



**Underwriting at Lloyd's (Australia)**



# **Industrial Special Risks Insurance Policy (Mark IV)**

## **For**

## **Newsagents**

**Underwritten by  
Arch Underwriting at Lloyd's (Australia) Pty Ltd  
ABN 27 139 250 605  
for and on behalf of Arch Syndicate 2012 at Lloyd's**

**LLOYD'S**

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## **IMPORTANT INFORMATION**

### **INTRODUCTION**

This Industrial Special Risks Insurance Policy is 100% underwritten at Lloyd's by Arch Underwriting at Lloyd's (Australia) Pty Ltd, ABN 27 139 250 605, in accordance with the authorisation granted under Contract No. 500000012013 issued to it as 'The Coverholder' by Arch Underwriting at Lloyd's – Syndicate 2012 ('The Underwriter').

When We agree to insure You, We do so based on the information provided to Us by You or on Your behalf and subject to payment of the required premium.

We insure You in accordance with the terms and conditions of this Policy that consists of this document, and any endorsement, specification, attachment or memoranda affixed (or intended to be affixed) to it, the Certificate of Insurance incorporating the Schedule and the Proposal. All of them should be read as if they were one document.

It is important You read this document and the other documents that make up the Policy carefully to ensure that You have the appropriate protection You need and the Newsagents Scheme Cover Level that You selected when you completed Your Proposal. The Schedule sets out the Limit(s) of Liability, Sub-Limits of Liability, Situation or Situations and Deductibles that apply.

Keep this Policy in a safe place and ensure you read the following important duty of disclosure and Privacy information below.

Remember to regularly review Your insurance policy, particularly at renewal to ensure Your insurance policy provides the cover that You currently need.

### **RENEWAL PROCEDURE**

Before this Policy expires We will, through your insurance broker, normally offer renewal by sending a renewal invitation advising the amount payable to renew this Policy. It is important that You check the information shown before renewing each year to satisfy Yourself that the details are correct.

### **YOUR DUTY OF DISCLOSURE**

Before You enter into an insurance contract with Us, the Insurance Contracts Act 1984 requires You to provide Us with the information We need to enable Us to decide whether and on what terms Your proposal for insurance is acceptable and to calculate how much premium is required for Your insurance.

The Act imposes a different duty the first time You enter into the policy with Us to that which applies when You vary, renew, extend, reinstate or replace Your policy. We set these two duties out below.

#### **Your Duty of Disclosure when You enter into this Policy with Us for the first time**

You will be asked various questions when You first apply for this Policy. When You answer these questions, You must:

- give Us honest and complete answers,
- tell Us everything You know, and
- tell Us everything that a reasonable person in the circumstances could be expected to tell us.

#### **Your Duty of Disclosure when You renew, vary, extend, reinstate or replace Your policy.**

When you renew, vary, extend, reinstate or replace the Policy Your duty is to tell us before the renewal, variation, extension, reinstatement or replacement is made, every matter known to you which:

- You know, or
- a reasonable person in the circumstances could be expected to know,

is relevant to Our decision whether to insure You and whether any special conditions need to apply to Your policy.

## YOUR DUTY OF DISCLOSURE (cont'd)

### What You do not need to tell us for either duty

You do not need to tell us about any matter:

- that diminishes Our risk,
- that is of common knowledge,
- that We know or should know as an insurer, or
- that We tell you We do not need to know.

### Who do the above two duties apply to?

Everyone who is insured under the Policy must comply with the relevant duty.

### What happens if You or they do not comply with either duty?

If You or they do not comply with the relevant duty, We may cancel the Policy or reduce the amount We pay if you make a claim. If fraud is involved, We may treat the Policy as if it never existed and pay nothing.

## CLAIMS NOTIFICATION

In the event of a claim arising under this insurance IMMEDIATE NOTICE should be given to Our claims management partner:

|                                                                                                                               |                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| Stuart Greaves<br>Divisional Director<br>DCS Asia Pacific Pty Ltd<br>Suite 2, 63 Melbourne Street<br>South Brisbane, QLD 4101 | Telephone: 07 3360 7400<br>Fax: 02 8235 4040<br>Email: <a href="mailto:stuart.greaves@dcsclaims.com.au">stuart.greaves@dcsclaims.com.au</a> |
|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|

## GENERAL INSURANCE CODE OF PRACTICE

We subscribe to the General Insurance Code of Practice.

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

The Code aims to:

- Constantly improve claims handling in an efficient, honest and fair manner;
- Build and maintain community faith and trust in the financial integrity of the insurance industry; and
- Provide helpful community information and education about general insurance.

You can access the Code at [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

The Privacy Act sets out how we are to collect, use, disclose and protect your personal information. It also describes the circumstances for you to access and, if necessary correct your personal information.

## PRIVACY ACT 1988 – INFORMATION

The Privacy Act 1988 contains National Privacy Principles which require Us to tell You that as an insurer We collect, handle, store and disclose Your personal and sensitive information in order to:

- decide whether to issue a policy,
- determine the terms and conditions of your policy,
- compile data, and
- handle claims.

## PRIVACY ACT 1988 – INFORMATION (Cont'd)

Sensitive information includes, amongst other things, information about an individual's health, membership of professional associations and criminal records. You have given us Your consent to collect Your personal and sensitive information in order to issue You with this Policy.

We disclose personal information to third parties whom We believe are necessary to assist Us and them in providing the relevant services and products. For example, in handling claims, We may have to disclose Your personal and other information to third parties such as other insurers, reinsurers, loss adjusters, external claims data collectors, investigators and agents, 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.

You have the right to seek access to Your personal and sensitive information and to correct it at any time. Please contact us on (02) 9248 6305 EST 9am-5pm, Monday-Friday if You would like to seek access to, or revise Your personal information or feel that the information We currently have on record is incorrect or incomplete or believe that the privacy of Your personal information at Arch Underwriting at Lloyd's (Australia) Pty Ltd has been interfered with. In these cases You are entitled to raise Your concerns. Your complaint will be managed and resolved through our internal Privacy Complaint Procedure.

## LLOYD'S AUSTRALIAN ALTERNATIVE DISPUTES RESOLUTION CLAUSE

In the event that a dispute arises between Insurers and the Insured 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;

## **LLOYD'S AUSTRALIAN ALTERNATIVE DISPUTES RESOLUTION CLAUSE (cont'd)**

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 2, Level 21  
Angel Place  
123 Pitt Street  
Sydney  
NSW 2000  
Australia

who has authority to accept service and to appear 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.

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## **GST NOTICE**

This Policy has a GST provision in relation to premium and the Insurer's payment to the Insured for claims. It may have an impact on how you determine the amount of insurance you may need. Please read it carefully. Seek professional advice if you have any queries about GST and your insurance.

### **Sums insured**

All monetary limits in this Policy may be increased for GST in some circumstances (see below).

### **Claim settlements – Where the Insurer agrees to pay**

When the Insurer calculates the amount the Insurer will pay the Insured, the Insurer will have regard to the items below:

Where the Insured is liable to pay an amount for GST in respect of an acquisition relevant to the Insured's claim (such as services to repair a Damaged item insured under the Policy) the Insurer will pay for the GST amount.

The Insurer will pay the GST amount in addition to the Sum Insured/Limit of Liability or other limits shown in the Policy or in the Schedule.

If Your Sum Insured/Limit of Liability is not sufficient to cover the Insured's loss, the Insurer will only pay the GST amount that relates to the Insurer's settlement of the Insured's claim.

**GST NOTICE (Cont'd)**

The Insurer will reduce the GST amount the Insurer pays for by the amount of any input tax credits to which the Insured is or would be entitled.

Where the Insurer makes a payment under this Policy as compensation instead of payment for a relevant acquisition, the Insurer 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 a relevant acquisition.

Where the Policy insures business interruption, the Insurer will (where relevant) pay the Insured on their claim by reference to the GST exclusive amount of any supply made by the Insured's business that is relevant to the Insured's claim.

**Disclosure – Input tax credit entitlement**

If the Insured registers, or is registered, for GST the Insured are required to tell the Insurer the Insured's entitlement to an input tax credit on the Insured's premium. If the Insured fails to disclose or understates their entitlement, the Insured may be liable for GST on a claim the Insurer may pay. This Policy does not cover the Insured for this GST liability, or for any fine, penalty or charge for which the Insured may be liable.

## INDUSTRIAL SPECIAL RISKS INSURANCE POLICY

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This Policy incorporates the Schedule, Sections, Definitions, Conditions, Exclusions, Endorsements, Memoranda and Warranties (if any) and any other terms herein contained which are to be read together and any word or expression to which a specific meaning has been given in any part of this Policy shall bear this meaning wherever it may appear unless such meaning is inapplicable to the context in which the word or expression appears.

WHEREAS the Insured named in the Schedule has paid or agreed to pay to the Insurer(s) specified below the Premium shown on the Schedule, now the Insurer(s) agree(s), subject to the terms, Conditions, Exclusions, Memoranda, Warranties, limitations and other provisions contained herein or endorsed hereon, to indemnify the Insured as specified herein against loss arising from any insured events which occur during the Period of Insurance stated in the Schedule or any renewal thereof.

PROVIDED THAT the total liability of the Insurer(s) at any one Situation shall not exceed the appropriate Limit or Sub-Limit(s) of Liability as stated in the Schedule or such amount(s) as may be substituted therefore by endorsement or memorandum hereon or attached hereto and that each Insurer specified below shall only be liable to contribute to any loss covered by this Policy that proportion of the loss as is specified beside its name.

Signed on Behalf of the Insurer(s) at Sydney

| <b>Insurer</b>                                                                                                                      | <b>Policy Number</b>                             | <b>Proportion<br/>%</b> |
|-------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|-------------------------|
| Arch Underwriting at Lloyd's<br>(Australia) Pty Ltd<br>ABN 27 139 250 605<br>For and on behalf of<br>Arch Syndicate 2012 at Lloyd's | As per the Certificate/<br>Schedule of Insurance | 100%                    |



## GENERAL DEFINITIONS

**Accidental Damage** shall mean: Physical loss, destruction of or damage to the Property Insured (subject to the Exclusions Applicable to Sections 1 and 2) 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, the acts of any lawfully constituted authority in connection with any of the aforementioned events, impact by any waterborne craft, land vehicles or animals, burglary, theft, loss of money, fraudulent or dishonest acts, fusion, or any other event or circumstance which is more specifically mentioned under any other Sub Limit of Liability and/or Deductible.

### **Business Hours**

Means your office and working hours (including overtime) during you or your employees are on the Situation/Premises for the purpose of your business.

**Burglary** shall mean theft or any attempt thereof of the Property Insured consequent upon:

- (i) actual forcible and violent entry upon the Premises;
- (ii) by a person feloniously concealed on the Premises;
- (iii) threat of violence or violent intimidation.

**Theft** shall mean theft, of the Property Insured in circumstances other than as described as Burglary.

### **Debris**

Where the word "debris" is used as a part of this policy or its endorsements or attachments it shall have the specific meaning given below:

- (a) the residue of damaged Insured Property; or
- (b) materials deposited on the insured premises as a result of the operation of an insured peril;

excluding any material which can cause Pollution or Contamination and which is deposited beyond the boundaries of the insured premises.

### **Flood**

shall mean the inundation of normally dry land by water escaping or released from the normal confines of any natural watercourse or lake whether or not altered or modified or of any reservoir, canal or dam.

### **Indemnity Value**

Means the cost necessary to replace, repair or rebuild the Property Insured to a condition substantially the same as but not better or more extensive than its condition at the time the Damage occurred taking into consideration age, condition and remaining useful life.

### **Market Value**

Means the estimated amount for which the Property Insured should exchange immediately before the Damage between a willing buyer and a willing seller in an arm's length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.

## **GENERAL DEFINITIONS (Cont'd)**

### **Money In Transit**

Means Money in Transit to and from the Situations whilst in the personal custody of the Insured and/or persons authorised by the Insured, including whilst such Money is contained in the night safe of any Bank where the Insured transacts business, provided the liability of the Insurer(s) for Money in night safes shall cease at Bank closing time on the next Bank business day following deposit therein and in the case of Money drawn as wages and/or salaries and carried by the Insured also whilst at the Situations and places of disbursement until paid away PROVIDED THAT the Insurer(s) liability in respect of Money not paid out on the day of withdrawal from the Bank shall be limited to an amount not exceeding forty percent (40%) of the particular withdrawal and PROVIDED FURTHER that during non-business hours such Money be kept in a securely locked safe or securely locked strongroom at the Situations.

### **Money in Private Residence**

Means Money in the personal custody of the Insured and/or persons authorised by the Insured whilst contained in their private residences provided that the liability of the Insurer(s) shall cease at Bank closing time on the next Bank business day following that on which the transit of the Money to the private residence was completed.

### **Policy Schedule**

Means the current Schedule incorporated in the Certificate of Insurance which has been numbered and issued by or on behalf of Us.

### **Pollution and Contamination**

Where the words "pollution" or "contamination" are used as part of this Policy or its endorsements or attachments they shall have the specific meaning given below:

Damage or loss arising out of the discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon any property, land, atmosphere or any watercourse or body of water (including groundwater).

### **We, Us, Our, Ourselves, Insurer(s)**

Means the Insurer(s) as specified in the Certificate of Insurance.

### **You, Your, Yourself, Insured**

Means The Insured named in the Schedule

## SECTION 1 - MATERIAL LOSS OR DAMAGE

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### THE INDEMNITY

In the event of any physical loss, destruction or damage (hereinafter in Section 1 referred to as "damage" with "damaged" having a corresponding meaning) not otherwise excluded 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 already stated herein, the Insurer(s) will also indemnify the Insured for:

- (a) Architects', surveyors', consulting engineers', legal and other fees and clerks of works' salaries for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in reinstatement consequent upon damage to property hereby insured but not such costs, fees and salary for preparing any claim hereunder.
- (b) Any fee, contribution or other impost payable to any Government, Local Government or other Statutory Authority; where payment of such fee, contribution or impost is a condition precedent to the obtaining of consent to reinstate any building(s) insured hereunder; 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.
- (c) Costs and expenses necessarily and reasonably incurred for the purpose of extinguishing fire at or in the vicinity of property hereby insured or threatening to involve such property or for the purpose of preventing or diminishing imminent damage to property hereby insured by any other 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 protective equipment or otherwise escaping from intended confines.
- (d) Costs and expenses necessarily and reasonably incurred for the temporary protection and safety of property hereby insured pending repair or replacement consequent upon damage recoverable hereunder.
- (e) Costs of replacing locks and/or keys and/or combinations where if as a result of burglary, theft or any attempt thereat the keys and/or combinations are stolen or if there are reasonable grounds to believe the keys may have been duplicated also the cost of opening safes and/or strongrooms as a result of theft of keys and/or combinations.
- (f) Costs and expenses necessarily and reasonably incurred in respect of:
  - (i) The removal, storage and/or disposal of debris or the demolition, dismantling, shoring up, propping, underpinning or other temporary repairs consequent upon damage to property insured by this Policy and occasioned by a peril insured against hereunder;
  - (ii) The Insured's legal liability in respect of removal, storage and/or disposal of debris, notwithstanding Excluded Peril 8 in relation to premises, roadways, services, railway or waterways of others, consequent upon damage to the Property Insured by a peril hereby insured against, 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 or any renewal thereof unless liability would have attached in the absence of such agreement.
  - (iii) The demolition and removal of any property belonging to the Insured which is no longer useful for the purpose it was intended, providing such demolition and removal is necessary for the purpose of the reinstatement or replacement of Property Insured under this section and is consequent upon damage to the Property Insured by a peril hereby insured against.
- (g) Damage to clothing and tools of trade belonging to directors and employees of the Insured whilst on the Premises.

Provided that the insurance under Clauses (b) to (g) inclusive above shall not be subject to application of any Co-insurance clause or memorandum contained in this Policy.

## THE PROPERTY INSURED

All real and personal property of every kind and description (except 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 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

- (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 to claim 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 at its/their option reinstate, replace or repair such property or any part thereof. 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 at the time and the place of replacement or, if such property is not replaced, the value thereof at the time and place of the damage.
- (c) On material in process of manufacture; the replacement value of the raw materials and the value of labour and other overhead charges expended thereon at the time and the place of the damage.
- (d) On finished goods; the replacement value of the raw materials and the value of labour and other overhead charges expended thereon before any allowance for profit or the cost of re-stocking such goods, whichever is the lesser.
- (e) On computer system records, 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 the said information; or, if such 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; the cost of repair or replacement (if actually replaced) otherwise the indemnity value to the Insured of such property.
- (g) On glass; the cost of repairing or replacing the broken glass including:
- . temporary shuttering and/or hiring of security service pending replacement of broken glass;
  - . signwriting or ornamentation on glass;
  - . replacement burglary alarm tapes on glass;
  - . removing and re-fixing of window and show case frames and fittings;
  - . heat reflecting material or process on glass.
- (h) On directors' and employees' clothing and tools of trade; the replacement cost at the time of replacement subject to due allowance for wear and tear, depreciation and betterment.
- (i) On empty premises awaiting demolition; the salvage value of the building materials and/or landlords fixtures and fittings.

## MEMORANDA TO SECTION 1

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Except to the extent that this Policy is hereby modified under the following Memoranda the terms, Conditions and limitations of this Policy shall apply.

### **INTERESTS OF OTHER PARTIES**

The insurable interest of only those lessors, financiers, trustees, mortgagees, owners and all other parties specifically noted in the records of the Insured shall be automatically included without notification or specification; the nature and extent of such interest to be disclosed in event of damage.

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 has increased, give notice in writing to the Insurer(s) and on demand pay such reasonably additional premium as the Insurer(s) may require.

Notwithstanding the foregoing paragraph it is understood and agreed that in the event of any of the parties referred to herein being entitled to the benefits of any "Concessions Agreement", which it may have entered into with the Insurer(s), the said "Concessions Agreement" will take precedence over the foregoing paragraph.

### **BRANDED GOODS**

Any salvage of branded goods and/or merchandise, the Insured's own or held by the Insured in trust or on commission, and/or goods sold but not delivered, shall not 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.

### **DECLARED VALUES**

The Schedule of Declared Values at each location (in accordance with the applicable Basis of Settlement) attaches to and forms part of this Policy for the purpose of the application of Co-Insurance.

### **REINSTATEMENT OR REPLACEMENT**

(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 basis upon which the amount payable is to be calculated shall be the cost of reinstatement of the damaged property insured at the time of its reinstatement, subject to the following Provisions and subject also to the terms, Conditions and Limit(s) or Sub Limit(s) of Liability of this Policy.

For the purpose of the insurance under this memorandum "reinstatement" shall mean:

- (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, replacing, repairing or restoring as the case may be (which may be carried out upon any other site(s) and in any manner suitable to the requirements of the Insured, but 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 greater than the indemnity value of the damaged property at the time of the happening of the damage.

(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 upon to pay for reinstatement if such property had been wholly destroyed.

(iii) Property insured under this 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 commencement of the Period of Insurance bears to the sum representing eighty-five per cent (85%) of the cost which 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 sub-paragraph (a) of the abovementioned definition of reinstatement, exceeds the amount which 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 per cent (5%) of the amount of the Insured's declaration aforementioned.

(iv) No payment beyond the amount which would have been payable under this Policy if this memorandum had not been incorporated herein shall be made until a sum equal to the cost of reinstatement shall have been actually incurred; provided that where the Insured reinstates or replaces any lost or destroyed property at a cost which is less than the cost of reinstatement (as defined) but greater than the 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 cost of reinstatement.

(v) All other Industrial Special Risks and/or Fire and Named Perils insurances cover the property effected by or on behalf of the Insured shall be on a similar reinstatement basis.

#### **EXTRA COST OF REINSTATEMENT**

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

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 Municipal or other Statutory Authority; subject to the following provisions and subject also to the terms, Conditions and Limit(s) or Sub-Limits of Liability of this Policy.

#### **Provisions**

(i) The work of reinstatement (which may be carried out wholly or partially upon 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 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 which would have been payable under this Policy if this memorandum had not been incorporated herein.

(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 had been required to comply prior to the happening of the damage.

(iii) Co-insurance shall not be applied to the amount recoverable under this memorandum and any amount specified shall not be taken into account for co-insurance purposes in terms set out in any clause contained in this Policy.

(iv) All other Industrial Special Risks and/or Fire and Named Perils insurances covering the property effected by or on behalf of the Insured shall be on a similar basis.

(v) If the cost of reinstatement of damaged property insured is less than fifty percent (50%) of that which would have been the cost of reinstatement if such property had been destroyed, the amount recoverable hereunder shall be limited to:

- (a) the extra cost necessarily incurred in reinstating only that portion damaged; or
- (b) whilst applying to such property insured, the Sub-Limit stated herein,

whichever is the greater. In the event of a Sub-Limit not being stated in this Policy the Insurer(s) liability shall be limited to the amount as described in sub-paragraph (a) of this provision.

#### **FLOOR SPACE RATIO INDEX (PLOT RATIO)**

Subject to the terms, Conditions and Limit(s) or Sub-Limit(s) of Liability of this Policy, in the event of any building(s) being damaged so as to constitute total loss or constructive total loss and, as a result of the exercise of Statutory powers and/or authority by any Government Departments, Local Government or any other Statutory Authorities reinstatement of such building(s) as before 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 applicable.

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 insured property, necessarily incurred to comply with the requirements of any Act of Parliament or Regulation made thereunder or any By-Law or Regulation or any 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 companies and other organisations a controlling interest in which is acquired by the Insured during the currency of this Policy; 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 shall in the case of a company, 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 company.

#### **CO-INSURANCE**

Unless otherwise stated herein to the contrary, this Policy is subject to the following Co-insurance memorandum:

In the event of damage to 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 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 percent (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 of Liability expressed in the Schedule.

Provided that this 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.

It is expressly understood and agreed that the provisions of this Co-insurance Memorandum shall not apply in respect of that part of any claim which is made under the provisions of the Reinstatement and Replacement Memorandum.

## SECTION 2 - CONSEQUENTIAL LOSS

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### 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 damaged by any cause or event not hereinafter excluded (loss, destruction or damage so caused being hereinafter 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 limitation on the Insurer(s) Liability, pay to the Insured the amount of loss resulting from such interruption or interference in accordance with the applicable Basis of Settlement.

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 explosion of Boilers and/or Economisers excepted) 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

#### Item No. 1

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 Declared Value of Gross Profit at the commencement of each Period of Insurance be 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 hereunder shall be proportionately reduced.

#### Item No. 2

The insurance under this item is to cover such reasonable professional fees as may be payable by the Insured, and such other reasonable expenses necessarily incurred by the Insured and not otherwise recoverable, for preparation of claims under the Insured's Material Damage and Consequential Loss insurance policies and the Insurer(s) shall indemnify the Insured for such reasonable fees and expenses.

#### Item No. 3

The insurance under this item is limited to loss in respect of Payroll 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: the sum produced by applying the Rate of Payroll 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 Payroll paid.



- (ii) during the remaining portion of the Indemnity Period: the sum produced by applying the Rate of Payroll 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 Payroll paid; but not exceeding the sum produced by applying the percentage of the Rate of Payroll 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 Payroll at the commencement of each Period of Insurance be less than the sum produced by applying the Payroll Limits to the sum produced by applying the Rate of Payroll to the Annual Turnover (or its proportionately increased multiple thereof, where the Indemnity Period exceeds twelve (12) months) the amount payable shall be proportionately reduced.

**Item No. 4**

The insurance under this item is limited to increase in cost of working (not otherwise recoverable hereunder) 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.

**DEFINITIONS**

**Gross Profit**

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.

**Turnover**

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.

**Indemnity Period**

The period beginning with the occurrence of the Damage and ending not later than the number of months specified in the Schedule thereafter during which the results of the Business shall be affected in consequence of the Damage.

**Payroll**

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 and the like) of all employees.

**Shortage in Turnover**

The amount by which the Turnover during a period shall, in consequence of the Damage, fall short of the part of the Standard Turnover which relates to that period.

|                                                                                                                                                                   |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Rate of Gross Profit:</b> The rate of Gross Profit earned on Turnover during the financial year immediately before the date of the damage                      | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                   | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Annual Turnover:</b> The Turnover during the 12 months immediately before 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. |
|                                                                                                                                                                   | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Standard Turnover:</b> The turnover during that period in the 12 months immediately before the date of the Damage which corresponds with the Indemnity Period. | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                   | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Rate of Payroll:</b> The rate of Payroll to Turnover during the financial year immediately before the date of the damage.                                      | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                   | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

**MEMORANDA TO SECTION 2**

Except to the extent this Policy is hereby modified under the following Memoranda the terms, Conditions and limitations of this Policy shall apply.

**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 the 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 be conducted in departments the independent trading results of which are ascertainable the provisions of clauses (a) and (b) of Item Nos. 1 and 3 shall apply separately to each department affected by the Damage.

**NEW BUSINESS**

In the event of Damage occurring at the Premises before the completion of the first year's trading of the Business the terms "Rate of Gross Profit", "Annual Turnover", "Standard Turnover" and "Rate of Payroll" shall bear the following meanings and not as within stated:

|                                                                                                                                                                                                                     |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Rate of Gross Profit:</b> The rate of Gross Profit earned on Turnover during the period between the date of the commencement of the Business and the date of the damage.                                         | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                                                                     | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Annual Turnover:</b> 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.                       | ) | 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. |
|                                                                                                                                                                                                                     | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Standard Turnover:</b> The proportional equivalent, for a period equal to the Indemnity Period, for the Turnover realised during the period between the commencement of the Business and the date of the damage. | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                                                                     | ) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Rate of Payroll:</b> The rate of Payroll to Turnover during the period between the date of the commencement of the Business and the date of 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 of finished goods.

## **BOOKS OF ACCOUNT**

Any particulars or details contained in the Insured's books of account or other business books or documents which may be required by the Insurer(s) for the purpose of investigating or verifying any claim hereunder may be produced and certified by the Insured's auditors and their certificate shall be prima facie evidence of the particulars and details to which such certificate relates.

The words and expressions used herein shall have the meanings usually attached to them in the books and accounts of the Insured unless otherwise defined in this Policy.

## **PUBLIC UTILITIES EXTENSION**

Any loss resulting from interruption of or interference with the Business in consequence of damage to property, caused by a peril damage as a result of which is insured hereunder, at any electricity station or sub-station, gas works or water works of a public supply undertaking which is situated on or immediately adjacent to the Premises shall be deemed to be loss resulting from Damage to Property used by the Insured at the Premises.

## **TURNOVER/OUTPUT ALTERNATIVE**

At the option of the Insured the term "Output" may be substituted for the term "Turnover" and, for the purpose of this Policy, "Output" shall mean the sale and/or invoice value of goods manufactured and/or processed by the Insured in course of the Business at the Premises. Provided that only one such meaning shall be operative in connection with any one event involving Damage.

If the meaning set out above be used, the memorandum "Turnover Elsewhere After Damage" shall be altered 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 into account in arriving at the Output during the Indemnity Period".

## **COMPUTER**

This Policy extends to include loss (not otherwise recoverable) 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:

(i) Clause (a) of Item 1 of this Section shall, for the purpose of such claim, read as follows:

(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 (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.

(ii) The definition of Shortage in Turnover shall, for the purpose of such claim, read as follows:

Shortage in Turnover shall mean:

the amount by which the Turnover during a period (less than 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 Payroll 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 caused by a peril, damage as a result of which is insured hereunder, which shall prevent or hinder the use thereof or access thereto, whether the Premises or property of the Insured therein shall be damaged or not, shall be deemed to be loss resulting from Damage to property used by the Insured at the Premises.

Loss as insured by this Policy resulting from interruption of or interference with the Business in consequence of damage to property in the vicinity of and forming part of or contained in the complex of which the Premises forms part caused by a peril, damage as a result of which is insured hereunder, which results in a cessation or diminution of trade due to temporary falling away of potential custom whether the Premises or property of the Insured therein shall be damaged or not shall be deemed to be loss resulting from Damage to property used by the Insured at the Premises.

**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 &/or trailers whilst they are being used on any public highway or thoroughfare.

## EXCLUSIONS TO ALL SECTIONS

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### PROPERTY EXCLUSIONS

This Policy does not cover physical loss, destruction of or 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 damage caused by fire, lightning, explosion, earthquake, aircraft, riot, strikes, malicious damage and storm and/or tempest.
2. Money:
  - (a) whilst being carried by professional money carriers, professional carriers or common carriers which is more specifically insured excepting the excess amount over and above such more specific insurance which excess is held to be covered hereunder,  
  
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 shall indemnify and/or hold harmless and/or release from liability such carriers in respect of loss, destruction or damage which may occur as a result of any event hereby 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 or which has been left at the Situation outside business hours, unless such key or combination details have been properly secured;
  - (d) Where the loss is not discovered within fifteen (15) working days of the event;
  - (e) Where the loss arises out of:
    - (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 hereunder 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 hereunder during taxiing, take-off, flight or landing.
5. Vehicles or trailers registered or licensed to travel on a public road, provided that this exclusion shall not apply to mobile plant and equipment (excluding cars, sedans, panel vans and trucks) not otherwise insured whilst on any 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 this 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 stated in this Policy.
12. Property during the course of, and as a result of, it's 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 (as defined in this exclusion), electronic data processing equipment or electronic control equipment occasioned by or happening through any mechanical, electrical, electro-mechanical, electronic or hydraulic malfunction, failure, derangement, breakdown or non-operation of whatsoever kind.  
 Provided that Property Exclusion 16 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 herein which results from any of the events referred to in this exclusion.

For the purpose of Property Exclusion 16, 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 thereof provided that this exclusion shall be limited to the aforementioned items immediately affected and shall not extend to other property as a result of such loss or destruction or damage.

This exclusion shall not apply to Section 2 as specifically stated therein.

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## PERILS EXCLUSIONS

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The Insurer(s) shall not be liable under Sections 1 and/or 2 in respect of:

1. physical loss, destruction of or 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 the spread of, fire or any other peril insured against under this Policy.

2. (a) physical loss, destruction of or damage to the Property Insured;

(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 released from the normal confines of any natural watercourse or lake whether or not altered or modified or of any reservoir, canal or dam;

(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, 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 upkeep 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 (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 issued by Government, Public or Local Authorities;

(b) demolitions ordered by Government or Public or Local Authorities due to failure on the part of the Insured or their agents to obtain the necessary permits 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 or inventory shortage, disappearance resulting from clerical or accounting errors, shortage in the supply or delivery of materials to or from the Insured;
  - (c)
    - (i) spontaneous combustion,
    - (ii) spontaneous fermentation or heating or any process involving the direct application of heat.

Provided that Perils Exclusions 6(c)(i) and 6(c)(ii) shall be limited to the items immediately affected and shall not extend to other property damaged as a result of such spontaneous combustion, fermentation or 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.

Provided that this exclusion 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 damage directly caused by strikes, locked out workers or similar persons;

- (c) erosion, subsidence, earth movement or collapse resulting therefrom;
- (d) kidnapping, bomb threat, threat of contamination, hoax, extortion or any attempt thereat.

Provided that this Exclusion 7(a) to (d) shall not apply to subsequent loss, destruction or damage to the Property Insured occasioned by a peril (not otherwise excluded) resulting from any event or peril referred to in this exclusion.

8. Any legal liability of whatsoever nature other than as herein provided.
9. Consequential loss of any kind including consequential loss due to delay, lack of performance, loss of contract or depreciation in the value of land or stock, except as herein provided in Section 2.
10. Notwithstanding anything to the contrary contained herein, this Policy does not cover loss or destruction or damage resulting from Pollution or Contamination except (unless otherwise excluded) loss or destruction of or damage to property or any part thereof used by the Insured at the Premises for the purpose of the Business caused by:-
- (a) Pollution or Contamination at the Premises which itself results from fire, lightning, explosion, aircraft or other aerial devices or articles dropped therefrom, riot, civil commotion, strikers, locked out workers, persons taking part in labour disturbances, malicious persons, earthquake, storm, flood, bursting overflowing discharging or leaking of water tanks, apparatus or pipes, sprinkler leakage or impact by any road vehicle or animal.
  - (b) Any of the perils listed in (a) above which itself results from Pollution or Contamination.



## MEMORANDA APPLICABLE TO ALL SECTIONS

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Except to the extent that this Policy is hereby modified under the following Memoranda the terms, Conditions and limitations of this Policy shall apply.

### AMOUNT OF POLICY NOT REDUCED BY LOSS

The insurance under each section and/or item of this 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) agreed for the Period of Insurance.

### EVENT

Only for the purpose of the application of any deductible: all loss destruction or damage resulting from earthquake occurring during each period of 72 consecutive hours shall be considered as one event whether such earthquake is continuous or sporadic in its sweep and/or scope and the loss, destruction or damage was due to the same seismological 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 its directors, officers, employees or servants) owned or controlled by any Insured named herein or subsidiary to any Insured named herein or any co-owner of the property insured hereunder;
- (b) any Insured named or described by this Policy (including its directors, officers, employees or servants).

### ADJUSTMENT OF PREMIUM

- (a) The Premium shown is provisional and is calculated on the Declared Values of:
  - (i) Property Insured,
  - (ii) Gross Profit and Insured Payroll,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 the purpose of this declaration, stock-in-trade and/or merchandise shall be taken at its average value during the Period of Insurance;
  - (ii) the amount of the Gross Profit earned and Payroll 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 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 per cent (50%) of the difference between property declared in accordance with clauses (a)(i) and (b)(i);
  - (ii) the full agreed rate hereunder on the difference between the amounts declared under clauses (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 agreement.
- (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 this Policy.

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**CONDITIONS APPLICABLE TO ALL SECTIONS**

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**1. MISREPRESENTATION AND NON-DISCLOSURE**

If the Insured:

- (i) failed to disclose any matter which the Insured was under a duty of disclosure to the Insurer(s); or
- (ii) 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 -

- (a) the liability of the Insurer(s) in respect of any claim will 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
- (b) if the non-disclosure or misrepresentation was fraudulent, the Insurer(s) may avoid this Policy.

**2. ALTERATION**

The Insurer(s) shall not be liable for loss, destruction of or damage to any property insured hereunder caused or contributed to by any alteration 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 whereby the nature of the occupation or other circumstances affecting the Premises and/or the Insured's property therein contained shall be changed in such a way as to increase the risk of loss, destruction or damage;
- (c) whereby any premises containing any property insured hereunder shall become unoccupied, and so remain for a period of more than thirty days; or
- (d) whereby the Insured's interest ceases except by will or the operation of law.

Provided that any such alteration, upon coming to the knowledge of the Insured's officer responsible for insurance, shall be immediately notified to the Insurer(s) and, if agreed to by the Insurer(s) in writing, an appropriate additional premium paid if required.

**3. 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 alarm signal and automatic alarm signal connected with a fire brigade station, in or on the Premises, due diligence shall be used so that the same shall at all times be maintained in good working order.

The Insured further warrants that provision will be made for the regular maintenance of the installation in accordance with Australian Standard AS 1851 (part 3) Automatic Sprinkler Installation by the installing engineers or firm or, failing this, by a person or organisation who must be approved by the Insurer(s) to carry out such maintenance.

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.

**4. OTHER INSURANCE**

The Insured shall give written notice as soon as possible to the Insurer(s) of any other insurance or insurances effected covering the Property Insured.

**5. CANCELLATION**

(a) This Policy may be cancelled at any time at the request of the Insured, in which case the Insurer(s) will retain the customary short-period rate 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 of this Policy, including a provision with respect to 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; or
- (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 its/their liability in respect of, a claim in the event of such contravention or omission.

(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) 4.00 p.m. on the thirtieth business day after the day on which notice was given to the Insured.

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.

**6. NOTIFICATION OF CLAIMS**

On the happening of any loss, destruction or damage, the Insured shall forthwith give notice thereof in writing to the Insurer(s) and shall (within thirty (30) days 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 several articles or portions of property lost, destroyed or damaged and of the amount of loss, destruction or damage thereto, having regard to their value at the time of the loss, destruction or damage, together with details of any other insurances on any property hereby insured.

The Insured shall use due diligence and do and occur 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 auditor, 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 together with (if demanded) a statutory declaration of the truth of the claim and of any matters connected therewith.

No claim under this Policy shall be payable unless the Insured has complied with the terms of this condition.

**7. FRAUD**

If any claim be in any respect fraudulent or if any fraudulent means or devices be used by the Insured or anyone acting on the Insured's behalf to obtain any benefit under this Policy, or if any destruction or damage be occasioned by the wilful act or with the connivance of the Insured, the Insurer(s), without prejudice to any other right(s) the Insurer(s) might have under this Policy, shall be entitled to refuse to pay such claims.

**8. REINSTATEMENT**

If the Insurer(s) elect(s) or become(s) bound to reinstate or replace any property, 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. The Insurer(s) shall not be bound to reinstate exactly or completely, but only as circumstances permit and in reasonably sufficient manner and shall not in any case be bound to expend more than the applicable Limit of Liability.

**9. INSURER(S) RIGHTS**

On the happening of any loss, destruction or damage in respect of which a claim is or may be made under this Policy the Insurer(s) and every person authorised by the Insurer(s) may, without thereby incurring any liability, and without diminishing the right of the Insurer(s) to rely upon any Conditions of this Policy, enter, take or keep possession of any 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 hereby insured and may keep possession of and deal with such property for all reasonable purposes and in any reasonable manner.

This condition shall be evidence of the leave and licence of the Insured to the Insurer(s) so to do. If the Insured or any one acting on the Insured's behalf shall not comply with the requirements of the Insurer(s) or shall hinder or obstruct the Insurer(s) in doing any of the abovementioned acts, then all benefits under this Policy shall be forfeited. The Insured shall not in any case be entitled to abandon any property to the Insurer(s) whether taken possession of by the Insurer(s) or not.

**10. 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, or of obtaining relief or indemnity from other parties to which the Insurer(s) shall be or would become entitled or subrogated upon the Insurer(s) paying for or making good any destruction or damage under this Policy.

- (b) If the Insurer(s) make(s) any recovery as a result of such action, the Insured may only recover from the Insurer(s) any amount by which the amount recovered by the Insurer(s) exceeded the amount paid to the Insured by the Insurer(s) in relation to the loss.

**11. PRECAUTIONS TO PREVENT LOSS**

The Insured shall take all reasonable precautions to prevent loss, destruction or damage to the property insured by this Policy.

**12. 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 practicable steps to trace and recover any missing property and to discover by whom the property was stolen or damaged.

**13. 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, permanently discontinued or the Insured's interest in the Business or such part thereof ceases otherwise than by death; or
- (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 and forthwith cease.

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 thereupon be at an end, unless its continuance be admitted by memorandum signed for or on behalf of the Insurer(s).

**14. OBSERVANCE OF TERMS AND CONDITIONS**

The due observance and fulfilment of these Conditions and the other terms of this Policy by the Insured, insofar as the same are capable of being construed as such, are conditions precedent to any liability of the Insurer(s) to make any payment under this Policy.

**15. 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 the Loss Adjuster (if appointed) provided such payment(s) shall be deducted from the amount finally determined upon adjustment of the claim.

**16. 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.

**ENDORSEMENTS ATTACHING TO AND FORMING PART OF THE  
INDUSTRIAL SPECIAL RISKS INSURANCE POLICY.**

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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**

**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 of Liability specified in the Schedule.

**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.

**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.

**COSTS OF CLEARING DRAINS**

The following Clause is added to "The Indemnity, Section 1- Material Loss or Damage":

Costs of clearance of drains including expenses necessarily incurred in clearing and/or repairing drains, gutters, sewers and the like, at or in the vicinity of property hereby insured, consequent upon damage recoverable hereunder.

**PERSONAL PROPERTY OF EMPLOYEES AND OTHERS**

The wording of clause (g) of the Indemnity 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 of such property is not otherwise insured

**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 of Liability specified in the Schedule.

## ENDORSEMENTS (Cont'd)

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### THE PROPERTY INSURED

#### MONEY - EXTENDED DEFINITION

The definition of Money extends to include travellers cheques, securities and negotiable instruments including Casket Lottery and Lotto tickets/coupons/Scratch Tickets, bus/train/ferry tickets and phone cards.

### BASIS OF SETTLEMENT

The Basis of Settlement Clause under Section I of the Policy is deleted and replaced by the following:

#### BASIS OF SETTLEMENT

- (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 to claim the Indemnity Value of any Damaged property, the Insurer(s) will pay to the Insured the Indemnity Value of such property at the time of the happening of the damage or at its/their option reinstate, replace or repair such property or any part thereof. 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 at the time and the place of replacement or, if such property is not replaced, the original cost to the Insured of such property or the Market Value whichever is the lesser. If such property is obsolete, the Basis of Settlement if such property is replaced shall be the original cost to the Insured of such property or its Market Value, whichever is the lesser.
- (c) On material in process of manufacture; the replacement value of the raw materials and the value of labour and other manufacturing costs charges expended thereon at the time and the place of the Damage.
- (d) On finished goods; either the replacement value of the raw materials and the value of labour and other manufacturing costs expended 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. If such goods are obsolete, the Basis of Settlement whether or not such goods are replaced shall be the original cost to the Insured of the raw materials and the cost of labour and other manufacturing costs expended thereon before any allowance for profit or their Market Value, whichever is the lesser.
- (e) On computer systems records, 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 the said information; or if such is not required, the replacement cost of materials as blank stationery at the time and place of the Damage.
- (f) On patterns, models, moulds, jigs, templets, dies or lasts; the cost of repair or replacement (if actually repaired or replaced with reasonable despatch) otherwise the value of such property to the Insured calculated at the time and place of the Damage, but not exceeding the cost of replacement..
- (g) On glass; the cost of repairing or replacing the broken glass with the quality, size or make necessary to comply with the minimum requirements of any Statutory authority, including:  
Temporary shuttering,  
Contract charges payable for security services and the cost of hiring additional security services when needed pending replacement of broken glass.  
Signwriting or ornamentation on glass  
Replacement burglar alarm tapes on glass  
Removing and refixing of window and show case frames and fittings  
Heat reflecting material or process on glass  
Protective film on glass

## ENDORSEMENTS (Cont'd)

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- (h) On directors', partners', proprietors', employees' and visitors' personal property and property of welfare, sport and social clubs as described in clause (g) of The Indemnity; the cost of repair or if replaced, the replacement cost at the time and place of replacement.

Provided that in the case of personal property comprising a pair or set, whether or not every component part of the pair or set is Damaged, the Basis of Settlement shall be increased to include the difference between the Market Value or replacement value (whichever is greater) before the Damage and the Market Value or replacement value (whichever is greater) after the Damage.

- (i) On empty premises awaiting demolition; the salvage value of the building materials and/or landlords fixtures and fittings, net of demolition costs.
- (j) 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 or, in the case of a partial cancellation of the contract of sale, that part of the contract price which shall have been lost to the Insured because of the partial cancellation.

## OUTPUT REPLACEMENT

Where any Property Insured consists of equipment, machinery or plant having a measurable function, capability or output and if, by reason of the Basis of Settlement Clause, it is necessary to replace such property with a new item or items which perform a similar function or functions, then the Basis of Settlement for such property shall be as follows:-

- (a) Where any property is to be replaced by an item or items which have the same or a lesser total function, capability or output, then the Basis of Settlement is the estimated new installed cost of such replacement item or items that would give the same total function, capability or output as the property being replaced.
- (b) 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 item or items is no greater than the replacement value of the property being replaced, then the Basis of Settlement is the new installed cost of the replacement item or items.
- (c) 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 being replaced, then the Basis of Settlement is either:
- (i) the estimated cost of replacement of such Damaged property as defined in sub clause (a) of the Reinstatement or Replacement Memorandum, or
  - (ii) that proportion of the estimated new installed cost of the replacement item or items which the output of the Damaged property bears to the output of the replacement item or items.

whichever amount is the greater.

The difference between the insurable value as defined in this clause (c) and the new installed cost of the replacement item or items shall be borne by the Insured.

No payment beyond the value of the destroyed property at the time of the happening of its Damage shall be made hereunder until a sum equal to the value for settlement determined according to paragraphs (a), (b) and/or (c) hereof shall have been actually incurred.

Provided that in the event of partial loss or damage where property is to be repaired, the Insurer(s) shall pay the cost of restoration of the Damage property to a condition substantially the same but not better or more extensive than its condition when new and provided further that the liability of the Insurer(s) shall not exceed the sum representing the cost which the Insurer(s) could have been called upon to pay if such property had been wholly destroyed.



## **ENDORSEMENTS (Cont'd)**

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### **LANDSCAPING**

The Property Insured and Basis of Settlement (a) of Section 1 are extended to include landscaping, which term includes trees, shrubs, plants and lawns. Property Exclusions 7 and 8 shall not apply to the cover granted by this endorsement. It is agreed that the liability of the Insurer(s) shall not exceed the amount of the Sub-Limit of Liability stated in the Schedule against "Landscaping" for any one loss or series of losses arising out of any one event or occurrence.

### **LEASED EQUIPMENT (RESIDUAL VALUE)**

The Basis of Settlement under Section 1 of the Policy is extended to include the following clause, notwithstanding clause (a):

On machinery, plant and equipment leased on a Residual Value basis; in the event of actual or constructive total loss, the amount for which the lessee is contractually liable to the lessor, but not exceeding the sum represented by rent payable under such lease(s) for the period commencing on the date of physical loss, destruction or damage and ending on the retirement date(s) of such lease(s), plus the current market value of the property immediately before its loss or damage or the Residual Value, whichever is the greater, less any salvage value, but in any case not exceeding 10% above replacement value. In the event of damage which does not amount to a constructive total loss, the cost of repair in accordance with the provisions of the Reinstatement or Replacement and Extra Cost of Reinstatement Memorandum as set out herein.

For the purpose of this Basis of Settlement, the term "Residual Value" shall mean the minimum amount which the lessee has guaranteed that the leased property will realise, being the same amount which the lessee has agreed would be payable to acquire such property upon the retirement date of the lease.

### **DESIGNATION**

The following sentence is added to the first paragraph of Basis of Settlement (a):

For the purpose of ascertaining the classification under which any property is insured, the Insurer(s) agree to accept the designation applied to such property by the Insured.

### **VALUATION OF PROPERTY - EMPLOYEES AND OTHERS**

Clause (h) of the Basis of Settlement under Section 1 is amended to read:

- (h) On personal property, tools and effects of the Insured's directors, employees and of visitors to the Insured's premises; the replacement cost at the time and place of replacement.

## **MEMORANDA APPLICABLE TO SECTION 1**

### **PECUNIARY OR ECONOMIC INTERESTS OF OTHERS**

The term "insurable interest" in the memorandum to Section 1 headed Interests of Other Parties is amended to read "pecuniary or economic interest".

### **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.

### **EXTRA COST OF REINSTATEMENT – PROVISION (V) DELETED**

Provision (v) of the Extra Cost of Reinstatement memorandum is deleted.

## **ENDORSEMENTS (Cont'd)**

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### **LOSS OF LAND VALUE**

Notwithstanding the provision of Perils Exclusion 9 and Property Exclusion 8:

- a) In the event of the absolute refusal by the competent local or government Authority to allow reconstruction of the premises following destruction or damage, the Insurer shall pay by way of indemnity the amount in excess of the Land Value before over the land value after the destruction or damage to improvements, or
- b) In the event of the competent local or government Authority allowing only partial reconstruction of the premises after destruction or damage, the Insurer shall pay by way of indemnity the deficiency between Land Value after such reconstruction and the Land Value before the destruction or damage,

less any sum saved by way of compensation by such Authority arising out of the action referred to in (a) or (b) above.

The liability of the Insurer shall be limited to the sub-limit stated in the schedule against "Loss of Land Value" for any one loss or series of losses arising out of any one original source or cause at any one location.

### **DEFINITION**

**LAND VALUE** 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 been 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, the part of the claim paid in excess of the revised Land Value shall be refunded to the Insurer.
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.

### **ACQUIRED COMPANIES**

Notwithstanding the provisions of the Acquired Companies Memorandum, the term "controlling interest" where used therein shall also extend to include companies and other organisations over which the Insured acquires the capacity during the Period of Insurance to directly or indirectly dominate decision-making in relation to financial and operational policies, providing the acquired company is of a similar business activity.

### **CONSTRUCTIVE TOTAL LOSS**

For the purposes of this endorsement there shall be deemed to be a constructive total loss when the Property Insured specified herein or any part thereof is reasonably abandoned:

- (a) because its actual total loss seems unavoidable; or
- (b) because it could not be preserved from actual total loss without an expenditure which would exceed its repaired and/or recovered value.

It is understood and agreed that the words "actual total loss" shall mean loss, destruction or damage (and not merely physical loss, destruction or damage) of or to the Property Insured specified herein or any part thereof.

## **ENDORSEMENTS (Cont'd)**

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### **UNDAMAGED FOUNDATIONS**

When Property Insured is damaged but its foundations are not destroyed and, due to the exercising of statutory powers or delegated legislation or authority by any government department, local government or other statutory Authority, reinstatement of the Property Insured is carried out upon another site or sites, then the abandoned foundations shall be deemed to have been destroyed: If the presence of the abandoned foundations increases the sale value of the original site, then such increase shall be regarded as salvage and shall be payable to the Insurer(s) by the Insured upon completion of the sale, or shall be deducted from the total amount otherwise payable by the Insurer(s) under this Policy, whichever shall occur later.

All differences relating to the amount of such increase in site sale 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 fail to 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.

### **UNDAMAGED ANCILLARY AND/OR PERIPHERAL EQUIPMENT**

If plant and machinery is destroyed but its ancillary and/or peripheral equipment is not destroyed but 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 its salvage value shall be payable to the Insurer(s) by the Insured upon completion of any sale or shall be deducted from the total amount otherwise payable by the Insurer(s) under the policy, whichever shall occur later.

## **SECTION 2 - CONSEQUENTIAL LOSS**

### **BASIS OF SETTLEMENT**

Items 5 & 6 are incorporated in Section 2 Basis of Settlement as follows

#### **ITEM No. 5 SEVERANCE PAY**

The insurance under this item is limited to such further additional expenditure beyond that recoverable under Clause (a) of Item No. 3 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.

#### **ITEM No. 6 ACCOUNTS RECEIVABLE**

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 ruling bank rates on any loan to offset impaired collections pending repayment of such amounts rendered uncollectable 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;
- (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;

## **ENDORSEMENTS (Cont'd)**

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- (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 "Account Receivable".

## **DEFINITIONS**

### **CURRENT COST ACCOUNTING**

For the purpose of the following definitions, any adjustment implemented in current cost accounting shall be disregarded.

### **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.

### **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 TO SECTION 2**

### **PUBLIC UTILITIES MEMORANDUM EXTENDED**

Any loss resulting from interruption of or interference with the Business directly or indirectly in consequence of Damage anywhere in Australia to any land based communication link and/or electric power station or sub-station, gasworks, waterworks of the public supply undertaking from which the Insured obtains electric current, gas or water shall be deemed to be loss resulting from damage to Property used by the Insured at the Premises. It shall not be a condition precedent to liability under this endorsement that payment shall be made or liability admitted for damage under Section 1 of the policy.

## **ENDORSEMENTS (Cont'd)**

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### **UNSPECIFIED CUSTOMERS &/OR SUPPLIERS PREMISES – AUSTRALIA WIDE**

For the purposes of this Clause, the term “Damage” is extended to include Damage to property at the premises anywhere in Australia of any producer or merchant, which shall be deemed to be Damage to property used by the Insured at the Premises.

The liability of the Insurer(s) under this extension, in respect of any one loss or series of losses arising out of any one original source or cause at any one premises, shall be limited to the amount specified in the Schedule against “Unspecified Customers &/or Suppliers Premises”.

For the purposes of this extension, the term “premises of a producer” refers to premises other than “Public Utilities” at which goods or services used by the Insured are produced, assembled or stored. The term “premises of a merchant” refers to premises to which the Insured provides goods or services.

### **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.

### **INFECTIOUS OR CONTAGIOUS DISEASES, VERMIN, PESTS OR DEFECTIVE SANITARY ARRANGEMENTS; MURDER, SUICIDE**

Loss as insured by the Policy resulting from interruption of or interference with the Business directly or indirectly arising from:

- (a) closure or evacuation of the whole or part of the Premises by order of a competent public authority arising from notifiable human infectious or contagious disease manifested by any person whilst at the Premises;
- (b) closure or evacuation of the whole or part of the Premises by order of a competent public authority consequent upon vermin or pests or defects in the drains or other sanitary arrangements at the Premises;
- (c) murder or suicide occurring in or at the Premises;

shall be deemed to be loss resulting from Damage to property used by the Insured at the Premises.

However, paragraph (a) will not indemnify loss resulting from interruption of or interference with the Business directly or indirectly arising from or in connection with Highly Pathogenic Avian Influenza in Humans or any Quarantinable Disease as defined in or declared under the Quarantine Act 1908 (Australia) and subsequent amendments.

The liability of the Insurer(s) under this Memorandum in respect of any one loss or series of losses arising out of any one event or occurrence and in the aggregate in respect of all events/occurrences happening during any one Period of Insurance, shall be limited to the Sub-Limit of Liability stated in the Schedule.

## **EXCLUSIONS APPLICABLE TO ALL SECTIONS**

### **PROPERTY EXCLUSIONS**

#### **MONEY LOSS DISCOVERED LATE**

Property Exclusion 2(d) is amended to read:

- (d) where the loss is not discovered within fifteen (15) working days of the event.

## ENDORSEMENTS (Cont'd)

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### PROPERTY IN THE OPEN AIR

Property Exclusion 13 is deleted.

### ELECTRONIC DATA

It is hereby agreed and declared that the following is added to Property Exclusions:-

- (a) This policy does not insure:
  - (i) total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data, or
  - (ii) error in creating, amending, entering, deleting or using Electronic Data, or
  - (iii) total or partial inability or failure to receive, send, access or use Electronic Data for any time or at all

from any cause 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 by electronic and electromechanical data processing or electronically controlled equipment and includes programs, software and other coded instructions for such equipment.

- (b) However, in the event that a peril listed below (being a peril insured by this policy but for this exclusion) is caused by any of the matters described in paragraph (a) above, this Policy, subject to all its provisions will insure:
  - (i) physical loss of or damage or destruction to Property Insured directly caused by such listed peril, and/or
  - (ii) consequential loss insured by this policy.

Further, this exclusion does not apply in the event that a peril listed below (being a peril insured by this policy but for this exclusion) causes any of the matters described in paragraph (a) above:

Fire, lightning, thunderbolt, explosion, implosion, earthquake, subterranean fire, volcanic eruption, impact by aircraft or aerial object dropped therefrom, impact by road vehicle or animal, sonic boom, theft which is a consequence of theft of any computer and/or computer hardware and/or firmware and/or microchip and/or integrated circuit and/or similar device containing such Electronic Data, breakage of glass, the acts of persons taking part in riots or civil commotions or of strikers or of locked out workers or of persons taking part in labour disturbances, storm and/or tempest and/or rainwater and/or wind and/or hail, water and other liquids and/or substances discharged and/or overflowing and/or leaking from any apparatus and/or pipes at the premises.

For the purposes of the Basis of Settlement provision in this policy, computer system records includes Electronic Data as defined in paragraph (a) above

## ENDORSEMENTS (Cont'd)

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### TRANSMISSION AND DISTRIBUTION LINES EXCLUSION – ABOVE GROUND (300M EXCLUSION)

All above ground transmission and distribution lines, including wire, cables, poles, pylons, standards, towers, other supporting structures and any equipment of any type which may be attendant to such installations of any description, for the purpose of transmission or distribution of electrical power, telephone or telegraph signals, and all communication signals whether audio or visual.

This exclusion applies to all equipment other than that which is on or within 300 metres (or 1000 feet) of an insured structure.

This exclusion applies both to physical loss or damage to the equipment and all business interruption, consequential loss, and/or other contingent losses related to transmission and distribution lines, other than contingent property damage/business interruption losses (including expenses), arising from loss and/or damage to lines of third parties.

LSW1635

## PERILS EXCLUSIONS

### WAR & TERRORISM

It is hereby agreed and declared that Perils Exclusion 1 of this Policy is deleted in full and replaced by the following:-

1. physical loss, destruction of or damage to the Property Insured, cost or expense of any 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 other sequence to the loss
  - (a) war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power;
  - (b) any Act(s) of Terrorism  

Terrorism: for the purposes of this exclusion, Act of Terrorism means an act, which may include but is not limited to 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 to put the public, or any section of the public, in fear
  - (c) confiscation, commandeering, nationalisation, requisition or destruction or damage by or under the order of any government (whether lawfully constituted or otherwise) or public or local authority.

Furthermore any loss, destruction or damage, cost or expense of any 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 Perils Exclusion 1(a), 1(b) or 1(c) is also excluded from this Policy.

### FLOOD

#### i) FLOOD EXCLUDED

If Your Policy Certificate indicates that Damage caused by Flood is 'Not Insured', Perils Exclusion 3 (a) excluding Flood will remain in full force and effect;

#### ii) FLOOD INCLUDED

If the Policy Schedule in Your Certificate of Insurance states a Dollar amount as being the Sub-Limit of Liability applicable to Sections 1 & 2 Combined, Flood cover is included for an amount not exceeding that Sub-Limit of Liability and the Policy is amended as follows:

Paragraph (a) of Perils Exclusion 3 is deleted.

## **ENDORSEMENTS (Cont'd)**

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### **THEFT IN OPEN (EXCEPT MONEY) EXCLUSION MODIFIED**

Perils Exclusion 6(a) is amended to read:

Theft, without forcible entry or threat of violence, of property in the open air.

The liability of the Insurer(s) shall not exceed the Sub-limit stated in the Schedule of the Policy against "Theft of Property in the open air" for any one loss or series of losses arising out of any one event of occurrence at anyone location.

### **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

### **RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE**

This Policy does not cover any loss or damage arising directly or indirectly from nuclear reaction nuclear radiation or radioactive contamination however such from 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 nuclear 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 from that Fire.

NMA1191  
7/5/1959

### **ELECTRONIC DATE RECOGNITION EXCLUSION (LISTED PERILS)**

1. 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.

2. However, in the event that a peril listed below results from 1.(a) or 1.(b) above, this policy, subject to all its other terms, conditions and exclusions, will cover physical damage occurring during the policy period to property insured by this policy directly caused by such listed peril.

#### **Listed Perils:**

Fire  
Explosion



## **ENDORSEMENTS (Cont'd)**

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3. Notwithstanding Section 2 above, this policy does not cover any costs and expenses, whether preventative, remedial or otherwise, arising out of or relating to change, alteration or modification of 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.

NMA 2808

16.7.1998

## **MEMORANDA TO ALL SECTIONS**

### **EVENT**

The memorandum to Sections 1 and 2 under this heading is extended to include the following perils in addition to Earthquake:

- (a) Storm and Tempest, Rainwater, Flood
- (b) Subterranean Fire, Volcanic Eruption.

### **STORAGE AGREEMENTS**

When the Insured enters into a contract for storage of property and the terms of the contract contain a disclaimer clause, then the insurance provided by the policy shall not be prejudiced by the Insured agreeing to such terms. The Insured's officer responsible for insurance shall, upon becoming aware of such a contract, inform the Insurer(s) as soon as is reasonably practicable and the Insured shall pay a reasonable additional premium if required by the Insurer(s).

### **LEASED BUILDING AGREEMENTS**

When the Insured enters into a lease agreement for occupancy of any building or part of a building and the terms of the lease contain a disclaimer clause in favour of the lessor, then the insurance provided by the policy shall not be prejudiced by the Insured agreeing to such terms. The Insured's officer responsible for insurance shall, upon becoming aware of such an agreement, inform the Insurer(s) as soon as is reasonably practicable and the Insured shall pay a reasonable additional premium if required by the Insurer(s).

### **SUBROGATION WAIVER (PARTNERS)**

The wording of the memorandum to all Sections, headed "Subrogation Waiver", is amended to read:

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 Insured named or described by this policy (including its directors, partners, officers, employees or servants);
- (b) any corporation or organisation (including its directors, officers, partners, employees or servants) owned or controlled by any Insured named herein or subsidiary to any Insured named herein or any co-owner of the property insured hereunder.

### **SUBROGATION WAIVER (OTHER INTERESTED PARTIES)**

The wording of the memorandum to all Sections, headed "Subrogation Waiver", is extended to include the following paragraph:

Any party described in the memorandum to Section 1, headed "Interests of Other Parties", unless the Insured expressly agrees to the pursuit of recovery action against that party.

**CONDITIONS APPLICABLE TO ALL SECTIONS**

**MISDESCRIPTION, NON-DISCLOSURE AND ALTERATION**

Condition 1 of the policy is extended to include the following paragraph:

Notwithstanding the provisions of Conditions 1 and 2, the Insured shall not be prejudiced by any unintended and/or inadvertent error, omission or misdescription of the risk, interest or property insured under the policy, failure to advise the Insurer(s) of any change of risk, interest or property insured or failure to comply with any statutory requirement, provided that the Insured's officer responsible for insurance shall, upon becoming aware of any such unintended and/or inadvertent act, error or omission, inform the Insurer(s) as soon as reasonably practicable and that the Insured shall, upon request, pay any reasonable extra premium to the Insurer(s) from the date of the increase in risk.

**SPRINKLER INSTALLATIONS**

Condition 3 is amended as follows:

The words "or are required by law to be protected" are deleted.

The following paragraphs are added:

Where the sprinklered Premises are leased to a tenant and the lease provides that the tenant shall provide for maintenance of the installation, any failure so to do will not prejudice the rights of the Insured, provided that the Insured, upon becoming aware of the failure, shall either immediately provide for maintenance of the installation or immediately give notice in writing to the Insurer(s) and on demand pay such reasonable additional premium as the Insurer(s) may require.

Where the Insured or a tenant responsible to provide for maintenance of the installation enters into an agreement for maintenance with a contractor and such an agreement provides in substance that the Insured or tenant shall indemnify and/or hold harmless and/or release from liability the contractor in respect of loss, destruction or damage which may occur as a result of any peril insured against by this policy, the insurance hereby shall not be prejudiced by the Insured or the said tenant agreeing to such provision. The indemnity and/or hold harmless provision and/or release from liability shall be equally binding upon the Insurer(s), who shall waive all rights of subrogation which may have otherwise existed against the tenant.

The Insured's officer responsible for insurance shall, upon becoming aware of such agreement, inform the Insurer(s) as soon as reasonably practicable and a reasonable additional premium will be paid if required by the Insurer(s).

**NOTIFICATION OF CLAIMS**

The words "within thirty (30) days" in Condition 6 are amended to read "as soon as practicable". The final sentence of Condition 6 is deleted.

**BREACH OF CONDITIONS**

Any breach of a condition without the knowledge or consent of the Insurance Officer of the Insured shall not prejudice or invalidate this insurance provided that due diligence is exercised at all times by the Insured.

## ADDITIONAL ENDORSEMENTS

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### ASBESTOS ENDORSEMENT

A. This Policy only insures asbestos 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 the 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 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 Insured must report to the Insurers 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 Insurers 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 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 (Amended 15.11.2011)

### SEVERAL LIABILITY NOTICE

The subscribing Insurers' obligations under this Policy are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations.

08/94  
LSW1001

## **ADDITIONAL ENDORSEMENTS (Cont'd)**

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### **DAMAGE TO THE PROPERTY INSURED (OTHER THAN MONEY) WHILST IN TRANSIT - AUSTRALIA.**

Section 1 of this Policy extends to cover Property Insured (other than Money) whilst in transit between a place or places or a port or ports in Australia (including whilst being loaded on to or unloaded from a conveying vessel, vehicle or aircraft).

For the purpose of this Endorsement, the following Exclusions to all Sections are deemed inoperative:

- Property Exclusions 1 and 13(b);
- Perils Exclusions 3(a), 3(b), 6(a) and 6(c);
- Perils Exclusion 4(b) is amended by deleting the words "scratching or marring".

The Insurer(s) will also cover the Insured for general average and salvage charges (adjusted or determined according to the contract of affreightment and/or the governing law and practice) incurred to avoid or minimise loss insured hereunder.

The Insurer(s) will not be liable under this insurance for:

- (i) consequential loss of any kind;
- (ii) loss, damage or expense caused by inherent vice or the nature of any Property Insured hereunder;
- (iii) ordinary leakage, ordinary loss in weight or volume of any Property Insured hereunder;
- (iv) loss, damage or expense proximately caused by delay, except expenses payable in connection with general average and salvage charges;
- (v) loss, damage or expense arising from insolvency or financial default of the owners, managers, charterers or operators of any vessel;
- (vi) loss, damage or expense arising from:
  - (a) unseaworthiness of a vessel or craft;
  - (b) unfitness of a vessel, craft, conveyance, container or liftvan for the safe carriage or Property insured hereunder,  
where the Insured or their servants are aware of the unseaworthiness or unfitness at the time the property insured is loaded therein.
- (vii) loss of Money;

The Insurer(s) liability under this clause shall be limited to the Sub-Limit of Liability as stated in the Schedule

**EMPLOYEE DISHONESTY**

Section 3 – Employee Dishonesty is incorporated in this Policy as follows:

**SECTION 3 - EMPLOYEE DISHONESTY**

Notwithstanding the provisions of Perils Exclusion 7(a), the Insurer(s) will, subject also to the terms, Memoranda, Exclusions and Conditions specifically applicable to this Section 3, indemnify the Insured for Loss discovered during the Period of Insurance or within twelve months thereafter or within twelve months after the termination of employment, whichever happens first.

The Insurer(s) will not be liable under this Section 3

- (a) for more than the Sub-Limit(s) of Liability stated in the Schedule in respect of any one Employee and of all Employees, notwithstanding that Acts of Fraud or Dishonesty were committed during more than one Period of Insurance;
- (b) for Loss arising from any Acts of Fraud or Dishonesty committed more than twelve months prior to the date of receipt by the Insurer(s) of notice of such Loss;

**DEFINITIONS APPLICABLE TO SECTION 3**

**Insured:** means the employer who is deemed to be the named Insured in The Schedule and shall include any superannuation or pension scheme, welfare, social and/or sporting club formed for the benefit of Employees and with the knowledge and consent of the Insured.

**Employee:** shall mean

- (a) any person while employed under a contract of service with or apprenticeship to the Insured;
- (b) any person while hired or seconded from any other party into the service of the Insured including any agency furnishing personnel;

whom the Insured has the right at all times to govern, control or direct in the performance of his/her work in the course of the Business of the Insured but shall not include:

- (i) any broker, factor, commission agent, consignee, contractor or other agent; or
- (ii) any partner in or of or any director of the Insured,

unless such person is also an employee of the Insured or has been seconded into the employ of the Insured.

**Business:** means the business or occupation of the Insured as stated in the Schedule.

**Loss:** means direct pecuniary loss of money, negotiable instruments or goods belonging to the Insured or for which the Insured hold themselves responsible and which loss the Insured sustains as a result of any Act of Fraud or Dishonesty committed by an Employee whether acting alone or in collusion with any other person(s).

**Act of Fraud or Dishonesty:** means all Losses arising directly or indirectly from any one Employee or any number of Employees in collusion in respect of the one event or series of events arising from the one source or original cause irrespective if the Acts of Fraud or Dishonesty were committed during more than one Period of Insurance shall be deemed to be one Act of Fraud or Dishonesty.

## **ADDITIONAL ENDORSEMENTS (Cont'd)**

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### **BASIS OF SETTLEMENT APPLICABLE TO SECTION 3**

The value of Property for the purpose of determining the amount of loss indemnifiable under this Section 3 shall be:

#### **1 Securities**

The least of:

- 1.1 the actual cash value thereof at the close of business on the day on which the loss was discovered, or if that day is not a business day, the business day immediately following; or
- 1.2 the actual cash value thereof at the time of the loss; or
- 1.3 where the Property is held by the Insured as security, pledge or collateral for an advance or loan, the lesser of:
  - 1.3.1 the value of the Property as determined and recorded by the Insured when making the advance or loan; or
  - 1.3.2 in the absence of such record the unpaid portion of the advance or loan plus accrued interest thereon at prevailing commercial rates.

The Insurer(s) may, with the consent of the Insured, settle any claim for loss of Property with the owner thereof. Any Property for which the Insurer(s) have made indemnification shall become the Property of the Insurer(s).

#### **2 Property other than Securities**

The lesser of:

- 2.1 the actual cash value of such Property; or
- 2.2 the actual cost of repairing such Property or replacing same with Property or material of like quality and value.

The Insurer(s) may, at their election, pay such actual cash value, or make such repairs or replacements.

### **EXTENSIONS TO SECTION 3**

#### **Claims Preparation Costs**

The indemnity by this Section includes:

- (a) the fees payable by the Insured to their auditors; and
- (b) all other costs, charges and expenses reasonably and necessarily incurred by the Insured in the preparation of a claim under this endorsement,

subject to the Sub-Limit of Liability applicable to this Section 3 not being exhausted and that the amount of the indemnity in respect of Claims Preparation Costs shall not exceed 15% of the indemnifiable Loss.

#### **Alterations Additions to Employees**

This Section extends to cover alterations and/or additions to Employees from the date of each alteration and/or addition subject to the Insured providing at the Insurer(s) request a statement showing the total number of Employees and the categories required to ascertain and adjust the Premium.

## **ADDITIONAL ENDORSEMENTS (Cont'd)**

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### **Automatic Reinstatement (Limited to one full reinstatement any one Period of Insurance)**

The insurance by this Section 3 shall be automatically reinstated in the event of any Loss subject to:

- (a) payment by the Insured of an additional Premium on the amount of the Loss from the date thereof to expiry of the Period of Insurance; and
- (b) the total amount reinstated in any one Period of Insurance not exceeding the equivalent of the Sub-Limit of Liability stated in the Schedule applicable to this Section.

### **Unidentifiable Employees**

If a Loss is alleged to have been caused by the fraud or dishonesty of any of the Employees and the Insured shall be unable to designate the specific Employee or Employees causing the Loss, the Insured's claim in respect of such Loss shall not be invalidated by their inability so to do provided the Insured is able to furnish evidence to prove the Insurer(s) that the Loss was in fact due to the fraud or dishonesty of one or more of the Employees.

### **Other Parties**

This endorsement extends to include Loss arising as a result of any Act of Fraud or Dishonesty involving money, negotiable instruments or goods belonging to or in the care, custody and/or control of one Insured party arising from the act or acts of Employees of another party insured in terms of this Section.

### **Superseded Policy**

If this Section 3 supersedes any policy of insurance previously held by the Insured then the insurance afforded by this Section shall apply to any Loss which is discovered by the Insured during the Period of Insurance (or within 12 months after the termination thereof) and which would have been recoverable by the Insured under such prior policy but for the fact that the time allowed thereunder within which Loss must be discovered had expired, provided that the Insurer(s) shall not be liable hereunder unless such Loss would have been covered in terms of this endorsement had this endorsement been in force when the Act(s) of Fraud or Dishonesty resulting in Loss was/were committed.

### **Extended Cover for Past Employees**

Any person who ceases to be an Employee shall for the purpose of this insurance be considered as being an Employee for a period of twelve months after such person ceased to be an Employee.

## **MEMORANDA APPLICABLE TO SECTION 3**

### **Waiver**

It is understood and agreed that knowledge possessed by the person signing the proposal form or giving renewal or other instructions shall not prejudice any claim under this Section.

### **Recoveries**

If the Insured shall sustain any Loss to which this Section applies that exceeds the amount payable hereunder in respect of such Loss, the Insured shall be entitled to all recoveries (except from suretyship, insurance, reinsurance, security or indemnity taken or effected by the Insurer(s)) by whomsoever made on account of such Loss until fully reimbursed, less the actual cost of effecting such recoveries. Any surplus amount shall be applied to reimburse the Insurers.

## **EXCLUSIONS APPLICABLE TO SECTION 3**

### **Acts Committed After Discovery**

This Section does not cover Loss arising after the Insured shall have knowledge of any Act of Fraud or Dishonesty on the part of an Employee, but this exclusion shall not apply to loss of money or property then being conveyed by such Employee outside the Insured's premises.

### **Consequential Loss**

This Section does not cover claims resulting from consequential loss of any kind.

## **ADDITIONAL ENDORSEMENTS (Cont'd)**

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### **Clerical/Inventory Shortfall**

This Section does not cover any loss or part of any loss which is evidenced solely as to its factual existence or as to the amount by an inventory computation or a profit and loss calculation.

### **CONDITIONS APPLICABLE TO SECTION 3**

#### **Prior Enquiries**

The Insured must make reasonable enquiries as to the honesty and good character of each Employee prior to engagement of employment and shall satisfy the Insurer(s), if so required, that such enquiries have been made

#### **Alterations**

The Insured shall institute and/or maintain and continue to employ in every manner all such systems of check and control, accounting and clerical procedures and methods of conducting their business as has been represented to the Insurer(s) by the Insured but the Insured may:

- (a) change the remuneration, conditions of service, duties and position of any Employees;
- (b) make such other changes as are approved beforehand in writing by the Insured's auditors.

Notwithstanding the above, the Insurer(s) hereby agree that the indemnity afforded in terms of this Section shall not be invalidated in the event of a breach or non-compliance with this Condition if such breach or non-compliance occurs without the knowledge or consent of the Insured or of the Insured's management.

#### **Deduction from Loss**

In the event of any claim being made under this Section, the Insured shall to the extent allowed by law retain all salary, commission, moneys or assets, the property of any Employee in respect of whom a claim is made which may be in or come into the Insured's hands or under his control and shall apply the same towards making good the amount of any default due to acts insured against under this Section. However if the total loss to the Insured exceeds the amount recoverable under this Section, such retentions shall be applied first to the uninsured portion of the loss.

#### **Notification of Loss**

Upon the discovery of any circumstances giving rise or likely to give rise to a claim under this Policy the Insured shall:

- (a) as soon as practical give notice thereof to the Insurer(s) explaining fully all such circumstances;
- (b) deliver a detailed proof of loss, duly sworn, to the Insurer(s) within thirty (30) days after the discovery of the loss;
- (c) at all reasonable times permit the Insurer(s) or their agents to enquire into, investigate and examine the circumstances of the alleged loss by the Insured, and the claim in respect thereof, and the Insured shall at his own expense, upon being required to do so by the Insurer(s) or their agents, produce all books, vouchers, correspondence, documents, receipts and all entries relating to the alleged loss in their possession or control, and shall furnish copies and give all possible assistance as may be required by the Insurer(s) relating to the claim;
- (d) take all reasonable precautions to prevent further loss, damage or liability,
- (e) not negotiate, admit, repudiate or pay any claim by any person;
- (f) give notice in writing to the Insurer(s) of any insurance or insurances already effected, or which may be subsequently effected, covering any of the interest hereby insured.

#### **Prosecution for Criminal Acts**

The Insured, when required by the Insurer(s), at the Insurer(s) expense, must use all diligence in prosecuting or assisting to prosecute any person to conviction for any criminal act in respect of which a claim is made under this Section.



## **ADDITIONAL ENDORSEMENTS (Cont'd)**

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### **EQUIPMENT BREAKDOWN**

Section 4 – Equipment Breakdown is incorporated in this Policy as follows:

#### **SECTION 4 – EQUIPMENT BREAKDOWN**

Notwithstanding Property Exclusions 15 & 16 applicable to Sections 1 & 2 of this Policy, the Insurer(s) will, subject to the terms, Definitions, Memoranda, Exclusions and Conditions specifically applicable to this Section 4 – Equipment Breakdown, cover loss or damage during the Period of Insurance as follows:

- (a) to insured Equipment and other Insured Property directly damaged by the Breakdown;
- (b) to pay for loss of perishable Insured Property that spoils as a result of the Breakdown;
- (c) to pay for the Business Interruption / Extra Expense which results solely from the Breakdown.

#### **1. DEFINITIONS APPLYING TO THIS SECTION 4 – EQUIPMENT BREAKDOWN**

##### **Equipment**

means electrical, mechanical, pressure and electronic equipment (as defined in 1.1, 1.2 and 1.3 below) owned, leased, operated or controlled by You and which is installed and ready for use at the Location.

##### **Electrical and Mechanical**

means any mechanical or electrical equipment used for the generation, transmission or utilisation of mechanical or electrical power, but not including:

- i. any vehicle or mobile machinery;
- ii. any elevator or escalator;

but not excluding any gearbox, electrical or Electronic Equipment used with such apparatus.

##### **Boilers, Pressure Vessels and Pressure Pipe Systems**

means any boiler, fired or unfired pressure vessel normally subject to vacuum or internal pressure other than static pressure of contents, any piping connected thereto and its accessory equipment, but not including:

- i. any boiler setting, any refractory or insulating material;
- ii. any part of a boiler or fired pressure vessel that does not contain steam or water; nor
- iii. any buried piping, drainage piping, sprinkler piping and its accessory equipment.

##### **Electronic Equipment**

means any electronic machine, device or instrument used for research, diagnosis, treatment, communication, data processing, duplicating, monitoring or scanning.

##### **Breakdown**

means sudden and accidental physical damage to equipment resulting in failure of the equipment which requires the repair or replacement of the equipment or a part of the equipment before normal operation can continue;

but Breakdown does not mean:

- i. depletion, deterioration, corrosion or erosion of material;
- ii. wear and tear;
- iii. vibration or misalignment;
- iv. the functioning of any safety device or protective device; nor
- v. the failure of a structure or foundation supporting the equipment or a part of the equipment.

##### **Insured Property**

means

- i. property You own; or
- ii. property of others in Your care, custody or control and for which You are legally liable.

##### **Hazardous Substance**

in this Section, Hazardous Substance means any Pollutant, contaminant or other substance declared by a government authority to be hazardous to health or the environment.

## **ADDITIONAL ENDORSEMENTS (Cont'd)**

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### **2. ADDITIONAL COVER APPLYING TO THIS SECTION 4 – EQUIPMENT BREAKDOWN**

#### **2.1 Expediting Expenses**

If there is a Breakdown of Equipment, the Insurer(s) will pay the reasonable extra cost to:

- i. make temporary repairs;
- ii. expedite permanent repairs; or
- iii. expedite permanent replacement

of the Equipment or other Insured Property which is directly damaged by the Breakdown.

#### **2.2 Service Interruption**

If solely as a result of a Breakdown of Equipment located on or within 5 Kilometres of Your Situation and which is not owned or operated by You

The Insurer(s) will pay for:

- i. for loss of perishable Insured Property which spoils; and
- ii. for Consequential Loss according to the Basis of Settlement set out in Section 2 of the Policy

but only if the equipment is also:

- i. of a type described in the definition of Equipment;
- ii. owned by the Building owner at Your Location or by a utility company; and
- iii. used to supply telecommunication, electricity, air conditioning, heating, gas or water services to Your Situation.

#### **2.3 By-laws**

If prior to the time of a Breakdown of Equipment there is in force a law, by-law, ordinance, regulation, rule or ruling regulating or restricting repair, alteration, use, operation, construction or installation of Insured Property, the Insurer(s) will pay the increase in cost of repair or replacement of both damaged and undamaged property (including any demolition and site clearing costs) which is necessary to meet the minimum requirements of the law, by-law, ordinance, regulation, rule or ruling.

#### **2.4 Hazardous Substances**

If a Hazardous Substance is involved in or released by a Breakdown of Equipment, the Insurer(s) will pay:

- i. the increase in cost to repair, replace, clean up or dispose of, affected Insured Property; and
- ii. the increase in business interruption / increased cost of working loss because of the presence of Hazardous Substances.

However, in no event will We pay more than \$10,000 for Hazardous Substances.

As used in this coverage, 'increase in cost or in loss', is that cost or loss beyond that for which the Insurer(s) would have been liable had no Hazardous Substance been present.

#### **2.5 Automatic Coverage**

The Insurer(s) will automatically cover You for loss from a Breakdown at a newly acquired Location in Australia for up to ninety (90) days after the acquisition provided:

- i. You inform us in writing of the acquisition;
- ii. the equipment is of a type covered in the definition of Equipment; and
- iii. You pay an additional premium for the acquisition.

#### **2.6 Data Coverage**

If, as a result of a Breakdown of Equipment, data is lost or damaged, the Insurer(s) will pay the cost of gathering or reproducing the data.

However, in no event will the Insurer(s) pay more than \$10,000 for Data Coverage unless otherwise shown in the Policy Certificate Schedule.

The Insurer(s) will not pay for data which is lost or damaged as a result of programming errors of any kind including the inability of software to correctly read, recognise, save, process or interpret any date or time.

## **ADDITIONAL ENDORSEMENTS (Cont'd)**

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### **2.7 Consequential Loss**

If Section 2 - Consequential Loss is indicated as covered in the Policy Schedule, this Section also covers such Consequential Loss which results solely from a Breakdown of Your Equipment subject to all the terms, provisions and conditions of the Consequential Loss coverages forming Items 1-4 of Section 2 of this Policy, and subject to the following additional provisions:

i. **Excluding Breakdown Equipment of others**

Except as outlined in Paragraph 2.2 above, this Section will not pay for Consequential Loss arising from the following coverage under the following extensions described in Memoranda to Section 2 – Consequential Loss:

- Public Utilities Memorandum Extended
- Computer
- Unspecified Customers &/or Suppliers Premises – Australia Wide

ii. **Limit of Insurance**

The Insurer(s) liability for Consequential Loss will not exceed the Limit(s) and/or Sub-Limits of Liability specified in the Schedule for Consequential Loss in this Section 4 of the Policy.

## **3. BASIS OF SETTLEMENT APPLYING TO THIS SECTION 4 – EQUIPMENT BREAKDOWN**

### **3.1 Equipment**

In the event of Insured damage the Insurer(s) will pay You, the lesser of the cost at the time of the Breakdown:

- i. to repair; or
- ii. to replace with similar property of like kind, capacity, size, quality and function.

The Insurer(s) will not pay for:

- i. cost of repairing any part or parts of a piece of equipment which is greater than the cost of repairing or replacing the entire piece of equipment;
- ii. more than the cost for You to replace the property with other property of like kind, capacity, size, quality and function;
- iii. more than the cost for You to replace the property at the same or adjacent site; nor
- iv. loss or damage to property which is useless or obsolete to You.

If You do not repair or replace the damaged property within 24 months after the date of the Breakdown then the Insurer(s) will only pay for the Actual Cash Value of the damaged property. Actual Cash Value is the cost of replacing the damaged property with property of similar kind, capacity, size, quality and function less depreciation however caused. The Insurer(s) will consider such items as the age, condition and normal life expectancy of the property in determining depreciation.

### **3.2 Spoilage**

If Spoilage is indicated as covered in the Policy Schedule, The Insurers will pay under coverage b) above the amount that is spent to replace perishable Insured Property which spoils solely as a result of Breakdown of Equipment. If the Insured Property is not replaced, We will only pay for the Actual Cash Value of the property. However, in no event will We pay more than \$10,000 for Spoilage unless otherwise shown in the Policy Schedule.

### **3.3 Consequential Loss**

Refer to Section 2 – Consequential Loss in accordance with 2.2 and 2.7 of 2. Additional Cover applicable to this Section 4.

### **3.3 Deductible**

The Insurer(s) will reduce the amount payable for each claim by the amount of the Deductible shown in the Policy Schedule.

## **ADDITIONAL ENDORSEMENTS (Cont'd)**

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### **4. EXCLUSIONS APPLYING TO THIS SECTION 4 – EQUIPMENT BREAKDOWN**

The Insurer(s) will not pay for:

Loss or damage caused by or arising from:

- 4.1 fire, smoke or soot;
- 4.2 extinguishing a fire including subsequent demolition or repair work;
- 4.3 lightning;
- 4.4 chemical explosion (other than explosion of flue gas in Boilers);
- 4.5 impact of land borne vehicles, aircraft or water borne craft;
- 4.6 earthquake, subterranean fire or volcanic eruption;
- 4.7 landslip or subsidence;
- 4.8 storm, tempest, flood, windstorm or cyclone;
- 4.9 water escaping, discharged or leaking from any source which is external to the Equipment insured;
- 4.10 theft or attempts thereat; or
- 4.11 intentional or malicious damage.

### **5. CONDITIONS APPLYING TO THIS SECTION 4 – EQUIPMENT BREAKDOWN**

- 5.1 On the happening of any occurrence which might give rise to a claim under this Policy Section You must, in addition to complying with the General Conditions (Claims):
  - i. take all reasonable steps to minimise the extent of the loss;
  - ii. preserve any damaged or defective equipment or items and make them available to The Insurer(s) for inspection.
- 5.2 The Insurer(s) will not pay for loss or damage to any equipment which has been damaged and operated without having been repaired in a manner consistent with the generally accepted rules of engineering practice.
- 5.3 You must permit The Insurer(s) or their representative at all reasonable times the right to inspect and examine any item insured by this Policy.
- 5.4 This insurance only applies after completion of successful initial commissioning.