in the course of cutting, heating or welding operations).

4. Our rights of Conduct and Recovery

- (a) We shall have full discretion in the conduct, defence or settlement of any claim. This includes the right to instruct lawyers to provide advice as to the Named Insured's liability and to represent the Named Insured.
- (b) Subject to the provisions of the Act We have the right to recover or obtain contribution from any person against whom the Named Insured may be able to claim and the right to take action in their name.

You and any other person entitled to benefit under this policy must not hinder these rights and must give all such information and cooperation as We may require.

5. Payment of Limit of Liability

We may at any time pay to the Named Insured the appropriate Limit of Liability (after deducting from it any amounts already paid) or any lesser amount for which a claim or claims may be settled. In doing so, We will relinquish the conduct of, and shall be under no further liability in connection with, such claim or

claims except for costs and expenses incurred before We made such payments.

6. Premium Adjustment

Within thirty (30) days of expiry of the Policy Period, You shall furnish to Us a declaration and details of the estimated or actual final construction cost for each of the insured Projects commenced during the Policy Period.

Where the final Turnover differs from the estimated Turnover, then the final premium for this policy shall be determined by applying the agreed rate to the final Turnover.

The difference between the final premium and the Provisional Premium will be calculated and will be:

- (i) the amount payable by You if the final Turnover exceeds the estimated Turnover; or
- (ii) the amount refunded by Us if the final Turnover is lower than the estimated Turnover. We shall not be called upon to refund more than thirty per cent (30%) of the Provisional Premium.

7. Jurisdiction

Any dispute arising from this policy will be determined by Australian Courts and in accordance with the laws of the State or Territory of Australia in which this policy was issued.

8. Cancellation

- (a) Under Section 60 of the Insurance Contracts Act 1984, We may cancel this policy at any time by giving notice in writing to You of the date from which cancellation is to take effect, where You have:
 - (i) failed to comply with Your duty of utmost good faith; or
 - (ii) failed to comply with Your duty of disclosure at the time when this policy, was entered into, varied, altered, or renewed; or
 - (iii) made a misrepresentation to Us during the negotiations for this policy, but before We agreed to issue this policy; or
 - (iv) failed to comply with a provision of this policy; or
 - (v) failed to pay the premium for this policy; or
 - (vi) made a fraudulent claim under this policy, or any other contract of insurance (whether with Us or another insurer) that provided cover during any part of the Policy Period of this policy; or
 - (vii) failed to comply with a requirement in this policy that You notify Us of an act or omission which occurred after this policy was entered into; or

Claims procedures

(viii) failed to notify Us of any specific act or omission or such a notification as is required under the terms of this policy.

(b) Under Section 60 of the Insurance Contracts Act 1984, We may cancel this policy at any time where:

(i) it is in force by virtue of Section 58 of the Insurance Contracts Act 1984; or

(ii) it is an interim contract of general insurance.

(c) You may cancel this policy at any time by notifying Us in writing.

(d) After cancellation, We will refund the premium for the time remaining on this policy, less any non-refundable duties, unless You have made a fraudulent claim.

9. Inspection by Us

We (or agents appointed by Us) have the right to inspect and examine, by mutual appointment, any property.

10. Joint Insurance

A claim made by any one of the people or entities is a claim made by all of the people or entities defined under Named Insured. Similarly, any statement, act or omission made by any person or entity is assumed to be made by all people or entities defined under Named Insured.

11. Transfer of interest

No interest in this policy can be transferred without Our written consent.

12. Goods and Services Tax

Where We make a payment under this policy for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You are, or will be, or would have been entitled to under A New Tax system (Goods and Services Tax) Act 1999, in relation to that acquisition, whether or not that acquisition is actually made.

Where We make a payment under this policy as compensation instead of payment for the acquisition goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You would have been entitled to under A New Tax system (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods ,services or other supply.

1. Notification

As soon as possible after the happening of any Occurrence, accident or Event which may give rise to a claim against Us, You or Your legal representative must:

(a) advise details to Us and send written confirmation within 30 days;

(b) take all reasonable steps to minimise the loss or Damage or liability and to prevent any further loss, Damage or liability;

(c) take all reasonable precautions to preserve any thing which might prove necessary or useful by way of evidence in connection with any claim;

(d) advise the nearest Police Station in the case of property lost, stolen or vandalised, and obtain a written Police report if requested by Us;

(e) take all practical steps to recover any property;

(f) retain all Damaged properly for inspection by Us.

2. Authority for Repairs or Replacement

Where a claim arises the Named Insured must not authorise repairs to, or arrange replacement of, any of the property relevant to the claim without Our consent.

3. Admission of Liability

Subject to the provisions of the Insurance Contracts Act 1984, You or any person making a claim under this policy must not make any admission of liability or payment or promise, or offer of payment in connection with any such claim, without Our written consent.

4. Verification of Claim

The Named Insured will, at their own expense, furnish Us with:

(a) a statement in writing containing particulars of the property affected and its value; and

(b) such books of account and other business books, computer records, vouchers, invoices, balance sheets, and other documents, proofs, information, explanations and other evidence and any statutory declaration as We may require for the purpose of investigating or verifying a claim under this policy and the Named Insured and their accountants must cooperate fully in this regard.

5. Other Insurances

The Named Insured must furnish Us with a statement giving details of the other insurances which may also provide cover on any property hereby insured.

6. Inspection of Loss or Damage

- (a) Upon notification of any loss or Damage being given to Us the Named Insured may carry out repairs or make good any minor Damage, but in all other cases the Named Insured must give Us, Our Employees or agents an opportunity to inspect the loss or Damage before any repairs or alterations are effected.
- (b) If no inspection is carried out by or on behalf of Us within a period of time which is reasonable, having regard to the location of the risk, weather conditions and any other relevant factors, the Named Insured may proceed with such repairs or replacement.

Endorsements

The following Endorsements apply to and form part of this policy but only where the title appears and is activated in the Schedule. The terms, Conditions and Exclusions of this policy remain otherwise unaltered.

End1 Unsealed Roads Limitation

We will indemnify the Named Insured against Damage to unsealed road works, being road works that are completed or partially completed but have not received at least one application of weatherproof course, but only up to a maximum length as shown in the Schedule either in one continuous section or in the aggregate.

End2 Open Trench Limitation

We will indemnify the Named Insured against Damage to incomplete Trenches being partially or completely excavated, with or without pipes, ducts or cables laid therein prior to backfill and final compaction, but only up to a maximum length as shown in the Schedule either in one continuous section or in the aggregate.

We will not indemnify the Named Insured under this endorsement against:

- (i) the cost of rectifying any subsidence of completed backfill regardless of the cause.
- (ii) the cost of cleaning pipes, the ends of which have not been sealed by the end of each working day to prevent entry of water and/or debris;
- (iii) the cost of rectifying displacement of pipes or ducts by water unless such pipes and ducts have been secured by the end of each working day by backfill places in a manner intended to counteract pipe buoyancy.

End3 Dewatering

We will not indemnify the Named Insured against any costs associated with the installation and operation of any dewatering equipment or any other costs of dewatering.

End4 Tunnels, Shafts and Declines

We will not indemnify the Named Insured against any costs incurred for:

- (i) grouting of unsound earth or rock strata;
- (ii) any measures to control water inflow;
- (iii) the provision of linings, cribs, sets or other support(s);
- (iv) removal or excavation material in excess of the minimum excavation line provided in the plans;
- (v) dewatering;
- (vi) installations and facilities for the discharge of run-off or underground water;
- (vii) refilling of cavities resulting from over break;
- (viii) loss or Damage due to failure of the dewatering systems if such failure could have been avoided by sufficient standby facilities;
- (ix) loss or Damage or dewatering costs directly or indirectly caused by the ingress of water through the tunnel, shaft or decline entrance unless such ingress is caused by the failure of the water diversion or protective bunds;

However, notwithstanding anything contained in i) to ix) above We will indemnify the Named Insured against the cost of:-

- (a) (i) replacing previously installed grouting, linings, cribs, sets or other support(s) which have been Damaged as a consequence of any Insured Damage;
- (ii) additional grouting, permanent linings, cribs, sets or other support(s) necessary to reinstate previously completed sections of the Project which have been Damaged as a consequence of any insured Damage, less the cost of linings, cribs, sets or other support(s) which would have been incorporated into the original construction to deal with any physical conditions of the ground surrounding the Project if the condition had been detected or anticipated prior to the insured Damage.
- (b) removal of collapsed ground material necessary to provide access to the location of any insured Damage and to provide a clear working area to allow repairs to be effected to previously completed sections of the Project.

- (c) dewatering necessary to provide initial access to, and to allow repairs to be effected to previously completed sections of the Project whether damaged or undamaged following any insured Damage but not exceeding the cost of dewatering which has been incurred immediately prior to the insured Damage.

Clauses (b) and (c) above will be subject to the Removal of Debris Sum insured in the Schedule.

End5 Partial Occupancy

Notwithstanding anything to the contrary contained in this policy We will indemnify the Named Insured for Damage to the Project following partial occupancy, however no cover will be provided for any stock, contents, the occupiers fixtures or fittings or any property belong to Employees or visitors.

End6 Loss of Stabilising Fluid

We will not indemnify the Named Insured for any loss or damage of Bentonite or any other stabilising medium whilst being used.

End7 Formwork, Hoardings, Temporary Buildings, Scaffolding, Major Plant and Equipment. First Loss Basis

Notwithstanding anything to the contrary in this policy it is agreed that the Sum Insured in respect of Insured Item 6 b) shall not be subject to Average.

End8 Action of the Sea

We shall not be liable for loss or damage resulting from normal action of the sea. Normal action of the sea means:

- (a) tidal movement;
- (b) currents, whether tidal or otherwise caused;
- (c) wave action, whether wind or tidal driven;
- (d) sediment transport; or
- (e) any other normal behavioural patterns of the marine environment.

This Endorsement shall not apply where it can be demonstrated that such loss or damage has resulted from an action of the sea of a type that has not occurred during the previous ten year period.

The onus of proving this Endorsement does not apply rests with the Insured.

End9 Piling Foundations and Retaining Walls

We shall not be liable in respect of piling foundation and retaining wall works for expenses incurred for:

- 1. replacing or rectifying piles or retaining wall elements:
 - (a) which have become misplaced or misaligned or jammed during their construction; or
 - (b) which are lost or abandoned or Damaged during driving or extraction; or

- (c) which have become obstructed by jammed or damaged piling equipment or casings;

- 2. rectifying disconnected or declutched sheet piles;
- 3. rectifying any leakage or infiltration of material of any kind;
- 4. filling voids or for replacing lost Bentonite;
- 5. as a result of any piles or foundation elements having failed to pass a load bearing test or otherwise not having reached their designed load bearing capacity;
- 6. reinstating profiles or dimensions.

End10 Average to apply to Contract Works

It is noted and agreed that the clause headed Insured Item 1 under Section 1 of this policy is deleted and replaced by the following;

1 Contract Works

The Contract Works Sum Insured must be the full Estimated Construction Cost at the commencement of the Period of Insurance. Average will apply to each and every loss otherwise Insured by this policy, subject to the application of this policy Escalation and Variations allowance.

End11 Transfer Basis

It is noted and agreed that the clause headed

- ◆ "Type of Cover Applicable to Section 1 and 2"
- ◆ General Conditions applicable to Sections 1 and 2 - "8 Premium Adjustments" are deleted and replaced as follows:

Type of Cover Applicable to Sections 1 and 2

Transfer Basis

The policy will provide cover for all Contract Works which are undertaken during the Policy Period as shown in the Schedule.

In the event of cancellation or non-renewal of this policy all cover will cease at the end of the Policy Period.

8. Premium adjustment

Within thirty (30) days of expiry of the Policy Period, You shall furnish to Us a declaration and details of the estimated or actual final value of all work for each of the Insured Projects carried out during the Policy Period.

Where the final Turnover differs from the estimated Turnover, then the final Premium for this Policy shall be determined by applying the agreed rate to the final Turnover.

The difference between the final premium and the Provisional Premium will be calculated and will be:

- (i) the amount payable by You if the final Turnover exceeds the estimated Turnover; or
- (ii) the amount refunded by Us if the final Turnover is lower than the estimated Turnover. We shall not be called upon to refund more than thirty per cent (30%) of the Provisional Premium.

Additional Definition:

Annual Turnover means:

The total value of all Contract Works undertaken during the Policy Period for each and every insured Project.

End12 – Cover for partly completed Projects

In the circumstances where End11 applies, coverage under this policy extends to include Damage to those parts of the Project constructed prior to the start of the Policy Period.



Insurer
CGU Insurance Limited
ABN 27 004 478 371