

# packages



Commercial  
Business Package  
Insurance Policy



# LUMLEY INSURANCE BRANCH NETWORK

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# COMMERCIAL BUSINESS PACKAGE POLICY WORDING AND PRODUCT DISCLOSURE STATEMENT

## **Introduction**

The insurer of this Commercial Business Package insurance is Wesfarmers General Insurance Limited ABN 24 000 036 279 AFS Licence No. 241461, trading as Lumley Insurance.

This document contains important information about this insurance and how it works. Before making a decision to take up this insurance, please read this document carefully.

To determine if this insurance is appropriate for You, it is important that You read:

- this Introduction and the Important Information - it contains information on important matters You need to be aware of before applying for this product;
- the Policy, which explains the features, benefits, terms conditions and exclusions of this product;
- any other documents We provide to You about this product which may change the features, benefits, terms, conditions and exclusions described in the Policy.

## **About Steadfast**

Steadfast is an unlisted public company comprising over 270 shareholders. Each shareholder is an independent insurance brokerage. This Policy is available exclusively to You through shareholders of Steadfast Group Limited. Steadfast Group Limited does not issue, guarantee or underwrite this Policy.

## **Important information about Steadfast's advice**

Any advice Steadfast gives about this Policy does not take into account any of Your particular objectives, financial situation or needs. For this reason, before You act on Steadfast's advice, You should consider the appropriateness of the advice taking into account Your own objectives, financial situation and needs. Before You make any decisions about whether to acquire this Policy We recommend You should read this Insurance Policy.

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## IMPORTANT INFORMATION

### 1. Entering into the Policy with Us

Where We have agreed to insure You, We confirm this by issuing You with a Policy Schedule which provides details relevant to You, such as Sums Insured, Limits of Liability, Premium and Excesses.

The Policy, which is Your contract with Us, is entered into on the basis of the information provided by You in the application process. Please ensure You have complied with Your Duty of Disclosure as this can affect Your ability to claim.

The Policy is entered into on the condition that You will pay the Premium required by Us by the agreed time (including any adjustments).

In order to calculate Your Premium, We take various factors into consideration, including the level of cover requested and the property to be insured.

Your Premium also includes amounts that take into account Our actual or estimated obligation to pay any relevant compulsory government charges, taxes or levies (for example Stamp Duty, GST and Fire Services Levy)

The Policy is made up of:

- this document;
- the Policy Schedule;
- any endorsements to the Policy issued by Us.

You need to:

- read these documents together as they set out all of the terms and conditions of Your cover;
- check them to make sure that the cover given is what You want;
- keep them together in a safe place for future reference along with receipts, and other evidence of ownership and value of items You have specified on the proposal form, or any other application for insurance, and for any other items of significant value.

If You do not meet Your obligations under the Policy, We may cancel it and/or reduce Our liability in respect of a claim to the extent permitted By-law.

If You need more information about the Policy please contact Your insurance adviser or Us.

### 2. Cost of the Insurance

In order to calculate Your Premium, We take various factors into consideration, including the level of cover requested and the property to be insured.

Factors that increase the risk to Us generally increase the Premium (eg. high claims experience or higher Sum Insured) and factors that reduce the risk to Us generally reduce the premium (eg. low claims experience or lower Sums Insured).

Your Premium also includes amounts that take into account Our actual or estimated obligation to pay any relevant compulsory government charges, taxes or levies (for example Stamp Duty, GST and Fire Services Levy). Where We are required to pay an estimated amount (eg. For Fire Services Levies) based on criteria set by the Government, We allocate to the Policy Our estimate of the amount We will be required to pay. We may under or over recover in any particular year but We will not adjust Your Premium because of this. You can ask Us for more details if You wish.

When You apply for this insurance, You will be advised of the total amount payable, when it needs to be paid and how it can be paid. This amount will be clearly set out in Your Schedule, which will be sent to You within 5 days of the issue of this product. If You fail to pay, We may reduce any claim payment by the amount of Premium owing and/or cancel the Policy.

You may also be required to pay an excess in the event of a claim under this Policy. The amount of any excess will be shown on Your Policy schedule.

### 3. Your Duty of Disclosure

*Your duty of disclosure for a new Policy*

The **Insurance Contracts Act 1984** requires that any information that We seek must be collected by a specific question.

When answering Our questions, You must be honest and You have a duty under the **Insurance Contracts Act 1984** to tell Us anything known to You, and which a reasonable person in the circumstances, would include in answer to the question. We will use the answers in deciding whether to insure You and anyone else to be insured under the Policy, and on what terms. It is important that You understand You are answering Our questions in this way for Yourself and anyone else that You want to be covered by the Policy.

*Your duty of disclosure before You renew, extend, vary or reinstate Your Policy*

You have a duty, under the **Insurance Contracts Act 1984**, to disclose to Us every matter that You know, or could reasonably be expected to know, is relevant to Our decision whether to accept the risk of the insurance and, if so, on what terms.

Your duty however does not require disclosure of a matter:

- that diminishes the risk to be undertaken by Us;
- that is of common knowledge;
- that We know or, in the ordinary course of Our business, ought to know;
- where compliance with Your duty is waived by Us.

When answering any questions, You must be honest.

We will use the information You disclose in deciding whether to insure You and anyone else to be insured under the Policy, and on what terms.

### *Consequence of non-disclosure*

If You fail to comply with Your duty of disclosure for a new Policy, or before You renew, extend, vary or reinstate Your Policy We may be entitled to reduce Our liability under the Policy in respect of a claim or may cancel it. If Your non-disclosure is fraudulent, We may also have the option of avoiding the Policy from its commencement.

#### **4. Other Party's interests**

We only cover persons specified in the Policy as entitled to cover for the relevant interest specified. If You want to cover a person's interest that is not specified You need to apply to Us for this.

#### **5. Cooling Off**

If You are not completely satisfied with the Policy You may cancel it by notifying Us in writing within 30 days of cover having commenced. You will receive a refund of the amount You have paid unless You have made or are entitled to make a claim under the Policy. You still have cancellation rights after this Cooling Off period ends, which are set out in the General Conditions.

#### **6. Code of Practice**

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice, which is a self regulatory code for use by all insurers. The Code aims to raise the standards of practice and service in the insurance industry.

We are a signatory to the Code. If You require further information about the General Insurance Code of Practice, please contact Us.

#### **7. Complaints**

If You have a complaint, You may contact Us and request that We review the matter. If You are dissatisfied with Our decision, You may request it be reviewed by Our Internal Dispute Resolution (IDR) Committee.

If You are unhappy with Our decision You may refer Your dispute to the Financial Ombudsman Service (FOS). The FOS is a free and independent external dispute resolution scheme for consumers approved by the Australian Securities and Investment Commission for disputes. The scheme applies to matters that are covered by the FOS' Terms of Reference. We are a member of this scheme and We agree to be bound by the FOS' determinations on disputes but You are not so bound. If You wish Your dispute to be determined by the FOS, You must refer Your dispute to the FOS within 2 years of the date of Our final IDR response. You may refer the matter to the FOS by contacting them at:

Financial Ombudsman Service  
GPO Box 3  
Melbourne Victoria 3001  
Phone: 1300 78 08 08  
Email: [info@fos.org.au](mailto:info@fos.org.au)  
Website: [www.fos.org.au](http://www.fos.org.au)

#### **8. Privacy**

We are bound by the National Privacy Principles (NPPs) and comply with the Privacy Act 1988 (Cth). We are committed to ensuring that all Our business dealings comply with the NPPs and acknowledge the importance of keeping personal details for individuals confidential and secure.

##### **Collection**

We collect personal information for the purpose of providing insurance, including arranging insurance, Policy administration and claims handling.

##### **Disclosure**

When necessary, We may disclose Your personal information to and/or collect Your personal information from:

- other companies within the same Group;
- other insurers, financial institutions, insurance and claims reference agencies, credit agencies, loss assessors, financial or investigative service providers;
- service providers including: mail delivery, information technology, research and development, customer research, imaging and document management, legal and other professional service providers;
- government, law enforcement or statutory bodies, where required By-law;
- dispute resolution service providers, such as the Financial Ombudsman Service; and
- hospitals, medical and health professionals.

Where You are an insured person and not the Policyholder, We may disclose Your personal information to the Policyholder.

##### **Disclosure overseas**

There are also instances where We may have to send Your personal information overseas or collect personal information from overseas. These instances include:

- sending Your personal information to companies in the same Group;
- when You have asked Us to do so;
- when We are authorised or required By-law to do so;
- when We have outsourced a business activity or function to an overseas service provider with whom We have a contractual arrangement; or

We will only send Your personal information overseas or collect personal information about You from overseas for the purposes in this statement and in compliance with the privacy regime.

##### **Use**

We use and disclose Your personal information for the purposes providing insurance, including arranging insurance, Policy administration, claims handling and dispute resolution.

We may also use and disclose Your personal information for a secondary purpose related to the purpose for which We collected it, where You would reasonably expect Us to use or disclose Your personal information for that secondary purpose. In the case of sensitive information, any secondary purpose, use or disclosure will be directly related to the purpose of collection.

When We disclose personal information to third parties We limit their use and disclosure to the specific purpose for which We supplied it. By providing personal information to Us or Our agent, You consent to Us making these disclosures.

Without Your Personal information, We may not be able to provide You with the services You require.

When You give Us personal information about other individuals, We rely on You to have made, or make, them aware that You will, or may, provide their information to Us and the types of third parties We may provide it to; the relevant purposes We and the third parties will use it for; and how they can access it. If You have not done or will not do either of these things, You must tell Us before You provide the relevant information.

If You require a copy of Our Privacy Statement, the full Privacy Policy, or further information, please contact Your nearest Lumley office and ask for the Compliance Manager or visit Our website at [www.lumley.com.au](http://www.lumley.com.au).

## Access

You can request access to, and if applicable the correction of, the personal information We hold about You by contacting Us. A fee may be charged to cover the cost associated with providing access.

In some circumstances, We are able to deny Your request for access to personal information. If We deny Your request for access, We will tell You why.

## 9. Goods and Services Tax (GST)

All amounts insured by the Policy are in accordance with the advice You have given to Us regarding Your GST status. Any claim settlements, up to the total of all amounts insured, will be calculated with reference to Your GST status and the GST status of the property which is the subject of the claim.

We will not be liable to pay any GST, or any fine, penalty or charge that You are liable for arising out of Your misrepresentation of, or failure to disclose, Your proper input tax credit entitlement on the Premium relating to the Policy.

In respect of Your Policy with Us, where You are registered for GST purposes, You should calculate Your proposed Sums Insured with reference to the GST status of each item of property to be insured. Depending on the GST status of each item of property to be insured, the Sums Insured may or may not include a GST component. An amount for GST should only be included in the Sum Insured if the item of property to be insured which are not used 100% for business use. All items of property to be insured which are used 100% for business use should be insured on a

GST exclusive basis. Any claim settlements, up to the total of all amounts insured, will be calculated with reference to Your GST status and the GST status of the property which is the subject of the claim.

This outline of the effect of the GST on Your Policy is for general information only. You should not rely on this information without first seeking expert advice on the application of the GST to Your particular circumstances.

## 10. Terrorism Insurance Act 2003 (Cth)

Some sections of this Policy exclude cover for losses as a result of Terrorism.

In the event that damage to property occurs and the cause of the damage is declared a terrorist incident by the responsible Minister, then You may be afforded protection within the limits of indemnity of this Policy by virtue of the **Terrorism Insurance Act 2003**. The operation of this Act may also serve to reduce the settlement of Your loss to a percentage of the otherwise recoverable loss. In the event that the settlement is reduced then this will be at the direction of the Minister.

A more detailed explanation of the operation of the **Terrorism Insurance Act 2003** can be obtained at [www.arpc.gov.au](http://www.arpc.gov.au).

## 11. Underinsurance

It is Your responsibility to ensure that the Sums Insured of the Vehicle or property You want insured by this Policy are adequate. Sums Insured should reflect the new replacement value of any Vehicle or property to be insured. If Sums Insured are not adequate, claims may not be paid in full.

You should review the adequacy of Sums Insured periodically during the Period of Insurance and prior to renewal each year. Inadequacy of Sums Insured can present significant issues of financial hardship. If You are unable to establish the adequacy of Sums Insured, You should seek assistance from Your insurance advisor.

## 12. Financial Claims Scheme

Some sections of this Policy may be a 'protected Policy' under the Federal Government's Financial Claims Scheme (FCS) and only applies in the event of an insurer becoming insolvent and the Federal Treasurer declaring that the FCS will apply to that insurer.

Payment of a claim under the FCS is subject to the Scheme's eligibility criteria being met.

Information about the FCS can be obtained from the Australian Prudential Regulation Authority at [www.apra.gov.au](http://www.apra.gov.au) by calling 1300 13 10 60.

## 13. Exclusions and Conditions

General Exclusions apply to all sections of this Policy. Each section also contains exclusions which apply specifically to that section. The exclusions explain the circumstances in which We will not cover You. Please refer to the General Exclusions and the exclusions in each section for full details.

General Conditions apply to all sections of this Policy. Each section also contains exclusions which apply specifically to that section. The conditions explain the obligations which You must comply with to be able to make a valid claim. Please refer to the General Conditions and the conditions in each section for full details.

#### 14. Updating the Product Disclosure Statement

We may need to update this Product Disclosure Statement from time to time if certain changes occur where required and permitted By-law. We will issue You with a new Product Disclosure Statement or a Supplementary Product Disclosure Statement or other compliant document to update the relevant information except in limited cases. Where the information is not something that would be materially adverse from the point of view of a reasonable person considering whether to buy this insurance, We may issue You with notice of this information in other forms or keep an internal record of such changes (You can get a paper copy free of charge by calling Us).

Other documents may form part of Our Product Disclosure Statement and Policy. If they do, We will tell You in the relevant document.

#### 15. Section 40 Insurance Contracts Act 1984(Cth)

The following only applies to the Management Liability Cover Section of this Policy:

Management Liability is issued on a "Claims made and notified basis".

This insurance contract does not provide any cover for events which occurred before the contract was entered into, unless the Policy Schedule specifies otherwise.

This insurance Policy does not provide any cover for Claims made after the expiry of Your Policy. However, under s40(3) of the **Insurance Contracts Act 1984(Cth) (ICA)** We are not relieved of liability by reason only that the Claim was made after the expiration of the insurance if:

- (a) You give notice before the Policy expires to Us of facts which may give rise to a claim against You; and
- (b) That notice is given to Us as soon as reasonably practicable after You became aware of those facts.

The above explanation of the operation of s40(3) of the ICA does not form part of this Policy wording.

#### 16. Victorian Fire Service Levy ("FSL")

Any amount paid or payable under this Policy for the Victorian component of the FSL shown in the ("the Victorian FSL") will not be refunded if a premium refund is allowed as a result of this Policy being amended or cancelled except:

- (a) if this Policy is cancelled during the cooling off period as shown under 'Important Information 5: Cooling off', We will refund the FSL; or
- (b) if this Policy is amended or cancelled due to the sale of Business Property insured by this Policy and provided that the property sold was the subject of the Victorian FSL, We will refund the unused portion of the Victorian FSL that had been charged in relation to that property.

Subject otherwise to the terms, conditions and exclusions of the Policy.

## GENERAL PROVISIONS

### General definitions

These definitions shall apply unless there is a more specific definition.

**"Aircraft"** means any craft or object designed to travel through air or space, other than model Aircraft.

**"Business Hours"** means when You or any of Your employees are at the Business Premises for the purpose of conducting Your Business.

**"Business Premises"** the buildings, outbuildings, yards and land used by You for Your Business at the Situation.

**"Business Property"** means buildings, contents, Stock and items listed on the current Policy Schedule and used in Your Business.

**"Computer Virus"** means an executable program or computer code segment that is self-replicating, requires a host program or executable disc segment in which it can be contained and which destroys or alters the host program or other computer code or data causing undesired program or computer system operation

**"Excess"** means the amount, or the loss applicable to a specified period of time, expressed as an Excess on the current Policy Schedule or elsewhere in the Policy. This is the first amount of any loss that You must pay before We pay Your claim.

**"Family"** means any member of Your Family who lives permanently with You, including Your partner.

**"Flood"** means the inundation of normally dry land by water escaping or released from the normal confines of any natural watercourse or lake (whether or not they have been altered or modified) or from any dam, reservoir or canal.

**"Hovercraft"** means any vessel, craft or device made or intended to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.

**"Money"** means current coin, bank notes, currency notes, cheques, credit card sales vouchers, securities, postal orders, Money orders, negotiable and nonnegotiable securities and other like documents of value, phone cards and/or stored value cards, unused postage and revenue stamps, public transport tickets, private transport tickets (excluding airline tickets), bridge or highway tokens, car wash tokens, lottery tickets, authorised gift vouchers, discount vouchers from external parties, contents of franking machines and includes cash boxes, alarm bags, or any other portable container used to convey Money all belonging to You or for which You are legally responsible or have assumed a responsibility to insure but does not mean any of these in the possession of or carried by professional Money carriers, professional carriers or common carriers.

**"Period of Cover" or "Period of Insurance"** means the time cover commences to the time cover expires. The dates are shown on the current Policy Schedule. Unless stated otherwise, cover shall expire at 4.00pm local time at the place where You arranged the cover.



**“Policy”** means this document, the Policy Schedule and any attachment or memoranda affixed and any future documents issued to You which amends the Policy wording or Policy Schedule. Together they form the insurance contract.

**“Policy Schedule”** means the most current Schedule of Insurance or any future renewal Schedule, including any endorsements issued by Us in connection with this Policy.

**“Rewriting of Records”** means the cost of restoration of computer records, documents, manuscripts, securities, deeds, specifications, plans, drawings, designs, business books and other records of every description.

**“Situation”** means the Situation stated in the current Policy Schedule.

**“Stock”** means:

- (a) products and material You intend to sell,
- (b) raw or consumable materials used by You to make or alter Your products,
- (c) Your products while being made, repaired or altered,
- (d) any consumable products or materials used in Your Business,
- (e) goods for which You are responsible.

Under the Theft cover section, Stock does not include tobacco, products containing tobacco, cigars, cigarettes or alcohol unless they are specified on the current Policy Schedule.

**“Strongroom”** means a burglar-resistant structure constructed of masonry and steel which has been designed to resist fire and attack by hand-held or poweroperated tools and has been specifically designed for the storage of Money and valuables.

**“Subsidiary Company”** means any company in which You have a controlling interest. For the purpose of this definition the term ‘controlling interest’ shall mean the beneficial ownership of shares carrying more than 50% of votes capable of being cast at a general meeting of all shareholders of the company.

**“Terrorism”** means an act including but not limited to the use or threat of force or violence by 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 committed for or in connection with any political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public or any section of the public in fear.

**“Vehicle”** means any type of machine on wheels or on self-laid tracks made or intended to be propelled by other than manual or animal power, and any trailer or other attachment to be utilised in conjunction with or drawn by any such machine.

**“Watercraft”** means any vessel, craft or thing made or intended to float on or in or travel through water, other than model boats.

**“You” or “Your”** means the person(s), companies or firms named on the current Policy Schedule as the ‘Insured’.

**“Your Business”** means the business as described in the Policy Schedule (and, where applicable, as further described in any more specific underwriting information provided to Us at the time when this insurance was negotiated).

**“We”, “Us” or “Our”** means the insurer of the Policy, Wesfarmers General Insurance Limited A.B.N. 24 000 036 279, trading as Lumley Insurance.

## General exclusions

The following General exclusions apply to all sections of this Policy.

### 1. a) War

We will not pay for any loss or damage arising directly or indirectly as a result of:

- (i) war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not) and/ or civil war; and/or
- (ii) mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military and/or usurped power.

### b) Terrorism

- (i) We will not pay for any death, injury, illness, loss, damage, liability, cost or expense of any nature directly or indirectly caused by, resulting from, or in connection with, any act of Terrorism regardless of any other contributing cause or event;
- (ii) We will not pay for any death, injury, illness, loss, damage, liability, 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 the matters set out in paragraph b)(i) of this Exclusion.

General exclusion b) does not apply to the Theft, Money, Glass and General Property Sections.

### c) Radioactive Contamination

We will not pay for any:

- (a) loss or damage to property eligible for insurance by the relevant Nuclear Insurance Pool and/or Association; or
- (b) loss, cost, damage, liability or expense directly or indirectly caused by or contributed to by or arising from:
  - (i) ionising radiation from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
  - (ii) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
  - (iii) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or
  - (iv) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter.

This Policy also excludes any loss, destruction, damage, death, injury, illness, liability, cost or expense of any nature directly or indirectly caused by, (or contributed to by, resulting from, or arising out of, or in connection with) any action taken in controlling, preventing, suppressing, retaliating against, or responding to or in any way relating to the above.

## 2. Business in liquidation or ceases to trade

If Your Business is placed into liquidation or administration, a receiver is appointed or the business is wound up or is permanently discontinued, then unless otherwise agreed by Us in writing, all cover under this Policy ceases from the time Your interest is transferred or Your Business ceases to trade.

## 3. Geographical limitations

Unless We agree in writing to the contrary, We will not pay for any loss or damage to a Vehicle or property insured by this Policy that is outside the Commonwealth of Australia at the time of its loss or damage, except as specifically stated otherwise in the appropriate Part.

## 4. Unoccupancy

Unless We otherwise agree in writing, We will not pay for any loss or damage to Your Business Property if the occurrence happens after Your Business Premises has been unoccupied for more than 90 consecutive days.

## 5. Wilful acts

Subject to the provisions of the *Insurance Contracts Act 1984*, We will not pay for any loss or damage caused by either Your wilful act or by the wilful act of another party committed with Your knowledge and consent, which You were capable of preventing.

## 6. Known defects

We will not pay for loss or damage caused by faults or defects known to You, or any employee whose knowledge in law would be deemed to be Yours, and not disclosed to Us at the time this insurance was arranged.

## 7. Date recognition

In respect of any claim of whatsoever nature which consists of, or arises directly or indirectly out of, or in connection with the failure or inability of any:

- (a) electronic circuit, microchip, integrated circuit, microprocessor, embedded system, BIOS or other instruction set, hardware, software, firmware, program, computer, data processing equipment, telecommunication equipment or systems, or any similar device; or any

(b) media or systems used in connection with any of the foregoing, whether Your property or not, at any time to achieve fully and successfully any or all of the purposes and consequential effects intended by the use of any number, symbol or word to denote, represent or express a date including, but without being limited to, any failure or inability to recognise, capture, save, retain or restore and/or correctly to manipulate, interpret, transmit, return, calculate or process any date, data, information, command, logic or instruction as a result of or in connection with:

- (i) anything referred to in (a) or (b) recognising, using or adopting any date, day of the week or period of time, otherwise than as, or other than, the true or correct date, day of the week or period of time; or
- (ii) the operation of any command or logic which has been programmed or incorporated into anything referred to in (a) or (b) above.

This exclusion will not exclude any claim for subsequent loss, destruction of, or damage to any Business Property or consequential loss that is solely and directly occasioned by a defined contingency (as defined hereunder), arising under any of the following cover sections:

- (a) Fire and Perils;
- (b) Business interruption;
- (c) Money;
- (d) Glass;
- (e) Machinery and electronic;
- (f) General Property;

but only to the extent that such claim would otherwise be insured under those sections.

This exclusion does not apply in respect of the Theft cover section, if provided by this Policy.

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

## 8. Electronic Data exclusion

We will not cover Electronic Data or the cost of rewriting records as a result of loss of electronic data.

However, We will provide cover for losses to electronic data and Rewriting of Records arising out of the following perils:

fire, lightning; thunderbolt, explosion, implosion, earthquake, subterranean fire, volcanic eruption, impact, Aircraft and/or other aerial device, 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 which do not assume the proportions of or amount to an uprising, storm, tempest, rainwater, wind, hail, water and/or other liquids, substances discharged, overflowing and/or leaking from any apparatus, appliance or pipes.

If the Theft cover section of the Policy is current We will also provide cover for losses to electronic data arising out of theft of any computer and/or computer hardware, firmware, microchip, integrated circuit or device containing such electronic data.

If the Electronic equipment cover section of the Policy is current and Electronic Data and electronic data media is insured We will also provide cover for losses to electronic data arising out of vibration, power surge, low voltage, mechanical, electrical and electronic breakdown, but not breakdown occurring as a result of any virus, worm, Trojan Horse, hacking, or any unauthorised access.

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

## General conditions

The following general conditions apply to all sections of this Policy.

### 1. Breach of Condition or Warranty

Breach of a condition or warranty without Your knowledge or consent or error in name, description or Situation of property will not prejudice Your rights under this Policy provided notice in writing is given to Us when such breach or error comes to Your knowledge. Reasonable extra premium shall be paid if required, from the date of such breach or error.

### 2. Accountancy records

You must provide to Us all books of account, business books and other documents as may be required to investigate or verify claims. If You do not, We may refuse to pay or may reduce the amount of a claim.

### 3. Bankruptcy or insolvency

In the event that You should become bankrupt or insolvent, We shall not be relieved thereby of the payment of any claims hereunder because of such bankruptcy or insolvency.

In case of execution against You of any final judgment covered by this Policy being returned 'unsatisfied' by reason of such bankruptcy or insolvency, then an action may be maintained by the injured party or their representative against Us in the same manner, and to the same extent as You but not in excess of the Limit of Liability.

## 4. Cancellation

The Policy may be cancelled by:

- (a) You at any time by notifying Us in writing. We will refund the premium for the unexpired Period of Insurance;
- (b) Us, only where allowed by the **Insurance Contracts Act 1984**. We will refund the premium for the unexpired Period of Insurance;
- (c) a premium funding company only in accordance with the power of attorney You granted to such company. We will refund the premium for the unexpired Period of Insurance to the premium funding company, from the date We receive the request or, the date they specify if that is a later date.

## 5. Claim preparation expenses

We will pay for costs necessarily and reasonably incurred for the preparation of a claim for which We agree to indemnify You under this Policy. The most We will pay is \$25,000 in total for any one claim, unless a higher amount is included in the particular section of the Policy.

This is provided that before You incur these claim preparation costs You obtain Our written approval to incur these costs.

## 6. Claims

What You must do after loss, damage or accident:

- (a) Protect Yourself from any danger present;
- (b) Assist other people within Your capabilities if required;
- (c) Take reasonable steps to prevent further loss, damage or liability;
- (d) Notify the police immediately if any of Your property is lost, stolen, or maliciously damaged and provide the police with all assistance to apprehend the offending party;
- (e) Advise Us of the claim as soon as practicable and then supply Us with full written details by completing Our claim form. You or someone acting on Your behalf must complete a claim form within a reasonable time of an occurrence. If You do not, We may reduce the amount We pay if the delay causes increased costs or prevents Us investigating the claim;
- (f) Any invoices, bills, demands letters or notices You receive from other people involved in the loss, damage or accident must be sent to Us as soon as possible.

What You must not do after a loss or accident:

- (a) You must not admit fault or agree to pay for damage without Our consent. Do not make an offer, settle, or attempt to settle any claim against You. If You do We may not pay all or part of the claim;
- (b) You must not incur any costs or expenses or authorise repairs (other than necessary temporary repairs) without Our agreement.

## 7. Designation of property

For the purpose of determining under which item any property is insured, We agree to accept the designation under which such property appears in Your books of account.

Provided always that this General Policy condition shall not apply to the Theft cover section with respect to tobacco, products containing tobacco, cigars, cigarettes and alcohol.

Furthermore, under the Theft cover section, Stock does not include tobacco, products containing tobacco, cigars, cigarettes or alcohol unless they are specified on the current Policy Schedule.

### **8. Excess**

If more than one Excess can be applied to one occurrence, then You will only need to pay the highest Excess. Sums Insured, Limits and sub-Limits of Liability shall apply in addition to, and shall not be reduced by, the amount of any applicable Excess.

This General Condition will not apply to the Motorpack Section of the Policy.

### **9. Goods and Services Tax (GST)**

The amount of premium payable by You for this Policy includes an amount on account of the GST on the premium. When We pay a claim, Your GST status will determine the amount We pay.

When You are:

- (a) not registered for GST, the amount We pay is the Sum Insured/limit of indemnity or the other limits of insurance cover including GST;
- (b) registered for GST, We will pay the Sum Insured/ limit of indemnity or the other limits of insurance. Any payments We make will be reduced by any relevant GST component, including but not limited to, any input tax credit to which You are entitled for any acquisition which is relevant to Your claim, or which You would have been entitled were You to have made a relevant acquisition.

You must advise Us of Your correct entitlement to an input tax credit on Your Premium and the correct entitlement to an input tax credit on each item of property to be insured .

Any GST liability arising from Your incorrect advice is payable by You.

### **10. Inspections**

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

### **11. Jurisdiction**

All disputes arising out of or under this Policy shall be subject to determination by any court of competent jurisdiction within Australia according to the law which applies to that jurisdiction.

### **12. Non-imputation**

Where this insurance is arranged in the joint names of more than one insured, as described in the definitions of You, it is hereby declared and agreed that:

- (a) each insured shall be covered as if it made its own proposal for this insurance;

- (b) any declaration, statement or representation made in any proposal shall be construed as a separate declaration, statement or representation by each insured;
- (c) any knowledge possessed by any insured shall not be imputed to the other insured(s).

### **13. Other persons or organisations**

If any person or entity shall have any interest in the Business Property, We shall protect that interest in the event of a claim, provided that interest is disclosed in Your Business records and You shall have disclosed the nature and extent of that interest to Us at the time of notification of the claim.

Where the separate interests of more than one party in the Business Property are insured under this Policy, any act or neglect of one party will not prejudice the rights of the remaining party or parties provided that the remaining party(ies) shall, within a reasonable time after becoming aware of any act or neglect whereby the risk of loss, damage or destruction has increased, give notice in writing to Us and shall on demand pay such reasonable additional premium as We may require.

You cannot transfer the Policy into someone else's name without Our written consent.

All persons entitled to claim under the Policy are bound by the terms and conditions of the Policy.

When a claim is paid under the Policy and is also recoverable under another Policy or policies, You agree to permit Us to seek contribution from the other insurer or insurers.

### **14. Our maximum liability**

Except as otherwise stated elsewhere in this Policy, the maximum amount We will pay will not exceed the amount stated in the Policy Schedule as the Sum Insured or the Limit of Liability for those sections selected.

The Sum Insured and sub-Limits of Liability shall apply in addition to, and shall not be reduced by, the amount of any applicable Excess.

### **15. Premium funders**

If the premium has been funded by a premium funding company which holds a legal right over the Policy by virtue of a notice of assignment and irrevocable power of attorney, a refund will be made to the premium funding company of the proportionate part of the premium applicable to the unexpired Period of Insurance.

### **16. Progress payments**

We will not unreasonably withhold progress payments. We will make progress payments on claims at intervals to be agreed by Us following receipt of an interim report from Our loss adjuster or representative.

## 17. Reasonable care

You must take reasonable precautions to prevent personal injury or property damage as if You were not covered by this Policy such as:

- (a) if You discover Your products may be defective and the defect may cause a claim under the Public and Products Liability cover section, at Your expense You must take reasonable steps to restrict, trace, recall, modify, replace or repair the products;
- (b) maintain and look after other person's or organisation's property and buildings used or occupied by You, in accordance with Your agreement with them;
- (c) if Your occupation includes digging below ground at sites away from Your Business Premises You must obtain the location of underground services from the owners of the services;
- (d) use and store all hazardous materials as required By-law.

If You do not take reasonable precautions We may refuse to pay part or all of Your claim.

## 18. Reinstatement of sum insured

In the event of damage insured under one or more of the Fire and Perils, Business Interruption, Theft, Money and Glass cover sections of this Policy, the amount by which the Sum Insured or Limit of Indemnity is reduced as a consequence of the loss or damage will be automatically reinstated as from the date of loss or damage provided that:

- (a) there is no written request from You or written notice by Us to the contrary;
- (b) the section is an operative section of the Policy; and
- (c) You pay the premium which We require for the reinstatement.

We will not reinstate the Sum Insured on the Fire and Perils cover or Business Interruption cover sections if We have paid a total loss under either of these sections.

## 19. Rewards

We will pay You up to \$5,000 or any higher amount shown in the current Policy Schedule for the reasonable cost of any reward paid by You to recover any property belonging to You or for which You are responsible that is lost, destroyed or damaged and which is insured under the Fire and Perils, Theft, Money or Glass cover sections of this Policy.

However:

- (a) the terms of the reward must be agreed by Us before it is offered; and
- (b) no such payment shall be made by You unless the value of the property recovered exceeds the reward.

We shall not unreasonably withhold or refuse consent to the terms of any reward payable under this General Policy condition.

## 20. Sale of salvage

We will not sell or dispose of any salvage without giving You the opportunity to buy it at its salvage value, provided that this condition does not allow You to abandon the property to Us.

This condition will not apply to the Motorpack section of this Policy.

## 21. Single occurrence

We will not pay for loss or damage to property covered by the Policy under more than one section of the Policy in respect of the same item and occurrence unless a relevant Sum Insured has been paid out in full and You have not been fully covered for the loss or damage.

## 22. Waiver of subrogation rights

We may not be liable to pay any benefits under this Policy for loss, damage or liability if You agree, or have agreed, to limit or exclude any right of recovery against any third party who would be liable to compensate You with respect to that loss, damage or liability however:

- (a) We shall waive any rights and remedies or relief to which We are or may become entitled by subrogation against:
  - (i) any co-insured (including directors, officers and employees);
  - (ii) any corporation or entity (including directors, officers and employees) owned or controlled by any insured, or against, any co-owner of the property insured;
- (b) You may without prejudicing Your position under this Policy:
  - (i) release any statutory governmental, semi-governmental or municipal authority from any liability if required at law to do so;
  - (ii) agree to enter into a contract for storage of goods or merchandise if the terms of the contract include a disclaimer clause;
  - (iii) agree to enter into a lease for occupancy of any building or part of a building, or a lease, or hiring of property where the terms of the lease, or hiring, include a disclaimer clause in favour of the lessor or the owner.

## BUSINESS PROPERTY COVER SECTION

This section forms part of the Policy only if shown in the Schedule as having been taken by You.

### Definitions

Some words have special meaning wherever they appear in this section. These words and their meanings are listed below.

**“Buildings”** means Buildings and structural appurtenances at the Situation. Buildings includes:

- (a) verandahs, carports, car parks, sealed driveways and paths, shelters, awnings, gangways, staircases and all outbuildings,
- (b) fixtures and fittings owned by the owner of the building,
- (c) underground and above ground services including aprons, supply mains and meters,
- (d) walls, gates, fences, flagpoles, floodlights and signs,
- (e) permanently fixed water and fuel tanks.

Buildings does not include:

- (i) Plant and machinery,
- (ii) Stock,
- (iii) Contents,
- (iv) Property undergoing erection, construction, alteration or addition (including the partial dismantlement of existing structures), where the total contract value of all work to be carried out at any one Business Premises exceeds \$500,000 or 20% of the total sum insured on Buildings and Contents, whichever is the lesser provided that this limit shall apply only to the portion of the Business Premises or Business Property which is the subject of any such work and not to any other portion of the Business Property,
- (v) Land, unsealed driveways and paths, dams, bridges, canals, tunnels, railway tracks and roadways (not at the Situation), wharves, docks and piers.

This definition of ‘Buildings’ is subject to the ‘Designation of property’ General Policy condition.

**“Contents”** means all property at the Business Premises, belonging to You or for which You are responsible for.

Contents includes:

- (a) fixtures, fittings and glass owned by Your landlord which You are legally responsible for and leasehold improvements,
- (b) machinery,
- (c) plant permanently fixed to Your Buildings,
- (d) documents of title and any other documents of aesthetic, historic, scientific or social value for past, present or future generations,

- (e) computer systems records, manuscripts, other documents, deeds, specifications, plans, drawings, designs, business books and other records of every description,
- (f) paintings, works of art and curios,
- (g) Stock,
- (h) goods sold but not delivered and goods held by You on consignment or commission,
- (i) property not owned by You but on Your Business Premises for service, repair, alteration or safe keeping,
- (j) property of Your welfare, sports and social clubs.

Contents does not include:

- (k) Buildings,
- (l) growing crops, trees or plants other than pot-plants,
- (m) animals, livestock, fish, birds and any other living organism except laboratory cultures, Stocks of foodstuffs, of nursery plants, or Stocks of a pet shop,
- (n) motor Vehicles or trailers, caravans or motorcycles all while registered or licensed to travel on a public road, provided that this exclusion will not apply to:
  - (i) mobile plant and equipment (excluding cars, sedans, panel vans, and trucks) not otherwise insured,
  - (ii) motor Vehicles or trailers, caravans or motorcycles that are Stock in trade of the business,
- (o) Money,
- (p) jewellery, furs, bullion, articles containing gold and silver which are not Stock and which exceed \$10,000 any one item,
- (q) Contents undergoing erection, construction, alteration or addition (including the partial dismantlement of existing structures), where the total contract value of all work to be carried out at any one Business Premises exceeds \$500,000 or 20% of the total sum insured on Buildings and Contents, whichever is the lesser, provided that this limit shall apply only to the portion of the Business Premises or Business Property which is the subject of any such work and not to any other portion of the Business Property,
- (r) land, dams, bridges, canals, roadways, tunnels, railway tracks (not at the Situation), wharves, docks and piers,
- (s) water craft, Aircraft or any accessories, equipment or spare parts whilst contained in or on these items unless they are Stock and are on Your Business Premises at the time of any loss or damage.

This definition of ‘Contents’ is subject to the ‘Designation of property’ General Policy condition.

**“Market Value”** means the estimated amount for which the Business Property should exchange immediately before the damage, between a willing buyer and a willing seller in an arms-length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.

## Cover

The scope of cover provided is explained in the clauses 'Defined events cover' and 'Accidental damage cover'.

We will cover You for loss or damage caused by the events listed under 'Defined Events Cover' and 'Accidental Damage Cover' to Your Business Property which occurs during the Period of Cover.

The current Policy Schedule shows what You have covered and the method of settlement.

## Basis of settlement

There are two methods of paying Your claims. They are 'reinstatement or replacement value' and 'indemnity value'.

The claim payment method You are covered for is shown on the current Policy Schedule.

### 1. Reinstatement or replacement value

We will pay the cost of rebuilding, replacing or repairing any damaged part of Your Business Property to the same condition as when they were new or, where appropriate, in accordance with the 'Output replacement' clause set out below.

Business Property may be rebuilt or erected at another location and in a manner suitable to You provided You pay any additional costs to build or erect elsewhere.

If the Business Property is lost or damaged You must commence to rebuild, replace or repair within a reasonable time of the loss or damage, after Our consent has been obtained. If You do not, We will pay no more than the cost that would have been incurred if the work of rebuilding, replacement or reinstatement has been commenced and carried out with reasonable dispatch.

### Extra cost of reinstatement

(Applicable to Buildings, machinery and plant).

Where 'Reinstatement or replacement' basis of settlement is shown in the Policy Schedule, this section extends to include the extra cost of reinstatement (including demolition or dismantling) of damaged property insured necessarily incurred to comply with the requirements of any Act of Parliament or Regulation made under an Act or By-law or the Regulation of any Municipal or Statutory Authority, subject to the following provisions and subject also to the terms, conditions and sums insured of this section. Provided that:

- (a) the work of reinstatement, must be commenced and carried out within a reasonable period, failing which We will not pay more than the amount which would have been payable under the Policy if the work of reinstatement had been commenced and carried out with reasonable dispatch,

- (b) the work of reinstatement may be carried out wholly or partially upon any other site, if the requirements of the Act, Regulation or By-law necessitate it, subject to Our liability not being increased,
- (c) Our total liability under this clause 'Extra cost of reinstatement' will be limited to:
  - (i) the sub-limit of liability shown in the current Policy Schedule for 'Extra cost of reinstatement' which shall be in addition to the sum insured, or
  - (ii) if no such sub-limit of liability is stated, and the damage is less than fifty percent (50%) of the Replacement Cost of the Buildings or Contents, Our liability shall be limited to the extra cost necessarily incurred in reinstating the damaged Business Property only,
- (d) the amount recoverable shall not include the additional costs incurred with complying with any such Act, Regulation or By-law or requirement with which You have been required to comply prior to the happening of the damage,
- (e) the underinsurance condition of the Business Property cover section of the Policy will not be applied to the amount payable under this clause.

### 2. Indemnity value

If the basis of settlement is shown in the Policy Schedule as Indemnity, We will pay the cost to repair or replace the insured property less an equitable amount for age, wear, tear, depreciation and will make an adjustment for the general condition and remaining useful life of the individual item or components that are damaged.

We will also pay, in accordance with the 'Extra Cost of Reinstatement' clause, the additional costs required to comply with the requirements of any statutory authority or by-laws, provided You were not required to comply with any of the by-laws prior to the loss or damage occurring.

The Underinsurance/average condition in this section is amended to read:

In the event of loss or damage to property We shall be liable for no greater proportion of the loss or damage than the sum insured at the location bears to eighty percent (80%) of the current value of the property insured, provided that Our liability shall not exceed the sum insured stated against each item in the Policy Schedule.

## Defined events cover

We cover You for loss or damage at the Business Premises caused by the following defined events:

- (1) Bursting, leaking, discharging or overflowing of fixed apparatus, fixed tanks, fixed appliances, fixed pipes or other systems used to hold or carry liquid (including the reasonable cost of identifying and locating the cause of damage) but We will not cover the repair or replacement of such apparatus, appliances, tanks, pipes or other systems which give rise to the damage.
- (2) Earthquake, volcanic eruption, subterranean fire or tsunami.  
We will not pay for the first \$20,000 or 1% of the sum insured at the damaged Business Premises (whichever is the lower amount) of each claim caused by earthquake, volcanic eruption, subterranean fire or tsunami.  
You only have to pay one Excess if further damage occurs within 72 hours of an occurrence.
- (3) Fire, lightning or explosion.
- (4) Impact by:
  - (a) a Vehicle designed primarily for use on land,
  - (b) an animal,
  - (c) trees or branches of trees. This cover includes the reasonable costs associated with the removal and disposal of the tree or branches, which caused the damage,
  - (d) communication masts, towers, antennae or satellite dishes,
  - (e) Aircraft or water craft,
  - (f) meteorites or debris from an Aircraft, rocket or satellite,
  - (g) a falling building or other structure or part thereof.
- (5) Malicious damage, including damage by burglars or thieves, other than damage caused by You or anyone who permanently or temporarily lives with You.
- (6) Riots, civil commotions, strikes or locked out workers or persons taking part in labour disturbances including resultant acts of any lawfully constituted authority.
- (7) Storm, tempest, rainwater, snow, sleet, wind, hail but not:
  - (a) by water from or action of the sea, tidal wave, storm surge, high water or Flood,
  - (b) to gates, fences, retaining walls, shade cloth, exterior textile awnings or blinds which exceeds \$25,000 in respect of any one occurrence for loss or damage,
  - (c) to property in the open air unless such property is a permanent structure designed to function without the protection of walls or roof,
  - (d) erosion, subsidence, landslide, collapse or any other movement of earth,

- (e) caused by water entering the Buildings through an opening in the wall or roof made for the purpose of alterations, additions, renovations, or repairs.

- (8) Escape of molten material from its intended confines on or about the Business Premises but excluding:
  - (a) the cost of repairing any fault which permitted such escape,
  - (b) the cost of retrieving or removing escaped material from any escape channel or catchment area designed for the purpose,
  - (c) loss of or damage to such escaped material,
  - (d) loss or destruction of or damage to furnace linings, crucibles, moulds, other containers or ladles from which molten material escapes.

## Accidental damage cover

We will cover You for accidental loss or damage to Your Business Property at the Business Premises other than any exclusions detailed in this section.

The maximum amount We will pay for accidental damage cover for any occurrence is the lesser of \$250,000 or the total sum insured for Buildings and Contents unless a higher amount is specified in the current Policy Schedule as the accidental damage sum insured.

## Exclusions

We will not pay for claims under 'Accidental damage cover' for:

- (a) loss or damage caused by any defined events cover in this section,
- (b) loss or damage caused by events or to the items listed under general exclusions,
- (c) loss or damage insurable under any other section or sections of this Policy,
- (d) Business Property to the extent insurable under the General Property cover section,
- (e) for damage which occurs as a result of Your failure to repair or prevent bursting, leaking, discharging or overflowing of fixed apparatus, fixed tanks or fixed pipes used to hold or carry liquid within a reasonable amount of time of discovering an occurrence,
- (f) unexplained disappearance or unexplained inventory shortage, whether resulting from clerical or accounting errors or shortages in supply or delivery of materials to or by You,
- (g) loss or damage caused by demolition, other than demolition by or ordered by a public authority, if the value of the demolition work exceeds \$500,000 or 20% of the total sum insured on Buildings and Contents, whichever is the lesser,
- (h) pollution or contamination of Business Property unless caused by a defined event,



- (i) theft, except where the Business Premises 'Buildings' insured by the owner under this Policy section are tenanted under a lease agreement by another party, person or entity not named in the Policy, in which case, the insured owner will be entitled to be indemnified against loss by theft of their Business Property (as defined in this section for 'Buildings') at the Business Premises in accord with the terms and conditions of the 'Theft cover section' of this Policy regardless of whether it is selected in this Policy or otherwise.
- (j) loss or damage following breakage of external glass to signwriting or ornamentation affixed to the glass, except where You are a tenant of a building and not required by lease to insure Glass.

The maximum We will pay in respect to any loss under this additional protection provided under this Business Property cover section in relation to theft shall be limited to \$20,000 in total any one occurrence happening during the currency of the Policy.

## Additional benefits

The following additional benefits are provided if You have selected the Business Property cover section:

### 1. Capital additions

We cover additions to Your Buildings, Contents, and specified items obtained or built during the Period of Cover to an amount not exceeding 20% of the total sum insured on Buildings, Contents and specified items or \$500,000 whichever is the lesser, in respect of property insured at any one Situation. This additional benefit is in addition to Your sum insured.

### 2. Catastrophe escalation cost

If:

- (a) any of Your Buildings are destroyed or damaged by any event insured against by this cover section, and
- (b) We classify such destruction or damage as a total loss; and
- (c) the event giving rise to the destruction or damage has resulted in any competent authority declaring a state of emergency affecting the area in which Your Building is situated;

We will:

- (d) increase the sum insured applicable to such Buildings under this cover section by up to 20% provided that Your Building is rebuilt, and
- (e) increase the amounts payable under the 'Capital Additions' (relating to Buildings only) and 'Temporary protection and security guards' Additional benefits of this cover section by 20%;

to cover any Increase in building costs for labour and materials and any other additional costs which may apply after the event.

Provided that:

- (i) We shall not pay more than the increased building costs which are actually incurred by You.
- (ii) We will not pay any amount under this Additional benefit until You have incurred costs exceeding the sum insured applicable to such Building under this cover section.

Increase in building costs means the difference between the cost of reinstatement actually incurred in accordance with the Basis of Settlement provisions of this cover section and the cost of reinstatement that would have applied had the event not occurred.

### 3. Directors and employees personal property

Cover is extended to include personal property of directors and employees whilst at the Business premises provided not otherwise insured.

Cover is limited to \$5,000 for any one employee.

### 4. Discharge of mortgages

If Business Property has been damaged and the damage is covered by the Business Property cover section, where the sum insured is not otherwise exhausted, We will pay up to the balance of the sum Insured, for the reasonable legal costs to discharge a mortgage or mortgages on Buildings or Contents following settlement of a claim on the basis of a total loss whether actual or constructive.

Where the sum insured is exhausted, in respect of the discharge of a mortgage on Buildings only, We will pay up to an additional ten percent (10%) of the total sum insured on Buildings, for the reasonable legal costs to discharge a mortgage or mortgages following settlement of a claim on the basis of a total loss whether actual or constructive.

### 5. Fire brigade attendance fees

We will pay up to \$50,000 for any statutory charges payable by You to a fire brigade or firefighting authority for attendance at a fire or chemical emergency involving insured property. This additional benefit is in addition to Your sum insured.

### 6. Government fees

We will pay any fee, contribution or other impost payable to any other Government, Local Government or other Statutory Authority where payment of the fee, contribution or impost is necessary to the obtaining of consent to reinstate any property insured provided that We will not be liable for payment of any fines and/or penalties imposed upon You by any such authorities.

The cost of government fees is included in the sum insured for Business Property.

## 7. Landscaping

Loss, damage or destruction by the defined events (other than storm, tempest or rainwater) to growing plants, shrubs, garden plots and lawns (including rock work, retaining walls, ornamentation and edging pertaining thereto) and resultant expenses necessarily incurred in cleaning, clearing and/or repairing drains, gutters, sewers and the like, all contained in or on or forming part of or implicitly pertaining to the Buildings insured, up to but not exceeding \$50,000 or 20% of the sum insured at the Business Premises specified in the Policy Schedule in respect of any one loss. This additional benefit is included in the sum insured of the Buildings covered by this section.

## 8. Limited transit

Business Property is covered, up to the lesser of \$50,000 or twenty percent 20% of the sum insured for Contents including Stock, if it is in transit in or on any Vehicle owned or operated by You anywhere in Australia away from Your Business Premises, including storage during the transit, but only for damage caused by fire or explosion, wind or earthquake, acts of malicious persons or by collision or overturning of the conveying Vehicle.

## 9. Loss of land value

Up to \$100,000 for the reduction in land value, which shall be the value certified by the Valuer General or other competent person or authority selected by Us, that results from the requirements of any statutory authority that does not allow rebuilding (or only partial rebuilding) at the Business Premises following loss or damage covered by this section.

Provided that:

- (1) this shall be calculated by subtracting the land value after rebuilding or after We have agreed that rebuilding is not possible, from the land value before the damage, and
- (2) We will not pay more than 20% of the sum insured for Buildings at the Situation where the damage happened.

The underinsurance condition does not apply to this additional benefit, which is in addition to the sum insured.

## 10. New premises – temporary cover

We will temporarily extend cover provided by this section to property at any new Situation first occupied by You during the Period of Cover provided that:

- (a) this temporary cover period is limited to the lesser of:
  - (i) 60 days from the date You acquire or commence using the premises, or
  - (ii) the expiry date of the current Period of Insurance, or
  - (iii) the date on which the property ceases to belong to You,
- (b) the property is used for the business described in the Policy Schedule,

- (c) the property is of similar type to that already insured under this cover section,
- (d) the new premises comprise Buildings of similar construction, fire and burglary protection as featured in any premises currently described in the Policy Schedule,
- (e) You must provide to Us full details of the new premises within 60 days of the commencement of this temporary cover. If We agree to continue the cover You must pay any additional premium that We may require.

The maximum We will pay for this additional benefit is 50% of the highest sum insured shown on the Policy Schedule for each item of property.

## 11. Professional fees

If Business Property has been damaged and the damage is covered by the Business Property cover section, We will pay the reasonable professional fees incurred to rebuild or repair Your Buildings and Contents. The cost of professional fees and legal costs are included in the sum insured of the property lost or damaged.

## 12. Playing surfaces

We will pay, up to the greater of \$50,000 or the amount shown in the current Policy Schedule for playing surfaces, for the cost of repairing damage to outdoor playing surfaces at the Situation, caused by:

- (a) vandals or malicious persons, other than You or Your guests, director's partners, officers, employees or members, or their guests,
- (b) fire occurring to insured property at the Situation for which We have admitted liability under this section, or

the action of the fire fighting services, police or other emergency services in attending to their duties at the Situation.

This additional benefit is in addition to the sum insured.

## 13. Prevention of imminent damage

We will pay up to \$50,000 for necessary costs You incur to extinguish a fire on or in the vicinity of Your Business Premises which causes or threatens property damage or for necessary costs to prevent or diminish imminent damage to Your property by any other insured peril.

We will not pay under this additional benefit for:

- (a) any fines, penalties or liability incurred by You,
- (b) any loss or damage to Your property.

This additional benefit is in addition to Your sum insured.

## 14. Removal of debris

If Business Property has been damaged or destroyed and is covered by the Business Property cover section, We will pay the reasonable costs incurred for the demolition, dismantling, necessary temporary repairs, cleaning up and/or removal, storage and disposal of debris from the Business Premises. We will also pay for Your legal liability for the cost of removal of debris from adjoining premises, property, services, roadways and waterways as well as on the site. We will pay You up to \$50,000 or 20% of the total sum insured on building and Contents shown on the Policy Schedule for the damaged premises whichever is the lesser (in addition to the sum insured) or the higher amount shown in the current Policy Schedule for removal of debris or if this is insufficient and You have not exhausted Your sum insured on the damaged items requiring demolition and/or removal of debris, We will pay up to the remaining balance of the sum insured.

## 15. Rewriting of records

We will pay You, in addition to Your sum insured, up to \$25,000 or any higher amount shown in the current Policy Schedule for Rewriting of Records, for clerical and professional costs incurred by You to re-write Your necessary business records if they are lost, destroyed or damaged, whilst located at Your Business Premises or offsite anywhere in the Commonwealth of Australia, by an occurrence which You are covered for in the Business Property cover section. We will not pay You for any financial loss caused by the loss of Your records under this additional benefit

## 16. Seasonal increase in stock

If You have insured stock as a separate item to Your contents, the sum insured on stock is increased by 50% for:

- (a) eight weeks prior to and including Christmas Day,
- (b) three weeks after and including 26 December,
- (c) six weeks prior to and including Easter Tuesday,
- (d) one week after but not including Easter Tuesday,
- (e) six weeks prior to and including any celebrated event of a festive, religious or ethnic nature (other than Christmas or Easter),
- (f) one week after the same festive, religious or ethnic event or celebration,
- (g) any other period shown on the current Policy Schedule, in lieu of the covers in (a) to (f) above provided You can demonstrate that the stock levels during such period has risen by more than 20% above standard levels and that the increase has happened solely for the purpose of meeting additional customer demand associated with such period.

If Your sum insured for stock is included in another item on the current Policy Schedule We will only apply the increase to the portion of the sum insured which relates to stock.

## 17. Temporary protection and security guards

If Business Property has been lost or damaged and is covered by the Business Property cover section, We will pay for the cost of temporary protection, including employment of security guards, to safeguard the property insured:

- (a) where the sum insured is not otherwise exhausted, We will pay the reasonable costs and expenses reasonably incurred, and
- (b) when the sum insured becomes exhausted, We will pay an additional amount of up to \$25,000, pending repair or replacement, consequent upon damage for which a claim is payable.

If an occurrence results in a claim being paid under this cover section and another cover section of the Policy, the highest single limit under the relevant cover section applies. The benefit of Temporary Protection and Security Guards shall not be cumulative under this Policy.

## 18. Temporary removal

We also cover Your insured Business Property while temporarily removed to any other premises within the Commonwealth of Australia.

Provided that:

- (a) We will not cover motor Vehicles or trailers, Watercraft, caravans or motorcycles unless they are:
  - (i) Stock in trade of the business, or
  - (ii) forklift trucks or similar appliances that are normally used for hauling or lifting goods at Your Business Premises,
- (b) We will not cover Stock in trade that is on consignment to other parties unless it is owned by You or is property for which You are responsible.
- (c) The maximum amount We will pay for this additional benefit will be 20% of the sum insured.
- (d) This additional benefit will not apply to any property insured, which has been removed for a period greater than 90 days without Our prior written consent.

## 19. Undamaged foundations

If foundations are not destroyed following an occurrence and any Government or Statutory Authority requires reinstatement of the Business Property to be carried out on another site, the abandoned foundations will be considered as destroyed. If the resale value of the original building site is increased due to the presence of the abandoned foundations, the increase in resale value will be paid to Us at the time of sale.

## Optional extensions

### 1. Flood

When 'Flood' is shown in the current Policy Schedule, We will cover loss of or damage to Business Property caused by Flood.

### 2. Strata title mortgagee(s) interest

This cover applies only if You have arranged this Policy to insure only the interest of a mortgagee in a strata title unit.

This cover only applies when You own part of a building that has been subdivided into strata, community or similar title units and You have a mortgage on that part of the building.

We will pay the mortgagee the lowest of:

- (a) the sum insured shown on the Policy Schedule,
- (b) the amount to repair the damage to a condition similar to but no better than when new,
- (c) if the body corporate (or similar) partially covers the loss, then the difference between what the body corporate's insurance pays and the cost of the damage, or
- (d) the amount sufficient to discharge the mortgage held by You over the unit at the date of the damage.

We pay only that part of the claim that applies to the interest of the mortgagee.

We only pay a claim if:

- (a) a claim would be payable under defined events 1 to 8 of Your Business Property cover section (and not subject to any exclusions or other limitation in the Policy),
- (b) the Policy of the body corporate or similar does not apply or only partially covers the loss, and
- (c) the mortgagee requires You to discharge Your mortgage.

If You have arranged this Policy to insure only the interest of a mortgagee in a strata title unit no additional benefits are payable under this Policy.

## Exclusions

What You are not covered for under this section.

- (1) We will not pay for loss or damage under the Business Property cover section caused by:
  - (a) tenants - intentional loss or damage caused by Your tenants other than damage caused by fire or explosion,
  - (b) wear and tear -
    - (i) birds, insects, mice, rats or other vermin,
    - (ii) rust, corrosion, or oxidation,
    - (iii) mildew, mould, rotting, disease, contamination, pollutants, or industrial fallout,
    - (iv) inherent vice, change of colour, loss of weight, loss of volume, change in flavour, change in texture,
    - (v) variation in temperature, variation in humidity, variation in controlled atmosphere,

(vi) wear, tear, fading or gradual deterioration, provided that this Exclusion 1(b) shall not apply to subsequent loss or damage to Your Business Property occasioned by a peril (not otherwise excluded) resulting from any event referred to in this Exclusion.

- (c) movement of foundations
  - (i) vibration, heaving, creeping, shrinking, settling, or expansion of foundations or supports of Business Property,
  - (ii) erosion, subsidence or earth movement unless caused suddenly by a defined event,
  - (iii) collapse of Business Property unless caused suddenly by a defined event,
- (d) faulty work
  - (i) error in, omission of or wrong design,
  - (ii) faulty materials or faulty workmanship,provided that this Exclusion 1(d) shall not apply to subsequent loss or damage to Your Business Property occasioned by a peril (not otherwise excluded) resulting from any event referred to in this Exclusion,
- (e) cessation of work – partial or complete cessation of work, process, operation or activity caused by strikes, labour disputes or locked out workers except as a result of physical loss or damage to the Business Property committed by persons taking part in strikes or labour disputes, or by locked out workers,
- (f) incorrect siting of Business Property,
- (g) heat - spontaneous combustion, fermentation, heating or any process involving the direct application of heat. Provided that this Exclusion 1(g) shall be limited to the item or items of Your Business Property immediately affected and shall not extend to other Business Property damaged as a result of such spontaneous combustion, fermentation or heating or process involving the direct application of heat.
- (h) Flood,
  - (i) the sea – the action of water from the sea, tidal wave or high water,
  - (j) self-explosion of boilers or other pressure vessels. We do not cover damage to the boiler or pressure vessel where the boiler or pressure vessel:
    - (i) is not solely used for domestic purposes, or
    - (ii) has a value of more than \$200,000.

However We do cover resultant damage to other Business Property.

- (2) We will not pay under the Business Property cover section for:
  - (a) legal liability - any legal liability You incur to pay compensation, damages, fines, or penalties,
  - (b) breakdown - cost to repair or replace Business Property due to:
    - (i) mechanical, hydraulic, electrical or electronic breakdown, malfunction, breakage or failure unless caused by an insured occurrence,
    - (ii) Computer virus,
    - (iii) access to Your computer systems and records by any person not on Your Business Premises.

- (3) We will not pay for loss or damage under the Business Property cover section arising from demolition ordered by government or public or local authorities due to failure by You or Your agents to obtain the necessary permits.

## Conditions

### 1. Tenants actions

If a tenant of Yours or a tenant of Your landlord (but not You) without Your consent, causes or contributes to any loss or damage covered by this section which is in breach of any terms or conditions, We will cover You for Your loss or damage as per this section, provided

- (a) You have taken all reasonable actions, as soon as You become aware of conditions causing the breach, to have the tenant comply with the terms,
- (b) You notify Us within a reasonable amount of time of becoming aware of the breach,
- (c) You agree to pay a reasonable increase in premium for the additional risk.

### 2. Underinsurance/average

For each occurrence under the 'Business Property cover section', We will not be liable for more than that proportion of damage which; in respect of Buildings, Contents, Stock and specified items the sum insured on the total amount for Buildings, Contents, Stock and specified items at the Situation, at the time of the commencement of each Period of Cover bears to eighty percent (80%) of the full insurable value of such Buildings, Contents, Stock and specified items.

Conditions:

- (a) Our liability is limited to the sum insured at the Situation as shown in the Policy Schedule.
- (b) This clause will not apply if the amount of any damage does not exceed ten percent (10%) of the sum insured at the Situation.

Example:

Total value \$200,000

80% of value = \$160,000

Sum insured \$144,000

Therefore if a \$100,000 loss occurs, We would pay  
 $(\$144,000 / \$160,000) \times \$100,000 = \$90,000$

We would pay \$90,000.

Any additional costs incurred to comply with the requirements of any statutory authority, by-laws or regulations shall be omitted from the calculation of Our proportion.

### 3. Release

Without prejudicing Your position under this cover section, You may release any railways, other transportation companies, statutory governmental, semi-governmental or municipal authority from any liability if required by any contract to do so.

### 4. Leased building clause

Without prejudicing Your position under this cover section, You may agree to enter into a lease for occupancy of any building or a lease for hiring of property where the terms of the lease include a disclaimer clause in favour of the lessor to the owner.

### 5. Storage premises

Without prejudicing Your position under this cover section, You may enter into a contract which includes a disclaimer clause in relation to the storage of goods or merchandise.

### 6. Output replacement

Where any Business Property consists of equipment, machinery or plant having a measurable function, capability or output and if it is necessary to replace such property with a new item or items which perform a similar function or functions, then the basis of settlement for such property shall be:

- (a) Where any Business Property is to be replaced with any item or items which have the same or a lesser total function, capability or output, then the basis of settlement is the new installed cost of such replacement item or items as would give the same total function, capability or output as the Business Property.
- (b) Where any Business Property is to be replaced with an item or items which have a greater total function, capability or output and the new installed cost of such replacement property is no greater than the replacement value of that Business Property, then the basis of settlement is the new installed cost of the item or items so replaced.
- (c) Where any Business 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 Business Property, then the basis of settlement is the lesser of the reinstatement value or that proportion of the new installed cost of the replacement item or items which the output of the Business Property damaged bears to the output of the replacement item or items. If the reinstatement value of the damaged Business Property is not ascertainable then the basis of settlement is the new installed cost of the replacement item or items.

### 7. Floor space ratio index (Plot ratio)

Where Buildings are damaged and the cost of reinstatement is more than 50% of the cost of reinstatement if the Buildings had been totally destroyed and reinstatement of such damage is limited or restricted by:

- (a) any Act of Parliament or regulation thereunder, or
- (b) any by-law or regulation of any municipal or other statutory authority,

resulting in either case in the reduction of the floor space ratio index (plot ratio) of the site, then We shall pay in addition to the amount payable on reinstatement of such Buildings the difference between:

- (i) the actual costs incurred in reinstatement subject to the reduced floor space ratio index (plot ratio), and
- (ii) the estimated cost of reinstatement at the time of damage had the reduced floor space ratio index (plot ratio) not applied.

This is provided that Our total liability for reinstatement or replacement value, additional costs of compliance and under this 'Floor Space Ratio Index (Plot Ratio)' clause shall not exceed the sum insured in respect of the Buildings which are the subject of the claim.

### 8. Branded goods

In the event of a claim, any salvage of branded goods or merchandise owned by You or held by You in trust or on commission and any goods sold but not delivered shall not be disposed of by sale without Your consent. If such salvage is not disposed of by sale, then the basis of settlement of the claim shall be the Market Value of the goods after brands, labels or names have been removed by You or on Your behalf.

## BUSINESS INTERRUPTION COVER SECTION

### Definitions

**"Annual Rent Receivable"** means the Rent Receivable during the twelve months immediately before the date of the Damage.\*

**"Annual Revenue"** means the Revenue earned during the twelve months immediately before the date of the Damage.\*

**"Annual Turnover"** means the Turnover during the twelve months immediately before the date of the Damage.\*

**"Damage"** means physical loss, destruction or damage (occurring during the Period of Cover) from the operation of a peril or event insured against under the 'Business Property cover section', the 'Theft cover section', the 'Money cover section', the 'Glass cover section' or the 'General Property cover section' of Your Policy.

**"Gross Profit"** means the amount by which the sum of the Turnover and the amount of the closing Stock and work in progress exceeds the sum of the opening Stock and work in progress and the amount of the Uninsured Working Expenses.

**Note:** The amount of the opening and closing Stocks will be arrived at in accordance with Your normal accounting methods, due provision being made for depreciation.

**"Indemnity Period"** means the period beginning with the occurrence of the Damage during which the results of Your Business are affected by the Damage and ending at the expiration of the maximum period specified in the current Policy Schedule or, in the case of Weekly Revenue, ending at the earliest of either the expiration of the maximum period specified in the Policy Schedule or when Weekly Revenue during that period equals or exceeds 95% of Standard Weekly Revenue.

**"Rate of Gross Profit"** means the Rate of Gross Profit, expressed as a percentage, earned on the Turnover during the financial year immediately before the date of the Damage.\*

**"Rent Receivable"** the amount of the rent received or receivable (including base rental, Turnover rental and contributions to outgoings) from the letting of property at the Business Premises.

**"Revenue"** means the Money paid or payable to You as a:

- (a) Wholesaler or retailer of goods – for goods sold and delivered in the course of Your Business less the cost of any related purchases (after any discounts).
- (b) Professional practitioner or consumer services provider – for services rendered and work performed in connection with Your Business.
- (c) Property owner – by tenants (being Rent Receivable).

**"Shortage in Turnover"** means the amount by which the Turnover during a period will, in consequence of the Damage, fall short of the part of the Standard Turnover which related to that period.

**“Standard Rent Receivable”** means the Rent Receivable during that period in the twelve months immediately before the date of the Damage which corresponds with the Indemnity Period.\*

**“Standard Revenue”** means the Revenue earned within that period during the twelve months immediately before the date of the Damage which corresponds with the Indemnity Period.\*

**“Standard Turnover”** means the Turnover during that period in the twelve months immediately before the date of the Damage which corresponds with the Indemnity Period.\*

**“Standard Weekly Revenue”** means the average of the Weekly Revenues in that period during the fifty two (52) weeks immediately before the date of the Damage which corresponds with the Indemnity Period, adjusted as may be necessary for trends, variations in or other circumstances affecting Your Business, so that the adjusted figure will represent as far as possible the weekly results which, but for the Damage, would have been obtained during the relative period after the Damage.

**“Turnover”** means the amount (less discounts allowed) paid or payable to You for goods sold and delivered and for services rendered in the course of Your Business at the Business Premises.

**“Uninsured Working Expenses”** the working expenses of Your Business which You have elected not to insure under this section, and which are specified in the current Policy Schedule.

**“Weekly Revenue”** means the Money paid or payable to You each week as a:

- (a) Wholesaler or retailer of goods – for goods sold and delivered in the course of Your Business less the cost of any related purchases (after any discounts).
- (b) Motel operator – in respect of facilities, accommodation, food and drink made available and services rendered in connection with Your Business, less the cost of any related purchases (after any discounts) and laundering and cleaning expenses.
- (c) Professional practitioner or consumer services provider – for services rendered and work performed in connection with Your Business.
- (d) Property owner – by tenants (being Rent Receivable).

\* to which such adjustments will be made as may be necessary to provide for the trend of Your Business and for variations in or other circumstances affecting Your Business either before or after the Damage or which would have affected Your Business had the Damage not occurred, so that the adjusted figures will 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.

## Cover

There are three Parts available in this section:

- Part A – Annual Revenue basis
- Part B – Weekly Revenue basis

- Part C – Insurable Gross Profit basis

Your Policy Schedule indicates which Part has been selected by You.

## Part A – Annual revenue basis

In the event of interruption of or interference with Your Business in consequence of Damage to any building or any other property or any part thereof used by You at the Premises for the purpose of Your Business, We will pay You in respect of each item selected by You and shown in the current Policy Schedule, the amount of the loss resulting from such interruption or interference.

Provided that:

- (a) the payment is in accordance with the basis of settlement provision for the item,
- (b) We have paid for or admitted liability in respect of such Damage under the relevant section of Your Policy, or another insurer has 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 for such Damage (by Us or another insurer) solely due to the application of an Excess, and
- (c) Our liability in no case will exceed in respect of each item the sum insured shown in the current Policy Schedule for that item.

The insurance under this section provides protection with regard to loss under:

- (1) Revenue
- (2) Additional increase in cost of working
- (3) Accounts receivable
- (4) Claim preparation expenses

## Basis of settlement

### 1. Revenue

This item is limited to the loss of Revenue and increase in the cost of working.

The amount payable as indemnity under Item 1 will be:

- (a) in respect of the loss of Revenue, the amount by which the Revenue earned during the Indemnity Period falls short of the Standard Revenue, in consequence of the Damage, and
- (b) in respect of the Increase in cost of working, the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the loss of Revenue which, but for the additional expenditure, would have taken place during the Indemnity Period in consequence of the Damage, but not exceeding the amount of reduction in Revenue thereby avoided, less any sum saved during the Indemnity Period in respect of such charges and expenses of Your Business payable out of Revenue as may cease or be reduced in consequence of the Damage.

Provided that if the sum insured for this item is less than eighty percent (80%) of the Annual Revenue, the amount payable will be reduced so that We will be liable for no greater proportion of the loss under this item than that which the sum insured bears to eighty percent (80%) of the Annual Revenue.

This provision will not apply if Your claim is for less than 10% of the sum insured for this item.

## **2. Additional increase in cost of working**

See 'Common Clauses to Parts A, B and C'.

## **3. Accounts receivable**

See 'Common Clauses to Parts A, B and C'.

## **4. Claim preparation expenses**

See 'Common Clauses to Parts A, B and C'.

### **Part B – Weekly revenue basis**

In the event of interruption of or interference with Your Business in consequence of Damage to any building or any other property or any part thereof used by You at the Premises for the purpose of Your Business, We will pay You in respect of each item selected by You and shown in the current Policy Schedule, the amount of the loss resulting from such interruption or interference.

Provided that:

- (a) the payment is in accordance with the basis of settlement provision for the item,
- (b) We have paid for or admitted liability in respect of such Damage under the relevant section of Your Policy, or another insurer has 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 for such Damage (by Us or another insurer) solely due to the application of an Excess, and
- (c) Our liability in no case will exceed in respect of each item the sum insured shown in the current Policy Schedule for that item.

We will not pay any claim under this Part where the interference or interruption to Your Business is for a period of less than three days.

The insurance under this Part provides protection with regard to loss under:

- (1) Weekly Revenue
- (2) Additional increase in cost of working
- (3) Accounts receivable
- (4) Claim preparation expenses

### **Basis of settlement**

#### **1. Weekly Revenue**

This item is limited to the loss of Weekly Revenue and the amount payable as compensation under this item will be the amount by which the Weekly Revenue during the Indemnity Period falls short of the Standard Weekly Revenue in consequence of the Damage.

#### **2. Additional increase in cost of working**

See 'Common Clauses to Parts A, B and C'.

#### **3. Accounts receivable**

See 'Common Clauses to Parts A, B and C'.

#### **4. Claim preparation expenses**

See 'Common Clauses to Parts A, B and C'.

### **Part C – Insurable gross profit basis**

In the event of interruption of or interference with Your Business in consequence of Damage to any building or any other property or any part thereof used by You at the Premises for the purpose of Your Business, We will pay You in respect of each item selected by You and shown in the current Policy Schedule, the amount of the loss resulting from such interruption or interference.

Provided that:

- (a) the payment is in accordance with the basis of settlement provision for the item,
- (b) We have paid for or admitted liability in respect of such Damage under the relevant section of Your Policy, or another insurer has 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 for such Damage (by Us or another insurer) solely due to the application of an Excess, and
- (c) Our liability in no case will exceed in respect of each item the sum insured shown in the current Policy Schedule for that item.

The insurance under this Part provides protection with regard to loss under:

- (1) Gross Profit
- (2) Additional increase in cost of working
- (3) Accounts receivable
- (4) Claim preparation expenses
- (5) Rent Receivable

### **Basis of settlement**

#### **1. Gross profit**

This item is limited to the loss of Gross Profit due to a reduction in Turnover and the increase in Your cost of working.

The amount payable as indemnity under this item will be:



- (a) in respect of reduction in Turnover, the sum produced by applying the Rate of Gross Profit to the Shortage in Turnover during the Indemnity Period, and
- (b) in respect of the 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 the additional 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 reduction thereby avoided, less any sum saved during the Indemnity Period in respect of such charges and expenses of Your Business payable out of Gross Profit as may cease or be reduced in consequence of the Damage.

Provided that if the sum insured for this item at the commencement of each Period of Cover is less than the sum produced by applying the Rate of Gross Profit to eighty percent (80%) of the Annual Turnover (or its proportionately increased multiple where the Indemnity Period exceeds twelve months), the amount payable will be reduced so that We will be liable for no greater proportion of the loss under this item than that which the sum insured bears to eighty percent (80%) of the Annual Turnover (or its proportionately increased multiple, if appropriate).

This provision will not apply if Your claim is for less than 10% of the sum insured for this item.

## 2. Additional increase in cost of working

See 'Common Clauses to Parts A, B and C'.

## 3. Accounts receivable

See 'Common Clauses to Parts A, B and C'.

## 4. Claim preparation expenses

See 'Common Clauses to Parts A, B and C'.

## 5. Rent Receivable

This item is limited to loss of Rent Receivable and additional expenditure.

The amount payable will be:

- (a) in respect of loss of Rent Receivable, the amount by which the Rent Receivable during the Indemnity Period falls short of the Standard Rent Receivable, in consequence of the Damage, and
- (b) in respect of additional expenditure, the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the loss of Rent Receivable which, but for that expenditure, would have taken place during the Indemnity Period in consequence of the Damage, but not exceeding the amount of the reduction in Rent Receivable thereby avoided,

less any sum saved during the Indemnity Period in respect of such of the expenses and charges payable out of the Rent Receivable as may cease or be reduced in consequence of the Damage.

Provided that if the sum insured for this item is less than eighty percent (80%) of the Annual Rent Receivable (or its proportionately increased multiple where the Indemnity Period exceeds twelve months), the amount payable will be reduced so that We will be liable for no greater proportion of the loss under this item than that which the sum insured bears to eighty percent (80%) of the Annual Rent Receivable (or its proportionately increased multiple, if appropriate).

This provision will not apply if Your claim is for less than 10% of the sum insured for this item.

## Common clauses to parts A, B and C

### 1. Departmental

If Your Business is conducted in departments or business units the independent trading results of which are ascertainable, the provisions of Item 1 will apply separately to each department affected by the Damage. For the purposes of this clause, the Rent Receivable from letting of property at the Business Premises will be regarded as the proceeds of one such department.

### 2. Sum insured

Our liability to You will in no case exceed in respect of each item the sum insured expressed against that item in the current Policy Schedule. 'Additional Benefits' are within the total sum insured of this section and not additional to the total sum insured.

### 3. Additional increase in cost of working

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 Revenue or Weekly Revenue or Turnover and/or services.

### 4. Accounts receivable

Under this item We will pay You up to the amount shown in the current Policy Schedule for all sums due to You from debtors that You are unable to collect because of Damage to records of accounts receivable. We will also pay collection expenses in Excess of normal collection costs made necessary because of the Damage as well as interest charges at the ruling rate of Your bank on any loan to offset impaired collections pending repayment of such sums made uncollectible by such Damage. If You cannot accurately establish the total amount of accounts receivable outstanding as at the date of the Damage, the amount will be computed as follows:

- (a) determine the amount of all outstanding accounts receivable at the end of the same fiscal month in the year immediately preceding the year in which the Damage occurs,

- (b) calculate the percentage of increase or decrease in the average monthly total of accounts receivable for the year immediately preceding the month in which the Damage occurs, as compared with such average for the same months of the preceding year,
- (c) the amount determined under (a), increased or decreased by the percentage calculated under (b) above, will be the agreed total amount of accounts receivable as of the last day of the fiscal month in which said Damage occurs,
- (d) the amount determined under (c) above will be increased or decreased in conformity with the normal fluctuation in the amount of accounts receivable during the fiscal month involved, consideration being given to the experience of Your Business since the last day of the last fiscal month for which statements have been rendered less:
  - (i) the amounts of such accounts evidenced by records not suffering Damage or otherwise established or collected by You,
  - (ii) an amount to allow for probable bad debts that would normally have been uncollectible by You,
  - (iii) all unearned interest and service charges, and
  - (iv) settlement or term discounts normally allowed.

## 5. Claim preparation expenses

In addition to the amount payable under General Condition 'Claim preparation expenses' of this Policy, We will pay You up to the amount shown in the current Policy Schedule for the costs of such reasonable professional fees as may be payable by You and other such reasonable expenses necessarily incurred by You and not otherwise recoverable, for preparation and negotiation of claims under this section.

## 6. Accumulated Stocks

In adjusting any loss, account will be taken and equitable allowance made if any reduction in Turnover or loss of Revenue or Weekly Revenue in consequence of the Damage is postponed by reason of the Turnover or Revenue or Weekly Revenue (as the case may be) being temporarily maintained from accumulated stocks of finished goods.

## 7. Alternative trading

If during the Indemnity Period, goods are sold, work is performed or services are rendered elsewhere than at the Business Premises for the benefit of Your Business either by You or by others acting on Your behalf, the Money paid or payable in respect of such sales, work or services will be brought into account in arriving at the Annual Revenue, Weekly Revenue or Turnover (as the case may be) during the Indemnity Period.

## 8. New business

In the event of Damage occurring at the Business Premises before the completion of the first year's trading of Your Business, the defined terms "**Standard Revenue**", "**Annual Revenue**", "**Standard Weekly Revenue**", "**Rate of Gross Profit**", "**Standard Turnover**" and "**Annual Turnover**" shall instead have the following meanings wherever they appear in this section:

"**Standard Revenue**" means the Revenue achieved between the date of commencement of Your Business and the date of the Damage, converted to the selected Indemnity Period.

"**Annual Revenue**" means the actual Revenue achieved during Your first year of operations, from the commencement of Your Business to the date of the Damage, converted to a 12-month equivalent figure.

"**Standard Weekly Revenue**" means the amount calculated by averaging the Weekly Revenues obtained during the period from the date of the commencement of Your Business to the date of the Damage.

"**Rate of Gross Profit**" means the proportion that the Gross Profit bears to the Turnover during the period between the date of commencement of Your Business and the date of the Damage.

"**Annual Turnover**" means the actual Turnover achieved during Your first year of operations, from the commencement of Your Business to the date of the Damage, converted to a 12-month equivalent figure.

"**Standard Turnover**" means the Turnover achieved between the date of commencement of Your Business and the date of the Damage, converted to the selected Indemnity Period.

The above definitions may be used as necessary to calculate the trend of Your Business and for variations in or other circumstances affecting Your Business either before or after the Damage or which would have affected Your Business had the Damage not occurred, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the result which but for the Damage would have been obtained during the relative period after the Damage.

## Additional benefits

This section is extended to include the following Additional Benefits. Additional Benefits 1 to 11 inclusive are payable provided that the sum insured expressed against the relevant item(s) in the Policy Schedule is not otherwise exhausted.

We will pay You (depending on the Part of this section which is applicable to You) for:

- (a) loss of Revenue,
- (b) loss of Weekly Revenue, or
- (c) loss of Gross Profit,

resulting from interruption of or interference with Your Business as a result of Damage occurring during the Period of Cover to, or as a direct result of:

## 1. Customers and suppliers – unspecified

Unspecified property at the premises of Your suppliers or customers of goods or materials or services (other than those services provided by any Public utilities) or at storage premises neither owned nor operated by You where You store goods or materials, all within the Commonwealth of Australia, provided that Our liability will not exceed 20% or the percentage shown in the Policy Schedule of the sum insured applicable to this section.

## 2. Prevention of access

- (a) property, or intervention of any lawful authority resulting from threat of Damage to property within a 50-kilometre radius of the Business Premises, which prevents access to or hinders the use of the Business Premises,
- (b) property forming part of or contained in a complex of which the location forms part, whether the Premises or property of the Insured forming part of or contained in the complex shall be damaged or not.

## 3. Public utilities

any land-based telecommunications system or any electricity, gas or water supply systems within the Commonwealth of Australia, provided that where public supply is not at or immediately adjacent to Your premises the interruption of supply extends for greater than 48 hours.

## 4. Computer facilities

computer installations, including ancillary equipment and data processing media, utilised by You in the Commonwealth of Australia other than at the Business Premises.

## 5. Roads, bridges and railway lines

roads, bridges and/or railway lines within the Commonwealth of Australia over which raw materials and other Stock are conveyed to or from the Business Premises.

## 6. Storage sites/temporary removal

Your property stored or being processed at any premises in the Commonwealth of Australia not occupied by You. Our total liability under this additional benefit will not exceed 20% of the sum insured.

## 7. Transit

Your property while in transit by road, rail, sea or air within the Commonwealth of Australia and outside of the Business Premises occupied by You, up to an amount not exceeding 20% of the sum insured in respect of any one occurrence.

## 8. Explosion of pressure vessels

Damage to pressure vessels including boilers, compressors or economisers by self-explosion or collapse.

## 9. Documents

Damage to documents and electronic data files belonging to or held in trust by You, while in transit or while at the premises not occupied by You but limited to 20% of the sum insured or the amount shown in the Policy Schedule, whichever is the greater.

## 10. Motor vehicles owned or operated by You

Damage during the Period of Cover to any registered Vehicles or trailers owned or operated by You, while such Vehicles are at the Business Premises or at other premises in Australia but not on a public thoroughfare.

## 11. Infectious disease, etc.

We will also pay You for interruption or interference with Your Business due to closure or evacuation of the whole or part of the Business Premises during the Period of Cover by order of a competent government, public or statutory authority as a result of:

- (a) bomb threat, vermin or pests or defects in the drains or other sanitary arrangements, occurring at the Business Premises,
- (b) an outbreak of an infectious or contagious human disease occurring within a 20-kilometre radius of the Business Premises, however there is no cover for highly pathogenic Avian Influenza or any disease declared to be a quarantinable disease under the Quarantine Act 1908 (as amended) irrespective of whether discovered at the location of Your premises, or out-breaking elsewhere,
- (c) injury, illness or disease caused by the consumption of food or drink supplied at or from Your Business Premises during the Period of Cover,
- (d) murder or suicide occurring at the Business Premises, or
- (e) shark or crocodile attack occurring within a 20-kilometre radius of the Business Premises during the Period of Cover.

## 12. Salvage sale

If, following Damage giving rise to a claim under this Policy, the insured shall hold a salvage sale during the Indemnity Period:

- (a) Clause (a) of Item 1 "Gross Profit" of this section shall, for the purpose of such claim, read as follows: In respect of reduction in Turnover: the sum produced by applying the Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period (less the Turnover for the period of the salvage sale) shall, in consequence of the Damage, fall short of the Standard Turnover, from which shall be deducted the Gross Profit actually earned during the period of the salvage sale.
- (b) The definition of Shortage in Turnover shall, for the purpose of such claim, mean: the amount by which the Turnover during a period (less the Turnover for the period of the salvage sale) shall, in consequence of the Damage, fall short of the part of the Standard Turnover which relates to that period, from which shall be deducted the pay-roll paid out of the proceeds of the salvage sale.

### 13. Turnover output

In the event of Damage giving rise to a claim under this section, at Your option, the term "Output" may be substituted for the term "Gross Income" wherever appearing in this section. Provided that only one such term will operate in connection with any one occurrence involving Damage.

### 14. Government incentives

Gross Profit is extended to include the loss of any Government approved incentives, subsidies or market development allowances You are entitled to in relation to Your Business.

### 15. Contractual fines and penalties

Following a claim under Part C – Insurable Gross Profit, Item 1 Gross Profit, We will also pay:

- (a) for fines or damages, other than aggravated, punitive or exemplary damages, for breach of contract resulting from non-completion or late completion of orders, or
- (b) in discharge of contract purchases, cancellation charges, fines or damages for breach of contracts for the purchase of goods or services which cannot be utilised by You during the Indemnity Period, less any value to You for such goods or the amount received from sale.

The amount payable shall not exceed 20% of the total sum insured for Gross Profit.

### Optional extension

The following Optional benefit does not apply automatically. It will apply when You have requested its inclusion in this section, and the current Policy Schedule has been endorsed by Us noting the inclusion.

#### 1. Goodwill

Following Damage to any building at Your Business Premises We will pay, up to the sub-limit of liability shown in the current Policy Schedule for 'Goodwill', for the actual cost of goodwill incurred by You when purchasing a business in order to maintain Your Business activities. Provided that:

- (a) We will only pay these goodwill costs when the building that is damaged cannot or will not be repaired or rebuilt due to any refusal by any owner or lessor other than You to repair or rebuild; and any restrictions imposed by any legal authority, and
- (b) the purchase of the business is incurred because You were unable to continue Your Business at the Business Premises as a result of the Damage to the buildings not being repaired, and
- (c) the cause of the Damage to the buildings would have been covered by the Business Property cover section of Your Policy had that building been insured under that section, and
- (d) the business that is purchased is similar to Your Business.

### Conditions

#### 1. Adjustment of premium

We will reduce Your premium for Part A – Revenue or Part C – Insurable Gross Profit cover at the end of each Period of Cover if the Revenue or Gross Profit (as the case may be) earned during the previous 12 months accounting period is less than the sum insured. The adjustment rate is 50% of the difference between the premium payable for the Revenue or Gross Profit sum insured and for the Revenue or Gross Profit earned.

Any payment made by Us for a claim under Part A – Revenue or Part C – Insurable Gross Profit is to be included in the Revenue or Gross Profit earned for the purpose of this adjustment.

#### 2. Books of account

Any particulars or details contained in Your books of account or other business books or documents that may be required by Us for investigating or verifying any claim made under this section may be produced and certified by Your auditors and their certificate will be prima facie evidence of the particulars and details to which the certificate relates.

## THEFT COVER SECTION

### Cover

We cover You for loss of or damage to the property shown under the Theft item on the current Policy Schedule caused by:

- (a) any person who forcibly and violently enters or attempts to enter the Business Premises,
- (b) any person unlawfully concealed on the Business Premises,
- (c) any person who threatens or commits physical violence to You, Your employees or other persons,
- (d) armed hold-up at the Situation,
- (e) any person who breaks into any locked cabinet and/or counter and/or showcase which is located on the Business Premises.

The loss or damage must occur during the Period of Cover.

### Basis of settlement

There are two methods for paying Your claims. They are 'reinstatement or replacement value' and 'indemnity value'.

The claim payment method You are covered for is shown on the current Policy Schedule.

We will not pay more than the sum insured shown on the current Policy Schedule for the Theft cover section, except to the extent stated under the heading 'Additional benefits in addition to Your sum insured'.

#### 1. Reinstatement or replacement value

We will pay Your cost to:

- (a) replace the property if the covered property is not found within a reasonable time after the loss, or
- (b) replace the property if the covered property cannot be economically repaired, or
- (c) repair the property if the covered property can be economically repaired

#### 2. Indemnity

We will pay You the replacement cost of the insured property less an equitable amount for age, wear, tear, depreciation and will make an adjustment for the general condition and remaining useful life of the individual item or components that are damaged:

- (a) if You do not replace the covered property which is lost or destroyed, or
- (b) if the covered property can be repaired for less than the cost to replace but You choose not to replace the property.

### Additional Benefits

#### 1. Theft (limited) without forcible and violent entry

Where a sum insured is shown on the Policy Schedule for contents or total contents and where that sum insured has not been otherwise exhausted, cover is extended to include:

- (a) loss or damage, limited to \$10,000 for any one occurrence, by theft or attempted theft of Business Property other than electronic equipment, Stock or customers' goods,
- (b) loss or damage, limited to \$20,000 (unless a higher amount applicable to this paragraph (b) is shown in the current Policy Schedule against the above heading) for any one occurrence, by theft or attempted theft of Your electronic equipment which is not Stock,
- (c) loss of the buildings at the Business Premises if caused by theft, limited to \$10,000 for any one occurrence,

occurring during the Period of Cover from the Business Premises without forcible and violent entry but excluding theft or attempted theft from any open-sided structure such as, but not limited to verandas or yards or other open spaces even if they are partially or fully enclosed. This additional benefit does not cover loss as a result of unexplained disappearance, unexplained or inventory shortage, clerical or accounting errors or shortage in supply or delivery to or from the Business Premises.

#### 2. Damage to business premises

The cost to repair Your Business Premises where a sum insured is shown on the Policy Schedule for contents or total contents and where that sum insured has not been otherwise exhausted, cover is extended to include the repair of Your Business Premises and property contained inside. The maximum amount We will pay for this additional benefit is the total of:

- (a) the remaining sum insured for each item covered after payment of a claim, and
- (b) the sub-limit (if any) shown in the current Policy Schedule for this additional benefit.

#### 3. Permanently fixed (non-portable) apparatus

Where a sum insured is shown on the Policy Schedule for contents or total contents and where that sum insured has not been otherwise exhausted, cover is extended to include Theft, whether following forcible and violent entry or otherwise, of permanently fixed (non-portable) apparatus or appliances, owned by You or for which You are legally responsible or have assumed a responsibility to insure, attached to the building other than by means of a flexible or tensile cord to a power point but limited to an amount not exceeding:

- (a) \$10,000, or
- (b) the balance of the sum insured on either contents or total contents whichever is the lesser.

#### 4. Seasonal increase of cover

All theft cover sums insured are increased by 50% for:

- (a) eight (8) weeks prior to and including Christmas Day,
- (b) three (3) weeks after and including 26 December,
- (c) six (6) weeks prior to and including Easter Tuesday,
- (d) one (1) week after but not including Easter Tuesday,
- (e) six (6) weeks prior to and including any celebrated event of a festive, religious or ethnic nature (other than Christmas or Easter), and
- (f) one (1) week after the same festive, religious or ethnic event or celebration.

Any other period shown on the current Policy Schedule, in lieu of the covers in (a) to (f) above.

#### 5. Temporary protection and security guards

The cost of necessary temporary protection and repairs and the employment of guards/watchmen to protect insured property following an occurrence covered by this cover section. The maximum amount We will pay for each occurrence is \$10,000. If an occurrence results in a claim being paid under this cover section and another cover section of the Policy, the highest single limit under the relevant cover section applies. The benefit of Temporary Protection and Security Guards shall not be cumulative under this Policy.

#### 6. Locks, keys and combinations

Following an occurrence covered by this section We will pay the cost of:

- (a) replacing locks, keys or combinations used in Your Business and the cost of opening safes and strongrooms. This additional benefit shall also apply if there are reasonable grounds to suspect that keys or combinations have been stolen or copied without Your authority,
- (b) replacing and developing security film exposed because of theft or attempted theft.

A sub-limit of \$10,000 any one occurrence applies to this additional benefit.

If You are also insured under the Money cover section, the benefit payable for Locks, keys and combinations shall not be cumulative and shall be limited to \$10,000 in the aggregate.

#### 7. Rewriting of Records

The cost of additional clerical and professional costs, limited to \$25,000 any one occurrence, incurred by You to rewrite Your necessary business records if they are lost, destroyed or damaged, whilst located at Your Business Premises or offsite anywhere in the Commonwealth of Australia, by an occurrence which You are covered for in the Theft cover section.

#### 8. Property of directors and employees

Cover is extended to include personal property of directors and employees whilst at the Business premises provided not otherwise insured.

Cover is limited to \$2,500 any one item and \$10,000 any one loss in all.

#### 9. Temporary removal

We also cover Your insured Business Property while temporarily removed to any other premises within the Commonwealth of Australia.

Provided that:

- (a) We will not cover tobacco, tobacco products, cigars, cigarettes or alcoholic beverages,
- (b) We will not cover Stock in trade that is on consignment to other parties unless it is owned by You or is property for which You are responsible,
- (c) The maximum amount We will pay for this additional benefit will be 20% of the sum insured.
- (d) This additional benefit will not apply to any property insured, which has been removed for a period greater than 90 days without Our prior written consent.

#### 10. Death following assault

If any person is injured while protecting or attempting to protect the property from theft and death results from that injury within twelve (12) months, We will pay \$10,000 to the estate of that person. If You are also insured under the Money cover section, the benefits payable for death following assault shall not be cumulative and shall be limited to \$10,000 in the aggregate.

#### 11. Employee dishonesty

We will pay You for loss of Business Property by theft or dishonesty by any of Your employees occurring during the Period of Cover, which is discovered within forty five days of its occurrence. Exclusion 3, of this section, so far as it relates to loss or damage due to theft or attempted theft committed by an employee, does not apply to this additional benefit. Our liability under this additional benefit is limited to \$5,000 for any one occurrence. If You are also insured under the Money cover section, the benefits payable for employee dishonesty shall not be cumulative and shall be limited to \$5,000 in the aggregate per occurrence.

#### 12. Tenanted premises

We will pay the cost of repairing damage to Business Premises in which You are a tenant and for which You are legally liable to pay in accordance with the terms of Your lease, provided such damage occurs as a result of theft or attempted theft of Business Property occurring during the Period of Cover. The limit of Our liability under this additional benefit is \$10,000 for any one occurrence.

**13. Additional premises – provisional cover**

Cover is extended to include all property within Australia that becomes Yours after the commencement of the Period of Cover, for 30 days from first being used by You (unless the Period of Cover ends sooner or the property ceases to be Yours, whichever shall first occur), but the cover is limited to:

- (a) the business described in the Policy Schedule, and
- (b) property insured described in the Policy Schedule.

Our maximum liability under this additional benefit is limited to twenty percent (20%) of the highest sum insured shown in the Policy Schedule in relation to each item of property insured.

Full details of such additional property are to be supplied to Us within 30 days of Your commencement of the use of the property. We may require an additional premium before We will insure such property.

**Optional extension**

The current Policy Schedule will show if the following optional benefit, which is in addition to the 'Theft (limited) without forcible and violent entry' Additional Benefit, is covered.

**1. Theft without forcible and violent entry**

Theft of Business Property in the open air but within the boundaries of the Situation or contained in an unlocked building, up to the amount shown in the current Policy Schedule for 'theft without forcible and violent entry'.

**Exclusions**

- (1) We will not pay under the Theft cover section for loss of or damage to:
  - (a) Money and negotiable instruments in Excess of \$250,
  - (b) jewellery, furs, bullion, property made of gold or silver or precious stones exceeding \$10,000 any one loss and \$2,000 any one item unless they are Stock,
  - (c) motor Vehicles unless they are Stock,
  - (d) glass unless it is Stock,
  - (e) property not contained in a locked building, unless insured under Additional benefits 'Theft (limited) without forcible and violent entry' and 'Permanently fixed (non-portable) apparatus'.
- (2) We will not pay under the Theft cover section for loss of or damage to property caused by:
  - (a) any person lawfully on Your Business Premises,
  - (b) any person who does not steal or intend to steal property.
- (3) We will not pay under the Theft cover section for loss of or damage to property caused by or in any way contributed to by dishonest acts by You, Your directors, partners, employees or any members of Your Family, other than by an employee following forcible and violent entry.
- (4) Loss from a safe, strongroom or security enclosure opened by a key or by the use of details of a combination, either of which has been left on Your Business Premises while closed for business, is not covered for more than the sum insured on Business Property anywhere on the premises outside Business Hours.
- (5) We will not pay under the Theft cover section for unexplained disappearances or unexplained shortages, whether resulting from clerical or accounting errors or shortages in supply or delivery of materials to or by You.

# MONEY COVER SECTION

## Definitions

**“Financial Service Provider”** means a bank, building society or credit union or an agency for any of these.

**“Safe”** means a burglar-resistant container which has been designed to resist fire and attack by hand-held or power-operated tools and has been specifically designed for the storage of Money and valuables. Safe includes Automatic Teller Machines.

**“Strongroom”** means a burglar-resistant structure constructed of masonry and steel which has been designed to resist fire and attack by hand-held or power-operated tools and has been specifically designed for the storage of Money and valuables.

## Cover

We cover You for loss of or damage to Money which occurs during the Period of Cover as a result of the Defined events shown on the current Policy Schedule.

## Defined events

### 1. Money in transit

Money in Your personal custody or in the custody of persons authorised by You whilst in transit within Australia but not Money in a private residence or any Vehicle left unattended.

Money in transit includes Money whilst contained in the night Safe, night depository chute, or automatic teller machine of any financial services provider. Our liability ceases at the time Your financial services provider ceases trading on the next business day following deposit therein.

### 2. Money on business premises

Money contained in Your Business Premises:

- (a) during Business Hours,
- (b) outside Business Hours,
- (c) any time while contained in a locked Safe or Strongroom.

### 3. Money in private residence

Money contained in:

- (a) Your home, or
- (b) in the home of a person authorised by You when it has been taken home for safe keeping from Your Business Premises or the place of collection until the time Your Financial Service Provider ceases trading on its next full trading day.

## Basis of settlement

We will pay You up to the sum insured shown on the current Policy Schedule for each of the Defined events.

In the case of securities (which shall mean certificates of Stock, bonds, coupons and all other types of securities), the basis of valuation shall be:

- (a) if the securities can with Our approval be replaced, the cost of replacement paid or payable by You, or
- (b) if the securities cannot or are not to be replaced by You, the greater of
  - (i) price for which You purchased them, or
  - (ii) the closing market value on the last business day prior to the date of discovery by You of the loss or destruction of the securities, or if the time of discovery by You is after the close of the market, their closing market value on the day of discovery by You of the loss or destruction of the securities,
- (c) in the case of a loss of subscription, conversion or redemption privileges through the loss of any security, the value of such privileges immediately preceding the expiration thereof, such valuation being in the currency in which the loss was sustained. Losses sustained in currencies other than Australian dollars shall be settled by converting the amount of loss to Australian dollars at the market rate at the time of settlement of the loss or such other rates as may have been expressly agreed with Us. If there is no market price or value on the relevant day stated herein, then the value shall be agreed between You and Us, or in default thereof, We and You shall submit to arbitration and be bound by the decision of the umpire.

In the case of travellers' cheques, discount house vouchers or lottery tickets, the basis of valuation shall be the original purchase price incurred by You.

## Additional benefits

The following additional benefits shall apply only following loss of or damage to Money or any attempt thereat, insured by this section.

### 1. Counterfeit currency

Provided that sum insured has not been otherwise exhausted, We will pay for losses sustained by You due to the acceptance in good faith in exchange for merchandise, Money or services, of counterfeit Australian currency notes up to an amount not exceeding \$500 in any one Period of Cover.

### 2. Locks, keys and combinations

Following an occurrence covered by this section We will pay the cost of:

- (a) replacing locks, keys or combinations used in Your Business and the cost of opening safes and strongrooms. This additional benefit shall also apply if there are reasonable grounds to suspect that keys or combinations have been stolen or copied without Your authority,
- (b) replacing and developing security film exposed because of theft or attempted theft.

A sub-limit of \$10,000 any one occurrence applies to this additional benefit.



If You are also insured under the Theft cover section, the benefit payable for Locks, keys and combinations shall not be cumulative and shall be limited to \$10,000 in the aggregate.

### 3. Loss of or damage to safes, strongrooms and cash carrying bags

If Money is stolen or there is an attempt at stealing Your Money from Your Safe or Strongroom, We will pay You:

- (a) the cost of opening the Safe or Strongroom and to repair or replace any loss or damage to the Safe or Strongroom that was caused by the theft or attempt,
- (b) if Money is stolen or if there is an attempt at stealing Your Money, We will pay for loss of or damage to Your cash carrying bag that was caused by the theft or attempt.

A sub-limit of \$10,000 any one occurrence applies to this additional benefit.

### 4. Temporary protection and security guards

We will pay You the costs necessarily and reasonably incurred by You in effecting temporary protection and the employment of guards/watchmen to safeguard the insured property as a result of theft or attempted theft of Money occurring during the Period of Cover and that is insured under this cover section. The maximum amount We will pay for each occurrence is \$10,000. If an occurrence results in a claim being paid under this cover section and another cover section of the Policy, the highest single limit under the relevant cover section applies. The benefit of Temporary Protection and Security Guards shall not be cumulative under this Policy.

### 5. Seasonal increase of cover

All Money Cover sums insured are increased by 50% for:

- (a) eight (8) weeks prior to and including Christmas Day,
- (b) three (3) weeks after and including 26 December,
- (c) six (6) weeks prior to and including Easter Tuesday,
- (d) one (1) week after but not including Easter Tuesday,
- (e) six (6) weeks prior to and including any celebrated event of a festive, religious or ethnic nature (other than Christmas or Easter), and
- (f) one (1) week after the same festive, religious or ethnic event or celebration.

Any other period shown on the current Policy Schedule, in lieu of the covers in (a) to (f) above.

### 6. Bank and public holidays extension

The sums insured for Money cover are automatically increased by 100% or \$75,000 whichever is the lesser on days that are gazetted bank or public holidays. This increase shall apply up until bank closing time on the next business day after such holiday. This additional benefit does not apply to damage to Safes and Strongrooms and seasonal increases.

### 7. Death following assault

If any person is injured while protecting or attempting to protect Money from theft or attempted theft and death results from that injury within twelve months, We will pay the estate of that person \$10,000. This amount is in addition to any amount We pay for loss of Money. If You are also insured under the Theft cover section, the benefits payable for death following assault shall not be cumulative and shall be limited to \$10,000 in the aggregate.

### 8. Employee dishonesty

We will pay You for loss of Money by theft or dishonesty by any of Your employees occurring during the Period of Cover, which is discovered within forty-five days of its occurrence. Exclusion 1(c), of this section, so far as it relates to loss or damage due to theft or attempted theft committed by an employee, does not apply to this additional benefit. Our liability under this additional benefit is limited to \$5,000 for any one occurrence. If You are also insured under the Theft cover section, the benefits payable for employee dishonesty shall not be cumulative and shall be limited to \$5,000 in the aggregate per occurrence.

### 9. Traveller's money

Cover under this part is extended to include loss of Money belonging to You, occurring while such Money is in Your personal custody, or in the custody of Your employee, up to the lesser of \$10,000 or the amount specified on the Policy Schedule for Defined event 'Money in transit', while travelling outside of Australia in connection with Your Business.

### 10. Additional premises – provisional cover

Cover is extended to include Money at, or in transit to or from any new Business Premises occupied by You after the commencement of the Period of Cover, within Australia, for 30 days from first being used by You (unless the Period of Cover or Your occupancy of such premises ends sooner, whichever shall first occur), but the cover is limited to:

- (a) the business described in the Policy Schedule, and
- (b) the Money insured described in the Policy Schedule.

Our maximum liability under this additional benefit is limited to 20% of the sum insured shown in the Policy Schedule in relation to each item of Money covered under this section.

Full details of such additional property are to be supplied to Us within 30 days of Your commencement to use the property. If We agree to cover Money at the additional location, We may require payment of an additional premium.

### 11. Property of directors, and employees

If clothing or personal effects are lost or damaged during a theft of Money, We will pay in addition to the sum insured the cost of repairing or replacing these items.

Cover is limited to \$5,000 any one person and \$10,000 overall in respect of any one loss. This additional benefit provides cover to You. It does not provide any insurance cover to any director or employee. There is no cover for You or any person named as the insured on Your Policy Schedule.

## Optional extensions

The following optional benefits do not apply unless stated in the current Policy Schedule.

### Taxation audit costs

We will cover the reasonable and necessary costs You incur following notification received during the Period of Cover of an audit or investigation by a federal or state Commissioner of Taxation relating to Your liability to pay income tax, fringe benefits tax, capital gains tax, wholesale and sales tax, payroll tax, goods and services tax or superannuation contributions tax in respect of Your Business up to the amount specified on the Policy Schedule for this additional benefit.

'Costs' means professional fees paid to accountants or registered tax agents who are not Your employees, for work undertaken in connection with the audit or investigation.

### Exclusions

We shall not be liable under this optional benefit:

- (a) for the imposition of any tax, fines, penalties, court costs, penalty tax or interest,
- (b) for costs incurred after completion of the audit or investigation,
- (c) where any proceedings were initiated, threatened or started prior to the commencement of the Period of Cover,
- (d) arising from Your improper, unwarranted or unjustified refusal or failure to comply with any lawful request made by a state or federal Commissioner of Taxation for the production of documents or the supply of information. Refusal or failure to comply will not be deemed improper, unwarranted or unjustified if You refuse or fail to comply upon the advice of Your accountant or tax agent,
- (e) for costs from audits or investigations under customs legislation,
- (f) for costs from audits or investigations of income received or earned, or where the source of income is, outside the Commonwealth of Australia or where the services giving rise to the claim are performed by persons or entities ordinarily resident outside Australia,
- (g) arising out of any fraud or fraudulent act or omission committed by You or on Your behalf,
- (h) arising from audits or investigations which result in You, or any person acting on Your behalf, becoming aware of any error or deficiency in any return of income or other documentation supplied to a state or federal Commissioner of Taxation and failing to notify the Commissioner of Taxation without delay.

### Conditions

You must lodge taxation and other returns within the time limits applicable to those returns as prescribed by statute or through extension of time granted by a Commissioner of Taxation.

You must make full and complete disclosure of all assessable income (including capital gains), as required by any relevant legislation.

In the event of a claim arising:

- (a) You must at all times keep Us fully and continually informed of all material developments in relation to the claim and in relation to any audit,
- (b) You must take all necessary and reasonable steps to minimise any delays and the amount of any costs incurred or likely to be incurred in connection with any audit,
- (c) We or Our duly appointed agent may make Our own investigation into any matter which is or may be the subject of a claim, and

You must ensure that Your accountants, registered tax agent and/or solicitor must cooperate with Us and where necessary, assist Us in relation to any claim and assist Us with any matter We wish to pursue with the Commissioner of Taxation which is or may be the subject of a claim.

### Exclusions

What You are not covered for under this section.

- (1) We will not pay for loss or damage caused by:
  - (a) clerical or accounting errors,
  - (b) errors in receiving or paying out Money,
  - (c) dishonest acts of Your directors, partners, employees or any member of Your Family other than theft by an employee following visible forcible and violent entry.
- (2) We will not pay for loss of or damage to:
  - (a) Money which was not discovered missing within ten working days of the loss or damage occurring,
  - (b) Money whilst contained in an unlocked and unattended Vehicle,
  - (c) Money from a Safe or Strongroom opened by a key or by use of a combination which has been left on the Business Premises outside Business Hours,
  - (d) Money, except as provided under additional benefit – 'Traveller's Money', whilst it is outside the Commonwealth of Australia.

## MACHINERY AND ELECTRONIC COVER SECTION

### Important information

This Machinery and electronic cover section is divided into two parts, each with optional extensions for Your convenience. This insurance and the Policy Schedule are to be read together.

### Parts 1 & 2 - Definitions

**“Boilers, Pressure Vessels and Pressure Pipe Systems”** means the permanent structure of those Insured Items which are subject to internal steam, gas or fluid pressure (other than atmospheric pressure) including all direct attachments connected to the permanent structure and includes with respect to Boilers the rotating, reciprocating or electrical apparatus attached to them.

**“Dollar Excess”** means the amount specified in the Policy Schedule that You shall first contribute towards each claim, arising out of the one occurrence.

**“Electronic Data”** means the information stored on the Electronic Data Media.

**“Electronic Data Media”** means the discs or tapes used in the computer to store the information.

**“Electronic Plant”** means all computers, word processors including all ancillary equipment attached thereto, Software, other electronic equipment and associated air conditioning equipment as specified in the Policy Schedule as Insured Items.

**“Excess”** for the purposes of this Part, the Excess may be a Dollar Excess or a Time Excess. We will subtract the applicable Excess from the claim otherwise payable and We will then pay to You the amount of loss or damage up to the applicable Sum Insured or Limit Any One Loss.

**“Indemnity Period”** means the period beginning with the occurrence of the Insured Damage and ending no later than the number of months specified in the Policy Schedule during which the results of Your Business shall be affected in consequence of the Insured Damage.

**“Insured Item”** means any item specified in the current Policy Schedule.

**“Limit Any One Loss”** means the maximum amount We will pay for any one claim as specified in the Policy Schedule and applies where blanket cover has been selected.

**“Plant and Machinery”** means electrical and mechanical items including electronic and other integral parts of the Insured Items including Boilers, Pressure Vessels and Pressure Pipe Systems as defined above.

**“Situation”** the Situation specified in the Policy Schedule.

**“Software”** means the collection of programs which cause a computer to perform a desired operation or series of operations.

**“Sum Insured”** the relevant sum stated opposite each Insured Item as specified in the Policy Schedule and applies where ‘specified items’ cover has been selected.

**“Time Excess”** the number of operating days specified in the Policy Schedule during which You must bear the loss.

## PART 1 – MACHINERY COVER

### Part 1 – Cover

If any Insured Item of Plant and Machinery or any part of an Insured Item of Plant and Machinery specified in the Policy Schedule suffers Insured Damage We will indemnify You in respect of such loss or damage as provided in the basis of settlement clause. This insurance applies whilst the Insured Item is within the Situation and working or at rest or being dismantled, moved, reassembled or reinstalled for the purpose of cleaning, adjustment, inspection, repair, overhaul or relocation but only after completion of successful initial commissioning at the Situation.

### Part 1 – Basis of settlement

- (1) In the event of Insured Damage under this part We will at Our option pay You, up to the Sum Insured or Limit Any One Loss (whichever is selected) less the applicable Excess, the reasonable cost of repair or replacement necessary to return the Insured Item to its former state of operation including:
  - (a) cost of dismantling, re-erection, cleaning up and removal of debris,
  - (b) replacement of refrigerant, lubricating or insulating oil lost from an Insured Item as a direct result of Insured Damage,
  - (c) charges for overtime and work on public holidays where necessarily and reasonably incurred,
  - (d) freight within the Commonwealth of Australia by any recognised scheduled service,
  - (e) overseas air freight by any recognised scheduled service and/or overseas labour, and
  - (f) the cost of temporary repairs and/or hire of a temporary replacement item during the time taken to repair damage to any Insured Item.

Provided the total of all these extra costs in clauses 1(c), 1(d), 1(e) and 1(f) are limited to 50% of the normal cost of repair payable under this part.

- (2) All Insured Damage which can be repaired must be repaired, however should the item be uneconomical to repair due solely to the nature of the Insured Damage, settlement will be as follows:
  - (a) The cost of replacement of the Insured Item by an item of similar function, type, capacity and quality in a condition equal to, but not better than, the condition of the Insured Item when new,
  - (b) The Sum Insured for the Insured Item.
 We will pay the lesser of 2(a) and 2(b).

- (3) We shall not be required to replace the Insured Item exactly, but only as circumstances permit.
  - (4) The value of any salvage will be subtracted from any amount payable under this part.
  - (5) The amount of each claim otherwise payable shall be reduced by the amount of the Excess shown in the Policy Schedule.
  - (6) Where components or manufacturer's specifications are no longer available due to obsolescence, the basis of settlement will be the cost which would have been incurred if the components or specifications had still been available.
  - (7) Notwithstanding any other clause in this part Our liability under this part shall not exceed the Sum Insured in respect of the Insured Item which has suffered Insured Damage.
- (g) repair of slowly developing deformation, distortion or fatigue of any part,
  - (h) repair of blisters, laminations, flaws or grooving even when accompanied by leakage,
  - (i) repairs to valves, fittings, glands, joints, gaskets, pipes, lines and connections which are defective or leaking,
  - (j) repairs to shaft keys requiring tightening, fitting or renewal,
  - (k) damage caused by the movement of foundations, masonry or brick work, or
  - (l) removal or installation of underground pumps and well casings. Unless specifically noted on the Policy Schedule, this exclusion does not apply to submersible pumps.

## Part 1 – Exclusions

We will not pay for:

- (1) The cost of:
  - (a) replacement of expendable items such as belts, filters, fuses, electric heating elements, electrical contacts, thermostats, TX valves, cutting blades, crushing surfaces, parts made of glass, porcelain or ceramics, chains, seals, links, dies and moulds, conveyor belting, lubricants, fuel and any transfer media,
  - (b) replacement of unserviceable component parts worn through normal machine operation,
  - (c) adjustment, cleaning, purging or recharging of refrigeration or air conditioning equipment,
  - (d) replacement of refractory or brickwork forming part of an Insured Item,

unless necessary as part of the rectification of Insured Damage not otherwise excluded under this Part.
- (2) The cost of:
  - (a) maintenance work including but not limited to the tightening of loose parts, recalibration or adjustments,
  - (b) alteration, additions, improvements or overhauls whether carried out in the course of indemnifiable repairs or as a separate operation,
  - (c) modification or alteration of insured plant to enable it to operate with a more ozone-friendly refrigerant gas as required by the UNEP (United Nations Environmental Protection) Montreal Protocol with respect to substances which deplete the ozone layer, unless conversion is necessitated by Insured Damage,
  - (d) replacement or repair, caused by gradual deterioration (including rust, corrosion, erosion, oxidation or scale formation),
  - (e) replacement of lighting equipment, reticulated electrical wiring, reticulated liquid and gas piping and ducting,
  - (f) repair of scratches chipping or discolouration to painted or polished surfaces, unless resulting from Insured Damage,
  - (g) repair of slowly developing deformation, distortion or fatigue of any part,
  - (h) repair of blisters, laminations, flaws or grooving even when accompanied by leakage,
  - (i) repairs to valves, fittings, glands, joints, gaskets, pipes, lines and connections which are defective or leaking,
  - (j) repairs to shaft keys requiring tightening, fitting or renewal,
  - (k) damage caused by the movement of foundations, masonry or brick work, or
  - (l) removal or installation of underground pumps and well casings. Unless specifically noted on the Policy Schedule, this exclusion does not apply to submersible pumps.
- (3) Consequential loss of any kind or description whatsoever.
- (4) Insured Damage to any item being moved, if caused by dual lifting.
- (5) Anything to the extent You are entitled to recover the costs of labour or parts under a maintenance agreement, warranty, guarantee or indemnity in Your favour by the manufacturer of the relevant item or any other person.

## Part 1 – Optional Extensions

### 1. Deterioration of Stock in cold storage

Applies where indicated on the Policy Schedule as being operative.

We will indemnify You up to the Sum Insured for loss of or damage to the Stock as specified whilst contained in the cold storage spaces cooled by the Insured Items nominated in the Policy Schedule and caused by deterioration or putrefaction as a result of:

- (a) Insured Damage to the refrigeration machinery,
- (b) operation of or failure to operate controls or protective devices within the refrigeration machinery; but this does not include loss caused by the manual operation or manual setting of controls or protective devices,
- (c) contamination of the stored Stock by the accidental escape of refrigerant into the cold chamber,
- (d) sudden leakage of refrigerant from the refrigeration machinery or pipe systems forming part of the refrigeration machinery occurring during the Period of Cover at the Situation, or
- (e) sudden and unforeseen failure of the public power supply.

If deterioration occurs or is likely to occur to such Stock by any of the above causes 1(a), 1(b), 1(c), 1(d) or 1(e), We will pay any reasonable expenses incurred by You to prevent or minimise the loss of Stock.

**Basis of settlement**

- (a) We will pay the cost of replacement of the lost or damaged Stock calculated immediately prior to the loss or damage occurring or the contracted price from Your usual customer, whichever is the higher. We will not pay more than the Sum Insured stated in the Policy Schedule for the Stock.
- (b) The amount of each claim otherwise payable shall be reduced by the amount of the Excess shown in the Policy Schedule.

**Exclusions**

In addition, the exclusions contained in Part 1 apply to this extension.

We will not pay for:

- (a) any loss or damage due to shrinkage, inherent defects or diseases,
- (b) loss or damage caused by improper storage, collapse of the packing material or storage structure,
- (c) penalties or delay or detention or consequential loss or damage or liability of any nature whatsoever, and
- (d) loss or damage following loss of public power supply due to:
  - (i) the deliberate act of any public power supply authority unless performed for the sole purpose of safeguarding life or protecting a part of the supply system,
  - (ii) the decision by any public power supply authority to restrict or withhold supply excepting a scheme of rationing necessitated by damage to any part of the supply system,
  - (iii) shortage of power generation fuel or water.

**Seasonal increase**

An increase of fifty percent (50%) in the limit of indemnity under this extension shall apply during the following periods:

- (a) eight weeks prior to and including Christmas Day,
- (b) three weeks after and including 26 December,
- (c) six weeks prior to and including Easter Tuesday,
- (d) one week after but not including Easter Tuesday,
- (e) six weeks prior to and including any celebrated event of a festive, religious or ethnic nature (other than Christmas or Easter), and
- (f) one week after the same festive, religious or ethnic event or celebration.

Any other period shown on the current Policy Schedule, in lieu of the covers in (a) to (f) above.

**PART 2 – ELECTRONIC COVER****Part 2 – Cover**

If any Insured Item of Electronic Plant or any part of an Insured Item of Electronic Plant specified in the Policy Schedule suffers Insured Damage, We will indemnify You, as provided in the basis of settlement clause, in respect of the Insured Damage indicated by the terms of cover You have selected as stated on the Policy Schedule. Cover under Electronic cover – Part 2 applies while the Insured Item is:

- (a) working or at rest, and/or
- (b) being dismantled or moved for the purpose of cleaning, inspection, overhaul, repair or relocation or during such operations themselves or whilst being subsequently re-erected at the Situation,
- (c) being moved to or from any service contractor away from the Business Premises but within Australia.

**Part 2 – Basis of settlement**

- (1) In the event of Insured Damage to an Insured Item of Electronic Plant We will pay the cost of replacement or repairs necessary to return the Insured Item to its former state of operation including:
  - (a) cost of dismantling, re-erection, cleaning up and removal of debris,
  - (b) charges for overtime and work on public holidays where necessarily and reasonably incurred,
  - (c) freight within the Commonwealth of Australia by any recognised scheduled service,
  - (d) overseas air freight by any recognised scheduled service or overseas labour,
  - (e) the cost of temporary repairs and/or hire of a temporary replacement item during the time taken to repair damage to any Insured Item,

provided that the costs in clauses 1(b), 1(c) 1(d) and 1(e) are limited to 50% of the normal cost of repair payable under this Part and shall be payable in addition to the Sum Insured or Limit Any One Loss (whichever is selected).

  - (f) any customs duties and dues.
- (2) No deduction will be made for depreciation of parts replaced except for valves, tubes (including picture and x-ray tubes) and light sources. We will deduct a proportion of the replacement cost of these items being the proportion which the period of use up to the time of failure bears to the normal service life expected by the manufacturer or supplier.
- (3) All Insured Damage which can be repaired, must be repaired, however, should the item be uneconomical to repair due solely to the nature of the Insured Damage, settlement will be the lesser of the Sum Insured for the Insured Item as stated in the Policy Schedule or the cost of replacement of the insured item by an item of similar function, type, capacity and quality and in a condition equal to but not better than the condition of the insured item when new.

- (4) The value of any salvage will be subtracted from the amount payable under this clause.
- (5) If more than one Insured Item is lost or damaged in one occurrence, We will apply only the highest of the Excesses applicable to such Insured Items.
- (6) The amount of each claim otherwise payable shall be reduced by the amount of the Excess shown in the Policy Schedule.

## Part 2 – Exclusions

We will not pay for:

- (1) Insured Damage to Electronic Data and Electronic Data Media, but subject to any extension selected by You.
- (2) Insured Damage caused by atmospheric conditions, moisture or change in temperature unless directly resulting from damage to or malfunction of air conditioning equipment
- (3) The cost of:
  - (a) replacement of expendable items such as batteries, valves, x-ray and picture tubes, belts, chains, tapes, cards, ribbons, filters, tubes, electric heating elements or electrical contacts, or
  - (b) replacement of component parts worn through normal use or operation,
 unless necessary as part of the rectification of Insured Damage not otherwise excluded under this Part.
- (4) The cost of:
  - (a) maintenance work,
  - (b) alterations, additions, improvements or overhauls whether carried out in the course of indemnifiable repairs or as a separate operation,
  - (c) replacement or repair following gradual deterioration (including rust, corrosion, erosion, oxidation or scale formation),
  - (d) repairs of scratches to painted or polished surfaces unless resulting from Insured Damage, or
- (5) anything to the extent You are entitled to recover the costs of labour or parts under a maintenance agreement or warranty, guarantee or indemnity in Your favour by the manufacturer of the relevant Insured Item or any other person.
- (6) Loss or damage caused by Computer viruses or other disruptive programming techniques.
- (7) Consequential loss of any kind or description whatsoever.

## Part 2 – Conditions

This insurance only applies after completion of successful initial commissioning.

## Part 2 – Optional extensions

### 1. Electronic Data and Electronic Data Media

Applies where indicated on the Policy Schedule as being operative.

#### Cover

We will indemnify You for Insured Damage to the Electronic Data and Electronic Data Media insured under this extension as specified in the Policy Schedule caused solely as the result of Insured Damage covered under Part 2 to an Insured Item which is specified in the Policy Schedule.

We will extend cover under this Part 2 to include restoration of lost information which results from loss or damage to an Electronic Data processing system which is not owned by You and which You are not responsible to insure but which is being used by You at the time the loss or damage to that system occurs in circumstances which would give rise to indemnity under Part 1 if it was insured under Part 1.

#### Basis of settlement

We will pay You for such Insured Damage up to the Sum Insured less the applicable Excess specified in the Policy Schedule including:

- (a) the actual cost of replacement of lost or damaged Software and Electronic Data Media by new unused materials,
  - (b) any expenses which can be proved to have been incurred by You only for the purpose of restoring the Electronic Data by reproduction of data or information in a condition equivalent to that existing prior to Insured Damage and necessary to allow operation of the Insured Item to continue in the normal manner. Lost Electronic Data may be reproduced in an updated form if the cost of doing so is no greater than that of reinstatement in the original form,
- and provided:
- (c) We shall only be liable for costs and expenses incurred within a period of twelve (12) months following the Insured Damage within the Period of Cover.
  - (d) This extension only applies whilst the insured Electronic Data Media is:
    - (i) at the Situation,
    - (ii) at a media storage Situation, or
    - (iii) temporarily at an alternative Situation for processing purposes or in transit between any of these Situations.

- (e) The amount of each claim otherwise payable shall be reduced by the amount of the Excess shown in the Policy Schedule.

**Exclusions**

In addition, the exclusions contained in Part 2 apply to this extension.

We will not pay for:

- (a) Loss or distortion of Electronic Data contained on the Electronic Data Media while mounted in or on any machine for use or processing unless such loss or distortion occurs:
  - (i) at the Situation due to Insured Damage to an Insured Item which is specified in the Policy Schedule, or
  - (ii) at another Situation temporarily for processing purposes due to Insured Damage to the Insured Item which would be indemnifiable if the Insured Item were insured under Part 2.
- (b) Loss or distortion caused by Computer virus.
- (c) Wasting or wearing away or wearing out caused by or naturally resulting from ordinary use or working or gradual deterioration.
- (d) Loss or damage caused by atmospheric conditions, moisture or changes in temperature unless directly resulting from damage to air-conditioning equipment which would be indemnifiable if the equipment were insured under Part 2.
- (e) Consequential loss of any kind or description whatsoever.
- (f) Work undertaken without Our approval other than for minor temporary or provisional repairs. There is no cover under this extension with respect to any Insured Item which has been operated without being satisfactorily repaired following Insured Damage.

**Conditions**

It is a condition precedent to indemnity under this extension that You must have duplicate copies of updated file media stored off site at alternative premises.

**2. Additional increase in cost of working**

Applies where indicated on the Policy Schedule as being operative.

**Cover**

We will indemnify You as set out in Basis of Settlement below up to the Sum Insured for any additional costs of operating Your Business directly resulting from interruption or interference to Your Business as defined in the Policy Schedule but only if:

- (a) the interruption or interference is as a result of Insured Damage to an insured computer or word processor covered under Part 2, and
- (b) the interruption or interference is caused solely as a result of Insured Damage.

We will deduct from the amount payable by Us any sum saved during the period of the interruption in respect of charges and expenses of the business which may cease or be reduced as a result of the Insured Damage, including any such savings

occurring by reason of the interruption of the normal operation of the electronic operation of the data processing system.

To the extent that the Sum Insured by this extension is not otherwise exhausted, We will also pay for reasonable professional fees of accountants or auditors and any necessary and reasonable expenses payable by You for preparation and proving of valid claims under Parts 1 and 2.

**Basis of settlement**

- (a) We will pay You for the additional expenditure incurred over and above the normal expenses which would have been incurred by You for the operation of Your insured computer or word processor by the use of substitute equipment to maintain normal business operation during the interruption up to the Sum Insured specified in the Policy Schedule, less the applicable Excess including:
  - (i) the actual hire charges incurred for the rental of substitute equipment, and
  - (ii) the cost of additional personnel and transport expenses incurred with the use of the substitute equipment.
- (b) The Indemnity Period and the Time Excess shall commence upon the commencement of use of a substitute insured computer or word processor.
- (c) We shall be liable for additional expenditure incurred during the actual period of the interruption but not exceeding the period specified in the Policy Schedule as the Indemnity Period.
- (d) We will not be liable for loss, damage or costs incurred by You during the Time Excess.
- (e) The amount of each claim otherwise payable shall be reduced by the amount of the Excess shown in the Policy Schedule.

**Exclusions**

In addition, the exclusions contained in Part 2 apply to this extension.

We will not pay for:

- (a) The costs incurred during:
  - (i) interruption due to the carrying out of alterations, additions or improvements to the insured computer or word processor,
  - (ii) interruption due to the carrying out of cleaning, adjustment, inspection or maintenance of the insured computer or word processor, or
  - (iii) the extension of any interruption due to any measure, restriction or regulation imposed by any government, public or local authority.
- (b) Additional costs incurred where the period of interruption otherwise applicable is increased beyond four (4) weeks due to delay in the repair or replacement of items manufactured outside Australia where such delay results from:
  - (i) measures, restrictions or regulations imposed by any government, public or local authority,

- (ii) the time required to procure replacement parts or complete items in overseas markets,
- (iii) the time required to transport or ship component parts or complete items between the Situation and any overseas place of repair or replacement,
- (iv) the time required to engage and transport overseas specialists or consultants to assist in or supervise local repairs.

## Conditions

For the purpose of this extension only, Exclusion 5 of Part 2 does not apply.

## Parts 1 & 2 – Exclusions

Loss or damage caused by or arising from:

- (a) fire, smoke or soot,
- (b) extinguishing a fire including subsequent demolition or repair work,
- (c) lightning,
- (d) chemical explosion (other than explosion of flue gas in Boilers),
- (e) impact of land-borne Vehicle, Aircraft or Watercraft,
- (f) earthquake, subterranean fire or volcanic eruption,
- (g) landslip or subsidence,
- (h) storm, tempest, Flood, windstorm or cyclone
- (i) water escaping, discharged or leaking from any source which is external to the Plant and Machinery insured,
- (j) theft or burglary,
- (k) intentional or malicious damage, or
- (l) the carrying out of tests involving abnormal stresses, including the intentional overloading of any Insured Item.

## Parts 1 & 2 – Additional benefits

### 1. Additional items

If You hire or purchase and commission at Your Business Premises any items similar to items already insured under this section, We will consider these items to be added to the insurance by this section, giving the same cover as for similar items already insured. Provided that:

- (a) cover for additional items shall not exceed the total Sum Insured for the items already insured under this part,
- (b) You give Us written notice within 90 days of the hire or purchase and commissioning of the item(s) and pay the appropriate extra premium on a pro rata basis together with any applicable statutory charges,
- (c) the items are as far as You are aware, suitable for service, free from material defect and in sound working condition,
- (d) the items shall not be insured until successfully commissioned and all relevant statutory provisions for inspection and certification have been fulfilled,

- (e) the limits and Excess as shown on the Policy Schedule shall be the same as for similar items already insured.

### 2. Repair costs

The cost of consulting engineers' fees (excluding fees for preparing a claim) necessarily incurred with Our written consent, in the reinstatement of Plant and Machinery and Electronic Plant. Provided that where the Sum Insured is exhausted We will pay an additional amount of up to \$5,000 in respect of this Additional benefit.

### 3. Inflation protection

The Sum Insured on items of Plant and Machinery and Electronic Plant shall at the time of loss be increased according to the consumer price index by the proportion which the number of days since the commencement of the Period of Cover shall bear to the whole of such period.

## Parts 1 & 2 – Conditions

### 1. Newly installed items

At the end of each Period of Cover You shall furnish Us with details of any items newly installed or which have been deleted during the Period of Cover. Additional or return premiums shall be calculated corresponding to the type and value of the items and the Period of Cover from the time of completion of the successful commissioning of the items. Provided that Our liability for all additional items will not exceed fifty percent of the total Sum Insured or limit of liability as stated in the Policy Schedule.

### 2. Inspection

You shall permit Us or Our representative at all reasonable times the right to inspect and examine any items insured by this insurance.

### 3. Claims and repair procedure

(See also the General Policy condition headed 'Claims')

In the event of any Insured Damage which might give rise to a claim under this insurance You must preserve the parts affected and make them available for inspection by Us or Our representative.

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



#### 4. Due care

Nothing contained in this section or in any other condition of this insurance will relieve You of any obligation to take such steps as are necessary to ensure that the operation of the Insured Items is at all times carried out so as to minimise the risk of any claim being made under this insurance.

Insurance cover will cease for any Insured Item which has sustained damage and is operated unless it has been repaired properly and without delay.

#### 5. Alteration

You shall notify Us in writing of any intended alterations of or departure from normal working conditions which You know (or a reasonable person in the circumstances could be expected to know) would materially increase the risk.

## PUBLIC AND PRODUCTS LIABILITY COVER SECTION

### Definitions

**“Advertising Injury”** means injury arising out of:

- (a) libel, slander or defamation, or
- (b) any infringement of copyright or passing off of title or slogan, or
- (c) unfair competition, piracy, idea misappropriation contrary to an implied contract, or
- (d) invasion of privacy,

committed or alleged to have been committed during the Period of Cover in any advertisement, publicity article, broadcast or telecast and caused by or arising out of Your advertising activities.

**“Compensation”** means monies paid or agreed to be paid by judgment, award or settlement for Personal Injury and/or Property Damage and/or Advertising Injury. Provided that such Compensation is only payable in respect of an Occurrence to which this insurance applies.

**“Employee”** means any person who is employed by You and/or in respect of whom You are required to have cover for workers Compensation or similar cover by any workers Compensation legislation.

**“Employment Practices”** means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination in respect of Your Employees.

**“Excess”** means the first amount of each claim or series of claims, arising out of any one Occurrence, for which You are responsible. The Excess applicable to this insurance appears in the Policy Schedule. The Excess applies to all amounts for which We will be liable, including the indemnity provided by Defence Costs and Supplementary Payments.

**“General Liability”** means Your legal liability for Personal Injury, Property Damage or Advertising Injury caused by or arising out of an Occurrence happening in connection with Your Business other than Products Liability.

**“Geographical Limit”** means:

- (a) anywhere within the Commonwealth of Australia and its external territories,
- (b) elsewhere in the world but only with respect to:
  - (i) overseas business visits by any of Your directors, partners, officers, executives or Employees, who are normally resident in Australia but not where they perform manual work or supervise manual work in North America,
  - (ii) Products supplied from the Commonwealth of Australia, but the indemnity granted in relation to such Products shall not apply to claims in respect of Personal Injury and/or Property Damage happening in North America where such Products have been exported to North America with Your knowledge.

**“Incidental Contracts”** means:

- (a) any written rental agreement or lease of real or personal property not requiring an obligation to insure such property or be strictly liable regardless of fault,
- (b) any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities,
- (c) any written contract with any railway authority for the loading, unloading and/or transport of Products, including contracts relating to the operation of railway sidings,
- (d) those contracts designated in the Policy Schedule.

**“Internet Operations”** means:

- (a) transfer of computer data or programmes by use of electronic mail systems by You or Your Employees, including for the purpose of this definition only, part-time and temporary staff, contractors and others within Your organisation whether or not such data or programmes contain any malicious or damaging code, including but not limited to Computer virus, worm, logic bomb, or trojan horse,
- (b) access through Your network to the world wide web or a public internet site by You or Your Employees, including for the purposes of this definition only, part-time and temporary staff, contractors and others within Your organisation,
- (c) access to Your intranet (meaning internal company information and computing resources) which is made available through the world wide web for Your customers or others outside Your organisation, and
- (d) the operation and maintenance of Your web site.

**“Medical Persons”** means includes but is not limited to medical practitioners, medical nurses, dentists and first aid attendants.

**“Named Insured”** means:

- (a) the person(s), corporations and/or other organisations specified in the Policy Schedule,
- (b) all existing subsidiary and/or controlled corporations (including subsidiaries thereof) of the Named Insured incorporated in the Commonwealth of Australia and/or any other organisations under the control of the Named Insured,
- (c) all subsidiary and/or controlled corporations (including subsidiaries thereof) of the Named Insured and/or any other organisations under the control of the Named Insured incorporated in the Commonwealth of Australia and which are constituted or acquired by the Insured after the commencement of the Period of Cover,
- (d) every subsidiary and/or controlled corporation and/or other organisation of the Named Insured which is divested during the Period of Cover, but only in respect of claims made against such divested subsidiary, related or controlled corporation or organisation caused by or arising out of Occurrences insured against by this Policy, which occurred prior to the divestment.

**“North America”** means:

- (a) the United States of America and the Dominion of Canada,
- (b) any state, territory or protectorate incorporated in, or administered by, the United States of America or the Dominion of Canada, and
- (c) any country or territory subject to the laws of the United States of America or the Dominion of Canada.

**“Occurrence”** means an event, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury and/or Property Damage and/or Advertising Injury that is neither expected nor intended (except for the matters set out in item (e) of the definition of ‘Personal Injury’) from Your standpoint.

With respect to Personal Injury or Property Damage, all events of a series consequent upon or attributable to one source or original cause shall be deemed to be one Occurrence.

All Advertising Injury arising out of the same injurious material or act (regardless of the frequency or repetition thereof, the number and kind of media used, or the number of claimants) shall be deemed to be one Occurrence.

**“Personal Injury”** means:

- (a) bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish and mental injury, including loss of consortium or services resulting therefrom,
- (b) false arrest, false imprisonment, wrongful detention, malicious prosecution or humiliation,
- (c) wrongful entry or wrongful eviction or other invasion of privacy,
- (d) libel, slander or defamation of character, unless arising out of Advertising Injury,
- (e) assault and battery not committed by You or at Your direction, unless committed for the purpose of preventing or eliminating danger to persons or property.

**“Pollutants”** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste material. ‘Waste material’ includes materials that are intended to be recycled, reconditioned or reclaimed.

**“Products”** means anything manufactured, constructed, erected, assembled, installed, grown, extracted, produced or processed, treated, altered, modified, repaired, serviced, bottled, labelled, handled, sold, supplied, re-supplied or distributed, imported or exported, by You or on Your behalf (including Your predecessors in Your Business), including any packaging or containers thereof, including the design, formula or specification, directions, markings, instructions, advice or warnings given or omitted to be given in connection with such Products and anything which, By-law or otherwise, You are deemed to have manufactured in the course of Your Business including discontinued Products.

Provided always that for the purpose of this insurance the term ‘Products’ shall not be deemed to include:

- (a) food and beverages supplied by You or on Your behalf primarily to Your Employees as a staff benefit,
  - (b) any vending machine or any other property rented to or located for use of others but not sold by You,
- and any claims made against You in respect of Personal Injury and/or Property Damage arising out of any Occurrence in connection therewith shall be regarded as General Liability claims hereunder.

**“Products Liability”** means Your legal liability for Personal Injury and/or Property Damage caused by or arising out of any Products or the reliance upon a representation or warranty made at any time with respect to such Products; but only where such Personal Injury and/or Property Damage occurs away from premises owned or leased by or rented to You and after physical possession of such Products has been relinquished to others.

**“Property Damage”** means:

- (a) physical loss, destruction of or damage to tangible property, including the loss of use thereof at any time resulting therefrom, and/or
- (b) loss of use of tangible property which has not been physically lost, destroyed or damaged; provided that such loss of use is caused by or arises out of an Occurrence.

**“Tool of Trade”** means a Vehicle that has tools, implements, machinery or plant attached to or towed by the Vehicle and is being used by You at Your premises or on any Work Site. Tool of Trade does not include any Vehicle whilst travelling to or from a Work Site or Vehicles that are used to carry goods to or from any premises.

**“Work Site”** means any premises or site where any work is performed for and/or in connection with Your Business together with all areas surrounding such premises or site and/or all areas in between such premises or site that You shall use in connection with such work.

**“You”, “Your”** and **“Insured”** means the person(s), companies or firms named on the current Policy Schedule as the ‘Insured’. Each of the following is an Insured to the extent specified below:

- (a) the Named Insured,
- (b) every past, present or future director, stockholder or shareholder, partner, proprietor, officer, executive or Employee of the Named Insured (including the spouse of any such person while accompanying such person on any commercial trip or function in connection with Your Business), or work experience persons or volunteers while such persons are acting for or on behalf of the Named Insured and/or within the scope of their duties in such capacities,
- (c) any Employee superannuation fund or pension scheme managed by or on behalf of the Named Insured, and the trustees and the directors of the trustee of any such Employee superannuation fund or pension scheme which is not administered by corporate fund managers,

- (d) every principal in respect of the principal’s liability arising out of:
  - (i) the performance by or on behalf of the Named Insured of any contract or agreement for the performance of work for such principal, but only to the extent required by such contract or agreement and in any event only for such coverage and limits of liability as are provided by this Policy,
  - (ii) any Products sold or supplied by the Named Insured, but only in respect of the Named Insured’s own acts or omissions in connection with such Products and in any event only for such coverage and limits of liability as are provided by this Policy,
- (e) every person, corporation, organisation, trustee or estate to whom or to which the Named Insured is obligated by reason of law, (whether written or implied) to provide insurance such as is afforded by this Policy, but only to the extent required by such law, and in any event only for such coverage and limits of liability as are provided by this Policy,
- (f) every officer, member, Employee or voluntary helper of the Named Insured’s canteen, social and/or sporting clubs, first aid, medical, ambulance or fire fighting services, charities, welfare and/or child care facilities, while acting in their respective capacities as such,
- (g) any director, partner, proprietor, officer or executive of the Named Insured in respect of private work undertaken by the Named Insured’s Employees for such person and any Employee whilst actually undertaking such work,
- (h) the estates, legal representatives, heirs or assigns of:
  - (i) any deceased or insolvent persons, or
  - (ii) persons who are unable to manage their own affairs by reason of mental disorder or incapacity,
 who would otherwise be indemnified by this Policy, but only in respect of liability incurred by such persons as described in clauses h(i) and h(ii) above,
- (i) every party including joint venture companies and partnerships to whom the Named Insured is obligated by virtue of any contract or agreement to provide insurance such as is afforded by this Policy; but only to the extent required by such contract or agreement and in any event only for such coverage and limits of liability as are provided by this Policy.

**“Your Business”** means the business as described in the Policy Schedule (and, where applicable, as further described in any more specific underwriting information provided to Us at the time when this insurance was negotiated) and shall include:

- (a) the ownership of premises and/or the tenancy thereof by You,
- (b) the provision of any sponsorships, charities, galas, first aid, medical, ambulance or fire fighting service by You or on Your behalf,
- (c) private work undertaken by Your Employees for any of Your directors, partners, proprietors, officers or executives,

- (d) the provision of any canteen, social and/or sporting clubs or welfare and/or child care facilities by You or on Your behalf, which are primarily for the benefit of Your Employees.

## Cover

We agree (subject to the terms, Claims conditions, General Policy conditions, Exclusions, definitions and Limits of liability incorporated herein) to pay to You or on Your behalf all amounts which You shall become legally liable to pay as Compensation in respect of:

- (1) Personal Injury, and/or
- (2) Property Damage, and/or
- (3) Advertising Injury,

happening during the Period of Cover within the Geographical Limits and caused by or arising out of an Occurrence in connection with Your Business.

## Defence costs and supplementary payments

With respect to the indemnity provided by this Policy, We will:

- (1) defend, in Your name and on Your behalf, any claim or suit against You alleging such Personal Injury, Property Damage or Advertising Injury and seeking damages on account thereof even if any of the allegations of such claim or suit is groundless, false or fraudulent,
- (2) pay all charges, expenses and legal costs incurred by Us and/or by You with Our written consent:
  - (a) in the investigation, defence or settlement of such claim or suit, including loss of salaries or wages because of Your attendance at hearings or trials at Our request, or
  - (b) in bringing or defending appeals in connection with such claim or suit,
- (3) pay all charges, expenses and legal costs recoverable from or awarded against You in any such claim or suit and all interest accruing on Our portion of any judgment until We have paid, tendered or deposited in court that part of such judgment which does not exceed the limit of Our liability thereon,
- (4) pay expenses incurred by You for:
  - (a) rendering first aid and/or surgical or medical relief to others at the time of any Personal Injury (other than any medical expenses, which We are prevented from paying by any law),
  - (b) temporary protection of damaged or undamaged property of any person or party, including temporary repairs, shoring up and/or unpinning thereof,
  - (c) purchasing and/or hiring and/or erection and dismantling of hoarding, barriers, fences and any other form of temporary protection, including such protection which You must provide in compliance with the requirements of any Government, Local Government or other Statutory Authority,
- (5) pay all legal costs incurred by You with Our consent for representation of You at:
  - (a) any Coronial inquest or Inquiry,

- (b) any proceedings in any court or tribunal in connection with liability insured against by this Policy.

The amounts of such defence costs and supplementary payments incurred, except payments in settlement of claims and suits, are payable by Us in addition to the applicable Limit of Liability of this Policy.

However, in respect of any claims or suits originating in any court in North America, the applicable Limit of Liability shown in the Policy Schedule shall be inclusive of all defence costs and supplementary payments.

Where We are prevented By-law or otherwise from making payments on Your behalf, We will indemnify You for legal liability incurred to the extent that such liability is covered by this Policy.

In jurisdictions where We may not legally be permitted to, or cannot for any other reason, defend any claim or suit against You, We will reimburse You for the expense of such defence incurred with Our written consent.

## Limits of liability and excess

Subject to:

- (a) the 'Claim preparation expenses' provision under 'General Policy conditions',
- (b) the 'Defence costs and supplementary payments' clause above,
- (c) item 4 of Additional Benefit 'Property in Your physical and legal control' below,

for General Liability the limit of liability specified in the Policy Schedule represents the maximum amount which We shall be liable to pay in respect of any one claim or series of claims arising out of any one occurrence.

For Products Liability the limit of liability specified in the Policy Schedule represents the maximum amount which We shall be liable to pay in respect of any one claim or series of claims, and in the aggregate during any one Period of cover.

The applicable limit of liability will not be reduced by the amount of any Excess payable by You.

## Additional benefit

### 1. Property in Your physical and legal control

Exclusion 13 will not apply to the following property:

- (1) premises or part(s) of premises (including their contents) leased or rented to, or temporarily occupied by, You for the purpose of Your Business, but no cover is provided by this Policy if You have assumed the responsibility to insure such premises,
- (2) (a) premises (and/or their contents) temporarily occupied by You for the purpose of carrying out work in connection with Your Business, or  
(b) any other property temporarily in Your possession for the purpose of being worked upon,

but no indemnity is granted for damage to that part of any property upon which You are or have been working if the damage arises solely out of such work,

- (3) any Vehicle (including its contents, spare parts and accessories while they are in or on such Vehicle) not belonging to or used by You, whilst any such Vehicle is in a car park owned or operated by You provided that You do not operate the car park for reward, as a principal part of Your Business,
- (4) any property (except property that You own) not mentioned in clauses 1, 2, 3 and 5 of this additional benefit whilst in Your physical or legal care, custody or control where You have accepted or assumed legal liability for such property. Provided that Our liability under this clause 4 shall not exceed \$250,000 or the amount stated in the Schedule, in respect of any one claim or series of claims arising out of any one Occurrence,
- (5) the personal property, tools and effects of any of Your directors, partners, proprietors, officers, executives or Employees, or the clothing and personal effects of any of Your visitors.

## Optional extensions

Where indicated on the Policy Schedule as applying

### 1. Motor trade, excluding testing and delivery

Additional benefit (Property in Your physical or legal control) of the Public and Products Liability cover section of this Policy includes:

- (a) Vehicles for repairs, servicing, maintenance or storage whilst within the confines of Your premises, or
- (b) whilst left stationary in the immediate vicinity of Your premises in any public or private road or thoroughfare subject to a maximum indemnity of \$100,000 any one Occurrence and an Excess of \$500.

Exclusion 2 (Vehicles) of the Public and Products Liability cover section of this Policy does not apply to Property Damage arising from any Vehicle (not owned by or leased to You) whilst within the confines of Your premises.

### 2. Motor trade, including testing and delivery

Additional benefit (Property in Your physical or legal control) of the Public and Products Liability cover section of this Policy includes:

- (a) Vehicles for repairs, servicing, maintenance or storage whilst within the confines of Your premises or whilst left stationary in the immediate vicinity of Your premises in any public or private road or thoroughfare subject to a maximum indemnity of \$100,000 any one Occurrence and an Excess of \$500,

- (b) Property Damage to any registered Vehicle not owned or leased by You but in Your physical or legal control for the purpose of repairs, servicing or garaging whilst such Vehicle is on any public roadway or thoroughfare whilst being tested &/ or collected &/or delivered subject to a maximum indemnity of \$100,000 any one Occurrence and an Excess of \$500.

Exclusion 2 (Vehicles) of the Public and Products Liability cover section of this Policy does not apply to:

- (c) Property Damage arising from any Vehicle (not owned by or leased to You) whilst within the confines of Your premises,
- (d) Property Damage to any other property not being Your own or used by You or on Your behalf caused by the Vehicle as described and used in item (b) of this clause. The maximum amount We will pay for Property Damage under this clause is \$100,000 any one Occurrence.

The indemnity provided by Optional extensions 1. and 2. above shall not apply to any Property Damage arising from:

- (e) The use of any unsafe or unroadworthy Vehicle unless such condition could not reasonably be detected by You. This exclusion shall not apply if such Property Damage was not caused or contributed to by such unsafe or unroadworthy condition,
- (f) The use of a Vehicle by:
  - (i) any person with Your consent who is not licensed under any relevant law to drive such a Vehicle, or
  - (ii) anyone whose faculties are impaired by any drug or intoxicating liquor or by any person who is convicted of driving at the time of the Property Damage being under the influence of intoxicating liquor, or
  - (iii) anyone whose blood alcohol reading exceeds the legal limit (subject to any laws to the contrary), or
  - (iv) anyone who refuses to provide or allow the taking of a sample of breath, blood or urine for testing or analysis as required by the law of any State or Territory where the Property Damage occurred.

However We will cover You if You have allowed a person to drive a Vehicle in Your physical or legal control and You can prove that You were not aware that the Vehicle was being driven by or in charge of that person when they were so affected or unlicensed.

## Exclusions

We do not cover any liability:

### 1. Property owned by You

for Property Damage to property owned by You.

### 2. Vehicles

for Personal Injury or Property Damage arising out of the ownership, possession or use by You of any Vehicle:

- (a) which is registered or which is required under any legislation to be registered, or

(b) in respect of which compulsory liability insurance or statutory indemnity is required by virtue of legislation (whether or not that insurance is effected),

but exclusions (a) and (b) shall not apply where:

- (i) that compulsory liability insurance or statutory indemnity does not provide indemnity, and
- (ii) the reason or reasons why that compulsory liability or statutory indemnity does not provide indemnity do not involve a breach by You of legislation relating to Vehicles,
- (iii) any Vehicle (including any tool or plant forming part of or attached to or used in connection with such Vehicle) whilst being operated or used by You or on Your behalf as a Tool of Trade at Your premises or on any Work Site,
- (iv) the delivery or collection of goods to or from any Vehicle,
- (v) the loading or unloading of any Vehicle,
- (vi) any Vehicle temporarily in Your custody or control for the purpose of parking.

### **3. Aircraft, hovercraft**

for Personal Injury and/or Property Damage arising from:

- (a) the ownership, maintenance, operation, or use by You of any Aircraft or Hovercraft,
- (b) any property used for the purpose of an airport or any Aircraft landing strip.

### **4. Aircraft products**

arising out of any Products which an insured person knew or has reasonable cause to believe would be or is intended for incorporation into any critical part, the structure, machinery or controls of any Aircraft.

### **5. Damage to products**

for Property Damage to any Products where such damage is directly caused by a fault or defect in such Products; but this exclusion shall be interpreted to apply with respect to damage to the specific part and only that part of such product to which the damage is directly attributable.

### **6. Faulty workmanship**

for the cost of performing, completing, correcting or improving any work undertaken by You.

### **7. Loss of use**

for loss of use of tangible property, which has not been physically lost, destroyed or damaged, directly arising out of:

- (a) a delay in or lack of performance by You or on Your behalf of any contract or agreement, or
- (b) failure of any Products or work performed by You or on Your behalf to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by You; but this Exclusion 7(b) shall not apply to Your liability for loss of use of other tangible property resulting from sudden

and accidental physical loss, destruction of or damage to any Products or work performed by You or on Your behalf after such Products or work have been put to use by any person or organisation other than You.

### **8. Product guarantee**

for any Products warranty or guarantee given by You or on Your behalf, but this exclusion shall not apply to the requirements of any Federal or State legislation as to product safety and information.

### **9. Product recall**

for damages, costs or expenses arising out of the withdrawal, recall, inspection, repair, reconditioning, modification, reinstallation, replacement or loss of use of any Products where such Products are withdrawn or recalled from the market or from use by any person or organisation because of any known, alleged or suspected defect or deficiency in such Products.

### **10. Pollutants**

- (a) for Personal Injury and/or Property Damage directly or indirectly arising out of the discharge, dispersal, release or escape of Pollutants into or upon land, the atmosphere or any watercourse or body of water,
- (b) for the cost of testing and monitoring for, removing, nullifying, or cleaning up of Pollutants.

Provided that, with respect to any such liability which may be incurred anywhere other than North America, Exclusions 10(a) and 10(b) shall not apply where such discharge, dispersal, release or escape is caused by a sudden, identifiable, unintended and unexpected event from Your standpoint which takes place in its entirety at a specific time and place.

### **11. Advertising Injury**

for Advertising Injury:

- (a) resulting from statements made at Your direction with knowledge that such statements are false,
- (b) resulting from failure of performance of contract but this exclusion shall not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract,
- (c) resulting from any incorrect description of Products or services,
- (d) resulting from any mistake in advertised price of Products or services,
- (e) resulting from failure of the Insured's Products or services to conform with advertised performance, quality, fitness or durability,
- (f) incurred by any Insured whose principal occupation or business is advertising, broadcasting, publishing or telecasting.

**12. Breach of professional duty**

arising out of any breach of duty owed in a professional capacity by You and/or any person(s) for whose breaches You may be held legally liable, but this exclusion shall not apply to claims for Personal Injury and/or Property Damage:

- (a) arising out of the rendering of or failure to render professional medical advice by Medical Persons employed by You to provide first aid and other medical services on Your premises,
- (b) arising out of advice which is given by You for no fee;
- (c) arising out of advice given in respect of the use or storage of Your Products.

**13. Property in Your physical or legal control**

- (a) for damage to property owned by, leased or rented to You,
- (b) for damage to property not belonging to You but in Your physical and legal control other than the property described in 'Additional benefit – Property in physical and legal control'.

**14. Contractual liability**

which has been assumed by You under any contract or agreement that requires You to:

- (a) effect insurance over property, either real or personal,
- (b) assume liability for Personal Injury and/or Property Damage and/or Advertising Injury regardless of fault; provided that this exclusion shall not apply with regard to:
  - (i) liabilities which would have been implied By-law in the absence of such contract or agreement, or
  - (ii) liabilities assumed under Incidental Contracts, or
  - (iii) terms regarding merchantability, quality, fitness or care of Your product which are implied By-law or statute, or
  - (iv) liabilities assumed under the contracts specifically designated in the Policy Schedule or in any endorsement(s) to this Policy.

**15. Watercraft**

for Personal Injury and/or Property Damage arising from the ownership, maintenance, operation or use by You of any Watercraft exceeding eight (8) metres in length.

Provided that exclusion 15 shall not apply with regard to claims arising out of:

- (a) Watercraft used in operations carried out by any independent contractors for whose conduct You may be held liable,
- (b) Watercraft owned by others and used by You for business entertainment.

**16. Employers liability**

- (a) for bodily injury to any worker in respect of which You are or would be entitled to indemnity under any Policy of insurance, fund, scheme or self insurance pursuant to or required by any legislation relating to Workers Compensation or Accident Compensation whether or not such Policy, fund, scheme or self insurance has been effected.

Provided that this Policy will respond to the extent that Your liability would not be covered under any such Policy, fund, scheme or self insurance arrangement had You complied with its obligations pursuant to such law.

- (b) Imposed by:
  - (i) the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination or contract of employment or workplace agreement,
  - (ii) any law relating to Employment Practices.
- (c) For the purpose of exclusions 16(a) and 16(b):
  - (i) the term 'worker' means any person deemed to be employed by You pursuant to any Workers Compensation Law. Voluntary workers, secondees and work experience students (if any) shall not be deemed to be Your Employees,
  - (ii) the term 'bodily injury' means bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish and/or mental injury, including loss of consortium or services resulting therefrom.

**17. Fines, penalties, punitive, exemplary or aggravated damages**

for any fines, penalties, punitive, exemplary, aggravated damages and any additional damages resulting from the multiplication of compensatory damages.

**18. Information technology hazards, computer data, program and storage media exclusion**

- (a) for Personal Injury and/or Property Damage and/or Advertising Injury arising directly or indirectly out of, or in any way involving Your internet operations, or
- (b) for Property Damage to computer data or programs and their storage media arising directly or indirectly out of or caused by, through or in connection with:
  - (i) the use of any computer hardware or software,
  - (i) the provision of computer or telecommunication services by You or on Your behalf,
  - (ii) the use of computer hardware or software belonging to any third party, whether authorised or unauthorised including damage caused by any computer virus.

But this exclusion does not apply to:

- (c) Personal Injury and/or Property Damage and/or Advertising Injury,
- (d) liability which arises irrespective of the involvement of Your internet operations.

Nothing in this exclusion will be construed to extend coverage under this Policy to any liability which would not have been covered in the absence of this exclusion.

## 19. Libel and slander

for libel and slander:

- (a) resulting from statements made prior to the commencement of the Period of Cover,
- (b) resulting from statements made at Your direction with knowledge that such statements are false,
- (c) incurred by You if Your Business is advertising, broadcasting, publishing or telecasting.

## 20. Liquidated damages

arising out of liquidated damages clauses, penalty clauses or performance warranties except to the extent that such liability would have attached in the absence of such clauses or warranties.

## 21. Asbestos

for Personal Injury, Property Damage (including loss of use of property) or Advertising Injury directly or indirectly caused by, arising from or in any way connected to asbestos.

## 22. Genetically modified or engineered organisms (GMO)

for Personal Injury, Property Damage (including loss of use of property) or Advertising Injury directly or indirectly caused by or arising out of the manufacture, importing, growing, blending, mixing or distributing of Genetically Modified or Engineered Organisms (GMO).

For the purpose of this exclusion, a Genetically Modified or Engineered Organism is defined to be a living plant, animal or microbe that has been altered by the addition or modification of a gene through the process of genetic engineering and contains genes or portions of genes from unrelated organisms.

## 23. TSE

for Personal Injury, Property Damage (including loss of use of property) or Advertising Injury directly or indirectly caused by or arising out of Transmissible Spongiform Encephalopathy (TSE) including but not limited to Bovine Spongiform Encephalopathy (BSE) or new Variant Creutzfeldt-Jakob Disease (VCJD).

This Exclusion applies regardless of any other contributing or aggravating cause or event.

## Conditions

### 1. Notification of occurrence, claim or suit

You shall give:

- (a) written notice (including facsimile transmission) via Your Steadfast broker, to Us, as soon as reasonably practicable, of any claim made against You or any Occurrence that may give rise to a claim being made against You and which is covered by this Policy,

- (b) all such additional information that We may reasonably require and every demand, writ, summons, proceedings, impending prosecution or inquest and all documents relating to the claim or Occurrence shall be forwarded to Us as soon as practicable after they are received by You.

### 2. Your duties in the event of an occurrence, claim or suit

- (a) You shall not, without Our written consent, make any admission, offer, promise or payment in connection with any Occurrence or claim,
- (b) You shall use the best endeavours to preserve all property, Products, appliances, plant, and all other things which may assist in the investigation or defence of a claim or suit or in the exercise of rights of subrogation and, so far as may be reasonably practicable, no alteration or repair shall be effected without Our consent until We have had an opportunity of inspection,
- (c) You shall, when so requested, provide Us with details of any other insurances current at the time of any Occurrence, and/or Personal Injury and/or Property Damage and/or Advertising Injury and covering any of the liability Insured by this Policy.

### 3. Our rights regarding claims

- (a) We may take over and conduct the defence or settlement of any claim or issue legal proceedings for damages. If We do this We will do it in Your name. We have full discretion in the conduct of any legal proceedings and in the settlement of any claim. You must co-operate by giving Us any statements, documents or assistance We require. This may include giving evidence in any legal proceedings.
- (b) We may at any time pay to You, in respect of all claims against You arising directly or indirectly from one source or original cause:
  - (i) the amount of the Limit of Liability or such other amount specified in respect thereof (after deduction of any sum(s) already paid by Us, which sum(s) would reduce the amount of Our unfulfilled liability in respect thereof), or
  - (ii) any lesser sum for which the claim(s) can be settled.
- (c) Upon making such payment, We shall relinquish conduct and control of, and be under no further liability under this Policy in connection with, such claim(s) except for defence costs and supplementary payments:
  - (i) recoverable from You in respect of the period prior to the date of such payment (whether or not pursuant to an order made subsequently), or
  - (ii) incurred by Us, or by You with Our written consent, prior to the date of such payment.

### 4. Adjustment of premium

If the first premium or any renewal premium for this Policy or any part thereof shall have been calculated on estimates provided by You, You shall keep an accurate record containing all particulars



relative thereto and shall at all reasonable times allow Us to inspect such record.

You shall, where requested by Us after the expiry of each Period of Cover, provide to Us such particulars and information as We may require as soon as reasonably practicable. The premium for such period shall thereupon be adjusted and any difference paid by or allowed to You, as the case may be, subject to retention by Us of any minimum premium that may have been agreed upon between Us and You at inception or the last renewal date of this Policy.

### **5. Cross liabilities**

This insurance extends to indemnify:

- (a) each of the parties comprising the Named Insured, and
- (b) each of the Insureds hereunder, separately in the same manner and to a like extent as though policies had been issued in their separate names.

In particular, but without limiting the foregoing, this insurance shall indemnify each of the parties described in clauses 1 and 2 of 'Cross liabilities' in respect of claims made by any other of such parties.

Provided always that:

- (c) each of such parties shall be separately subject to the terms, claims conditions, General Policy conditions, exclusions and definitions of this Policy in the same manner and to a like extent as though separate policies had been issued, and
- (d) in no case shall the amount payable by Us in respect of any one claim or series of claims arising out of any one Occurrence or in the aggregate, as the case may be, exceed the applicable Limit of Liability as specified in the Policy Schedule.

### **6. Inspection and audit**

We shall be permitted, but not obligated, to inspect Your premises and operations at any reasonable time. Neither Our right to make inspections, nor Our failure to make inspections, nor the making of any inspections, nor any report of an inspection shall constitute an undertaking, on behalf of or for the benefit of You or others, to determine or warrant that such premises or operations are safe or healthful or are in compliance with any law, rule or regulation.

We may examine and audit Your books and records at any time during the currency of this Policy and within three (3) years after the final termination of this Policy but only with regard to matters which in Our opinion are relevant to this Policy.

### **7. Release**

Where You are required by contractual agreement to release any Government or Public or Local Authority or other Statutory Authority from liability for loss, destruction or damage or legal liability insured against under this Policy, such release is allowed without prejudice to this insurance.

Notwithstanding general condition 'Subrogation rights' of this Policy, We agree to waive all Our rights of subrogation against any such Authority in the event of any Occurrence for which a claim for indemnity may be made under this Policy.

## GLASS COVER SECTION

### Definitions

**“Breakage”** means:

- (a) for plate or sheet Glass or porcelain, a fracture extending through the entire thickness of the Glass or porcelain,
- (b) for laminated Glass, a fracture extending through the entire thickness of a lamination but not any other damage or disfiguration.

**“External Glass”** means glass, or plastic material used as glass fixed in external windows, doors, showcases or skylights forming part of the premises.

- (a) glass, or plastic material used as glass in internal partitions, windows and doors, glass in counters, glass forming shelves and/or stock restraints, interior showcases, fixed mirrors and other fixed internal glass including ceramic vitreous china urinals, toilet pans and hand basins; and
- (b) frames of showcases, display cabinets and counters containing the broken Glass.

**“Glass”** means ‘Internal Glass’, ‘External Glass’ and ‘Specified Glass’

**“Internal Glass”** means:

- (a) all Internal Glass, sinks, wash basins and sanitary ware and mirrors (other than hand mirrors) whilst in the Premises, and
- (b) showcase frames, display cabinets and counter frames.

**“Premises”** means the buildings at the Situation.

**“Sign”** means Glass or plastic that forms part of a Sign.

**“Specified Glass”** means Glass specifically designated in the Policy Schedule under Specified Glass.

### Cover

We cover You under the Glass cover section for Breakage at the Situation of the Glass shown on the current Policy Schedule which occurs during the Period of Cover.

### Basis of settlement

We will at Our option either pay the cost to repair or replace broken Glass with Glass of similar or higher quality to comply with the requirements of The Standards Association of Australia, any statute or regulation.

### Additional benefits

If a claim is payable by Us under the Glass cover section We will also pay up to the greater of the limit defined below or the sum insured shown on the current Policy Schedule for the reasonable cost to replace or repair the following additional items:

- (a) External Glass – In the event of Breakage of External Glass, We will indemnify You for each of the following:
  - (i) replacing sign writing or ornamentation affixed to the broken Glass,
  - (ii) replacing burglar tape or wiring affixed to the broken Glass,
  - (iii) replacing shatter resistant or reflective film affixed to the broken Glass,
  - (iv) temporary shuttering, boarding up or other protection reasonably necessary for the safeguarding of the Premises or contents therein, pending replacement of the broken Glass,
  - (v) replacing damaged window frames and tiled shop fronts, but with due allowance for wear and tear.Our liability under this additional benefit during any one period of insurance is limited to \$7,500.

- (b) Stock or contents – We will pay for destruction of, or damage to Your Stock or contents, caused by broken Glass following the Breakage of Glass where such Breakage constitutes an admissible claim under this section.

Our liability under this additional benefit during any one period of insurance is limited to:

- (i) the value at cost, of the Stock or contents destroyed or damaged, less any amount realised from the sale or salvage or,
- (ii) the sum of \$7,500, whichever is the lesser.

- (c) Signs – Glass or plastic which forms part of an illuminated Sign and which is damaged during the Period of Cover. This additional benefit is subject to a sub-limit of liability of \$7,500 or any higher sub-limit stated in the current Policy Schedule for ‘Signs’. The admissibility of claims for damage to Signs shall not be contingent upon other damage to Glass.
- (d) Overtime – We will pay the reasonable costs for after-hours service by repairers, express delivery and overtime charges to repair or replace broken Glass.
- (e) Malicious damage – Malicious damage to External Glass. This additional benefit is payable even where there is no Breakage of External Glass.

### Exclusions

Under the Glass cover section We will not pay the cost to repair or replace broken Glass:

- (a) which is Stock,
- (b) which is chipped or in poor condition when the Period of Cover commences,
- (c) which is part of any glasshouse, conservatory, radio, television screen, computer screen, vase, picture, crystal, crockery, china, or Glass item normally carried by hand.

## GENERAL PROPERTY COVER SECTION

### Definitions

“General Property” means the property listed on the current Policy Schedule under the General Property cover section.

### Cover

We cover You for physical loss of or damage to the General Property items listed on the current Policy Schedule, up to the sum insured, which occurs during the period of cover other than any exclusions of this section.

### Basis of settlement

We will at Our option either:

- (a) pay You the replacement cost of the General Property at the time of loss or damage, or
- (b) repair the General Property to a condition equal to but not better or more extensive than its condition when new, or
- (c) replace the General Property with a new item that has the same features that are nearly the same as (but not less than) the item being replaced.

### Optional benefits

The current Policy Schedule will show if the following optional benefit is covered:

#### 1. Fire, theft, collision and other expressed perils (cover option A)

When cover option A is stated on the Policy Schedule, We will insure the items described in the Policy Schedule under this section for loss or damage caused by:

- (a) Fire lighting, explosion, malicious damage or vandalism,
- (b) Theft following forcible and violent entry which causes visible damage to a locked Vehicle or building,
- (c) Theft of equipment securely attached to a Vehicle through use of locks or padlocks, which results in visible damage to the securing devices,
- (d) Collision or overturning of the conveying Vehicle.

#### 2. Goods in transit

When Goods in transit cover option is stated on the Policy Schedule, We will cover You up to the limit specified in the Policy Schedule for this cover option, less the Excess, for loss of or damage to goods belonging to You or for which You are legally responsible, whilst in the normal course of transit by road Vehicle owned or operated by You anywhere in Australia, caused by the following insured events:

- (a) Collision or overturning of the conveying Vehicle,
- (b) Fire, lightning or explosion,

- (c) Theft resulting from forcible and violent entry evidenced by visible damage to the securely locked portion of a Vehicle containing Your item.

### Exclusions

We will not be liable under this cover option for loss of or damage to:

- (a) Money,
- (b) jewellery, watches, furs, antiques, paintings, works of art, precious metals or precious stones or articles composed of any of them,
- (c) explosives, petroleum products in bulk or gas in bulk,
- (d) livestock,
- (e) cigarettes, tobacco, wines, spirits or other alcoholic beverages unless specified in the Policy Schedule

Further, We will not be liable for loss or damage as a result of:

- (f) delay, loss of market, consequential loss of any kind, depreciation or deterioration,
- (g) collision or contact by the conveying Vehicle with the curb or uneven road surface,
- (h) theft by any of Your employees whether acting alone or in collusion with others,
- (i) electrical or mechanical derangement unless damage is visible to the exterior of the machine.

### Basis of settlement

In the event of a claim the value of goods lost or damaged shall be taken as:

- (a) for goods sold - Your invoice value,
- (b) for goods purchased - the purchase price as shown on the invoice,
- (c) all other goods including plant transfers – market value.

### Exclusions

What You are not covered for under this section.

- (1) We will not cover loss of or damage to General Property under the General Property cover section which is:
  - (a) covered under any other section of this Policy
  - (b) being constructed, erected, altered, manufactured, cleaned or repaired.
- (2) We will not cover loss or damage caused by:
  - (a) wear and tear, fading, scratching or marring, rust, corrosion, mildew, mould, contamination or pollution, wet or dry rot, change of colour, flavour, texture or finish, dampness of atmosphere, variations in temperature, evaporation, disease, inherent vice, latent defect, loss of weight, depreciation, gradual deterioration or developing flaws, normal upkeep or making good, smut or smoke from industrial operations (other than sudden or unforeseen damage resulting therefrom),

- (b) insects or vermin such as rats, mice, rabbits, possums and birds,
- (c) faulty materials,
- (d) faulty workmanship,
- (e) mechanical, electrical or electronic breakdown.

Exclusion 2 applies to the part first and immediately affected and do not extend to subsequent damage to other parts of the property occasioned by a peril which is not otherwise excluded.

- (3) We will not cover:
  - (a) General Property not being used by You in accordance with the manufacturer's instructions,
  - (b) any legal liability of whatsoever nature,
  - (c) consequential loss of any kind.

## EMPLOYEE DISHONESTY COVER SECTION

This section forms part of the Policy only if shown in the Schedule as having been taken by You.

### Definitions

Some words have special meaning wherever they appear in the Employee dishonesty cover section. These words and their meanings are listed below.

**"Claim documents"** means:

- (a) the documentation created in the preparation of, or evidencing, a claim; and
- (b) all records and documents that may assist Us to investigate:
  - (i) a claim; or
  - (ii) a Loss; or
  - (iii) Your right of recovery in consequence of a Loss; including electronic records, computer records, video and audio recordings, working papers, internal memoranda, reports, accounting records and audit documents.

**"Employee"** means:

- (a) a person:
  - (i) employed by You under a contract of service; or
  - (ii) assigned, by any agency whose business it is to furnish personnel, to perform Employee duties for You, in the ordinary course of Your Business, during the Period of Insurance, and whom You have the right to direct in the detail of that person's performance of work;
- (b) a former Employee during a period of not more than 30 days following the cessation of that person's service;
- (c) a Group of Employees, which means:
  - (i) two or more Employees acting in collusion;
  - (ii) an Employee acting alone and also acting as a member of a Group of Employees;
  - (iii) two or more Groups of Employees having an Employee in common,

but Employee does not include:

- (d) a person who is not directly paid remuneration by You other than as described in (a)(ii) above; or
- (e) a person who is one of Your directors or trustees, except when performing acts within the scope of the usual duties of an Employee; or
- (f) a person who is a member of any committee that examines or audits or has custody of or access to Your money, negotiable instruments or goods.

**"Limit of indemnity"** means the Limit of Indemnity of Employee Dishonesty insurance shown in the Schedule for all Losses during the Period of Insurance.

**“Limit per Employee”** means the Limit per Employee for Employee Dishonesty insurance, shown in the Schedule, in respect of any Loss or all Losses caused by an act or acts of the one Employee.

“Loss” means direct loss:

- (a) of:
  - (i) money;
  - (ii) negotiable instruments; or
  - (iii) goods;which belong to You, or are in Your possession and for the loss of which You are liable;
- (b) occurring in the ordinary course of Your Business;
- (c) caused directly by an act of fraud or dishonesty:
  - (i) of an Employee; and
  - (ii) committed within twelve (12) months before discovery by You of the act of fraud or dishonesty, and
- (d) discovered by You:
  - (i) during the Period of Insurance; or
  - (ii) if this Section is not renewed or is cancelled, within twelve (12) months after the Period of Insurance or the date of cancellation for this Section of the Policy;but in either case no later than twelve (12) months after the cessation of employment of the relevant Employee, and does not include cover for any indirect or consequential loss whatsoever.

## Cover

- (a) After You have:
  - (i) provided to Us the Claim Documents; and
  - (ii) made available to Us for interview all persons nominated by Us who in Our opinion will be helpful to assist Us to investigate Your claim or a Loss;We will indemnify You against Loss.
- (b) The amount of the indemnity will be determined in accordance with the clauses under the heading Basis of Settlement.

## Basis of settlement

- (a) Our total liability for all Losses and Claims Preparation Fees during the Period of Insurance shall not exceed the Limit of Indemnity shown on the Schedule.
- (b) Our liability for all Losses relating to acts of fraud or dishonesty committed by one Employee, or any Group of Employees, or any number of Groups of Employees that contain one common Employee, will not exceed the Limit per Employee shown on the Schedule.
- (c) Our liability will be reduced by the sum of all moneys to which an Employee who caused a Loss would have been entitled, but which are retained by You or which You are entitled to retain.

- (d) We will be liable only for that part of the Loss that exceeds the Excess shown on the Schedule or on any endorsement to this Section

## Additional benefits

### 1. Claims preparation fees

If We are liable to indemnify You against a Loss and where the Limit per Employee and the Limit of Indemnity are not otherwise exhausted, the cover is extended to indemnify You against:

- (a) the fees payable by You to Your Auditors; and
- (b) all other costs, charges and expenses; reasonably and necessarily incurred by You with Our consent in the preparation of a claim; but the most We will pay under this Additional Benefit is ten per cent (10%) of the Limit per Employee or \$20,000, whichever is the lesser.

### 2. Superannuation funds

The Definition of You, Your, includes any superannuation or pension scheme formed by You and exclusively for the benefit of Employees, but does not include any scheme that is administered by a professional funds manager.

### 3. Welfare, social or sporting club

The Definition of You, Your, includes any welfare, social or sporting club formed with Your knowledge and consent exclusively for the benefit of Employees and their families.

## Exclusions

This Cover section does not cover Loss arising from an act committed by an Employee after You have knowledge of, or reasonable cause to suspect, the commission by the Employee of an act of fraud or dishonesty, unless if, when You first obtained the knowledge or reasonable cause for suspicion:

- (a) the money, negotiable instruments or goods that are the subject of the Loss were in the possession of the Employee; and
- (b) You immediately took all reasonable action to regain possession of the money, negotiable instruments or goods

## Conditions

### 1. Notification of loss

You must:

- (a) notify Us in writing within 21 days after discovery by You of Loss, or any act of fraud or dishonesty that may give rise to a Loss or after You first have reasonable cause for suspicion thereof; and
- (b) deliver to Us as soon as practicable, but no later than 3 months after the notice in (a), the Claim Documents and full details in writing of the Loss and of Your claim under this Section.

## 2. Observance of system of audit, supervision and checks

You must observe the system of audit, supervision and checks which, in connection with this Section, You stated to Us that You observe.

## 3. Notification of alteration of risk

You must as soon as practicable notify Us in writing of any change that will or might increase the risk, including:

- (a) a change in the nature of Your Business;
- (b) Your non-observance of the system of audit, supervision and checks which, in connection with this Section, You stated to Us that You observe;

so that We may either cancel the Section or agree to the variation of its terms and conditions.

## 4. Prevention of further loss after discovery

You must, immediately when You discover Loss, take all reasonable steps to regain possession of the money, negotiable instruments or goods and take all reasonable steps to prevent further Loss occurring.

## 5. Unidentifiable employees

Where a Loss is caused by an unidentifiable Employee, cover is subject to You proving that the Loss was caused by fraud or dishonesty of an Employee and any cost incurred in proving this will be at Your expense and will not be payable under Additional Benefit Claims Preparation Fees.

## 6. Our rights of conduct and recovery

- (a) We will, upon Your notice to Us of a Loss, have the right to recover the Loss and We will have full discretion in the recovery of the Loss;
- (b) You must not in any way prejudice Our right or ability to recover a Loss;
- (c) You must co-operate with Us fully in the recovery of a Loss.

# TRANSIT COVER SECTION

This section forms part of the Policy only if shown in the Schedule as having been taken by You.

## Definitions

Some words have special meaning wherever they appear in the Transit cover section. These words and their meanings are listed below.

**“Conveyance”** means the Aircraft, train, Vehicle, vessel or Watercraft by which Business Property is being transported.

**“General Average”** means any extraordinary sacrifice or expenditure that is voluntarily and reasonably made or incurred for the purpose of preserving property at risk in a Sea voyage.

**“Transit”** means the time during the Period of Insurance from when Business Property first begins loading at the warehouse, Situation or place of storage on or in to the Conveyance and continues through the ordinary course of transit, until the Business Property is first placed inside the receiver’s warehouse, Situation or place of storage.

## Cover

We will indemnify You in respect of damage to Business Property, whilst it is in Transit within Australian territories.

## Basis of settlement

### 1. Business Property

The Basis of Settlement for Business Property is Stock value, plus freight and other incidental costs.

## Additional benefits

Cover provided under this section is extended to include the following additional benefits.

### 1. On forwarding and transfer

Where Damage to Business Property, which occurs during the Period of Insurance, is the result of:

- (a) an Event,
- (b) a collision involving, or overturning or derailment of the Conveyance,

We will cover You for the reasonable costs incurred for transferring, storing and/or forwarding Business Property to a suitable place.

The most We will pay under this additional benefit is limited to 15% of the Sum Insured for this section or \$25,000, whichever is the lesser, for any one Loss.

## 2. Removal of debris

Where a claim is payable under this section, We will also pay the reasonable costs incurred to remove, transport and dispose of Business Property that is subject to the claim, provided that You are legally obliged to bear such costs.

The most We will pay under this additional benefit is limited to 15% of the Sum Insured for this section or \$25,000, whichever is the lesser, for any one Loss.

## Exclusions

We will not pay for Damage:

- (a) to Refrigerated Stock, arising from any variation in temperature, unless the variation in temperature is directly caused by:
  - (i) fire, explosion or Flood,
  - (ii) collision, jack-knifing, overturning or derailment of the Conveyance,
  - (iii) crashing or forced landing of the conveying Aircraft,
  - (iv) Breakdown resulting in stoppage or malfunction of refrigerating machinery and the subsequent failure to perform its normal refrigeration cycle for more than four (4) consecutive hours,
- (b) to Business Property sent by post, unless by registered post,
- (c) caused by ordinary leakage, ordinary loss in weight or volume,
- (d) that arises as a result of Business Property being worked upon,
- (e) to Business Property caused by electronic, electrical or mechanical failure except where such failure occurs to the Conveyance,
- (f) arising from Theft of Business Property if the Conveyance, Building, Situation, warehouse or place of storage used during the Transit is not securely locked when unattended,
- (g) arising from insufficiency or unsuitability of packing, preparation or stowage of the Business Property by You or Your Employees,
- (h) arising from unfitness of any Conveyance or Packaging for the safe carriage of the Business Property,
- (i) as a result of unexplained shortage or disappearance,
- (j) arising from delay, loss of market, depreciation, deterioration or any other consequential cause or loss or profit, except as may be provided by any additional benefit of this section.

## Conditions

### 1. Benefit of insurance

The carrier or any other bailee of the Business Property cannot claim any benefit under this section.

### 2. Claims procedure

In addition to 8. Claims procedure of the General Provisions of the Policy, You must also:

- (a) ensure that delivered containers and seals are examined immediately by a responsible official of the receiver. If the container is delivered Damaged or with seals broken or missing or with seals other than stated in the shipping documents, note the delivery docket accordingly and retain all defective or irregular seals for subsequent identification,
- (b) If the Damage was not immediately apparent at the time of delivery, apply immediately for surveys to be performed by the carrier or other person who had charge of the Business Property to be conducted within three (3) days of delivery.

Any admissible claim under this section will not be prejudiced where packages containing Business Property, excluding shipping containers, are not opened and unpacked immediately upon receipt into store, and Damage is only discovered by You when the packages are opened or unpacked, provided that the Damage has been discovered not later than ninety (90) days after the receipt of packages by the receiver.

### 3. General average and salvage clause

If Your Business Property is being transported by sea between Australian ports and General Average is declared, We insure Your proportion of the General Average and/or salvage contribution irrespective of the amount insured being less than the contributory value, subject always to the Limit stated in the Schedule.

In the event of a General Average contribution arising under this section, contact Us before signing any General Average bond.

### 4. Pairs and sets

In respect of a claim payable under this Section, where any Business Property consists of articles in a pair or set, We will not pay more than the value of any particular article(s) of the pair or set which may be Damaged without reference to any special value which such article or articles may have as part of such pair or set, nor more than a proportionate part of such pair or set.

# MANAGEMENT LIABILITY COVER SECTION

Your Policy Schedule will show whether You have selected this cover section.

## Important Information:

There are four Coverage Parts within this cover section:

Coverage Part 1 - Directors & Officers Liability

Coverage Part 2 - Employment Practices Liability

Coverage Part 3 - Statutory Liability

Coverage Part 4 - Company Expenses Cover

Your Policy Schedule will indicate which Coverage Parts You have selected.

## Section 40 Insurance Contracts Act 1984(Cth)

The following only applies to the Management Liability cover section of this Policy:

Management Liability is issued on a "Claims made and notified basis".

This insurance contract does not provide any cover for events which occurred before the contract was entered into, unless the Policy Schedule specifies otherwise.

This insurance Policy does not provide any cover for Claims made after the expiry of Your Policy. However, under s40(3) of the **Insurance Contracts Act 1984(Cth) (ICA)** We are not relieved of liability by reason only that the Claim was made after the expiration of the insurance if:

- (a) You give notice before the Policy expires to Us of facts which may give rise to a Claim against You; and
- (b) that notice is given to Us as soon as reasonably practicable after You became aware of those facts.

The above explanation of the operation of s40(3) of the ICA does not form part of this Policy wording.

## General Provisions

### a. General Definitions

The following definitions apply to all Coverage Parts of this cover section:

**"Acquitted by a Court"** means dismissal of charges prior to a hearing or, upon completion of a defended hearing of a prosecution of an Insured, the delivery by a presiding judge of either: a dismissal of the charges at the conclusion of the prosecution case, or a verdict of Not Guilty at the conclusion of the defended hearing (but shall not include a dismissal pursuant to a plea bargain).

**"Act of Parliament"** means any Act of any parliament or legislative assembly of New Zealand or the Commonwealth of Australia or of any Australian State or Territory, including any amendments, enactments or Statutory Regulations of such Act.

**"Asbestos"** shall mean crocidolite, amosite, chrysotile, fibrous actinolite, fibrous anthophyllite, or fibrous tremolite or any mixture or derivative containing any of those minerals, or dust, fibres or particles of any of those materials.

**"Associated Company"** means any entity in which You own, at the time the Wrongful Act occurred, either directly or indirectly, between 10% and 50% inclusive of the outstanding Securities representing the present right to vote for the election of directors.

**"Bail and Civil Bond Expenses"** means the premium (but not collateral) for a bond or other financial instrument to guarantee the contingent obligation of Your People for a specified amount required by a court hearing a Claim.

**"Circumstance"** means an incident, occurrence, fact, matter, act or omission which might be reasonably expected to give rise to a Loss under this cover section.

**"Claim"** means the definition set out in the individual Coverage Part of this cover section under which an indemnity is sought.

**"Coverage Part"** means one of the four divisions within this cover section, comprising: Coverage Part 1 – Directors & Officers Liability; Coverage Part 2 - Employment Practices Liability; Coverage Part 3 - Statutory Liability; Coverage Part 4 - Company Expenses Cover.

**"Defence Costs"** means that part of Loss consisting of reasonable costs, charges, fees and expenses (including but not limited to lawyers' fees, investigators' fees and experts' fees) incurred or agreed by Us in the investigation, defence or settlement of a Claim.

Defence Costs shall not include any regular salaries, wages overtime, fees or benefits of any of Your People.

**"Discovered"** means the moment in which any partner, director or officer, senior manager or equivalent position, not in collusion with any person(s) suspected of a Wrongful Act, becomes aware of a Circumstance.

**"Discovery Period"** means the period after the end of the Period of Insurance where the Insured may continue to notify Us of a Claim but only in relation to Wrongful Acts committed prior to or during the Period of Insurance.

**"Employee"** means any person who is or was (or alleges that but for an Employment Related Wrongful Act would have been) a full-time, part-time or temporary person (including volunteers) working under a contract of service with Your Company and who Your Company has the right to govern and direct in their performance of such services.



Employee does not mean any person who is an independent contractor or agent, partner or director of Your Company.

**“Employment Related Wrongful Act”** means any actual or alleged breach of duty, error, act, omission, neglect or misleading statement by an Insured against Your People in connection with any wrongful, unlawful or unfair:

- (a) discharge or termination of employment, demotion, discipline, dismissal, deprivation of a career opportunity, failure to employ or promote;
- (b) breach of any written or oral employment contract or quasi-employment contract;
- (c) employment-related misrepresentation, invasion of privacy, breach of data protection legislation, libel, slander, humiliation and defamation;
- (d) violation of employment discrimination laws (including sexual or other workplace harassment and discrimination on the grounds of racial or national origin, sex, sexual orientation, religion, maternity, pregnancy, age and disability);
- (e) violation or non-compliance with legislation regulating working hours;
- (f) failure to grant tenure, adopt adequate workplace or employment policies and procedures, furnish accurate job references;
- (g) retaliatory treatment of whistleblowers and others;
- (h) employment-related wrongful infliction of mental anguish or emotional distress.

**“Fidelity Loss”** means the ‘actual market value’ for the direct financial loss of an Insured Property caused by an Employee’s or director’s fraud or dishonesty in the ordinary course of Your Business.

The ‘actual market value’ shall be determined as the market value of an Insured Property on the day such loss was Discovered.

**“Financial Impairment”** means Your status resulting from the appointment by any governmental official, agency or court of any receiver, manager, liquidator (including a provisional liquidator), or similar official to take control of, supervise, manage or liquidate Your Company.

**“ICA”** means *Insurance Contracts Act 1984 (Cth)*.

**“Insured”** means You and Your People.

**“Insured Property”** means;

- (a) local or foreign currency, coins, bank notes, bullion, cheques, postal orders and money orders; or
- (b) tangible property not including buildings and its fixtures and fittings; or
- (c) Securities.

belonging to, leased by, or in the care, custody and control of Your Company:

**“Interrelated Wrongful Acts”** means all Wrongful Acts that have in common any act, error, omission, fact, Circumstance, situation, event, transaction, cause or series of related acts, errors, omissions, facts, Circumstances, situations, events, transactions or causes.

**“Limit of Indemnity”** for the total period comprising of the Period of Insurance and the Discovery Period means the following:

- (a) where there is an overall limit for all Coverage Parts in force, Our maximum liability for each and every Loss and all Losses in the aggregate shall be the overall limit shown in the Policy Schedule;
- (b) where there are individual limits for each Coverage Part, Our maximum liability for each Coverage Part for each and every Loss and all Losses in the aggregate for that Coverage Part shall be the individual limit shown against that Coverage Part in the Policy Schedule;
- (c) notwithstanding any overall or individual limit, a sub-limit shown in this cover section restricts the amount payable for each and every Loss and all Losses to which the sub-limit applies;
- (d) a sub-limit forms part of the overall or individual limit and is not an additional amount payable beyond the overall or individual limit.

**“Loss”** means the definition set out in the individual Coverage Part of this cover section under which an indemnity is sought.

**“Merger”** means the occurrence of:

- (a) You consolidating, amalgamating or merging all or substantially all of Your assets into, to or with another entity or person or group of persons and/ or entities acting in concert; or
- (b) any person(s) and/or entity, whether individually or collectively, acquiring an amount of share capital representing more than fifty per cent (50%) of the voting power for the election of directors of Your Company, or acquiring the voting rights for such an amount of the shares.

**“Non-Profit Entity”** means any corporation, association, trust, fund, institution or foundation:

- (a) not included in the definition of Your Company; and
- (b) established for charitable, community, industry or social purposes, but not for the purpose of making profits.

**“Outside Position”** means the position of director, officer, manager, trustee or other equivalent position held by any of Your People at Your written request in:

- (a) any Non-Profit Entity or Associated Company; or
- (b) any other entity for which Outside Positions cover is confirmed by the Policy Schedule.

**“Pollutants”** means any substance located anywhere in the world exhibiting any hazardous characteristics including without limitation substances identified on a list of hazardous substances issued by any governmental agency in the Commonwealth of Australia or any State or Territory thereof. Such substances include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste materials. Pollutants also means any other air emission, odour, waste water, oil or oil products, infectious or medical waste, Asbestos or Asbestos products, electric or magnetic or electromagnetic field and noise.

**“Pollution”** means the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of Pollutants into or on real or personal property, water or the atmosphere, clean up or associated costs.

**“Proposal”** means all proposals, including attachments and materials submitted therewith, for this cover section or for any Policy of which this cover section is a renewal or replacement. All such proposals, attachments and materials are deemed attached to and incorporated into this cover section.

**“Securities Claim”** means any legal proceeding commenced against an Insured, alleging a violation of any country’s laws in relation to:

- (a) the offering, sale, or listing of any Security; or
- (b) shareholders’ interests in any Security.

**“Security”** shall mean shares, stock, bearer instruments, derivatives, bonds, warrants, debentures, rights under a depository receipt or other securities (or interests therein) of whatever nature.

**“Solicitor”** means any Solicitor, firm of Solicitors, barrister or Queen’s Counsel appointed to act for an Insured in relation to any Claim.

**“Spouse”** means any lawful Spouse, civil partner or person deriving a similar status by reason of statute or common law.

**“Stand Alone Superannuation Fund”** means a superannuation fund or pension fund established by Your Company under its own trust structure and either managed by Your Company or on its behalf. It does not include an industry fund, a wholesale master trust, a retail master trust or public sector employees’ funds.

**“Statutory Fine”** means any monetary penalty or costs liable on conviction of any offence under an Act of Parliament.

**“Subsidiary”** means any organisation in which You hold more than 50% of the voting rights of that organisation or have the ability to control decisions made by the board of directors (whether directly or indirectly).

**“Tax Audit Costs”** means the reasonable and necessary professional fees, expenses and disbursements paid to accountants or registered tax agents for advising on and responding to an audit or investigation by a federal or state Commissioner of Taxation into Your liability to pay income tax, fringe benefits tax, capital gains tax, wholesale and sales tax, payroll tax, goods and services tax or superannuation contributions tax in respect to Your Business.

**“Wrongful Act”** means the definition set out in the individual Coverage Part under which an indemnity is sought.

**“You” “Your” “Your Company”** means, individually and/or collectively, the organisation(s) named in the Policy Schedule and their Subsidiaries in existence at the inception date of the Period of Insurance.

**“Your Business”** means Your Business and undertakings, as defined in the Policy Schedule.

**“Your People”** means:

- (a) any one or more natural persons who were, now are or will be a director, secretary, officer, or Employee of Your Company; or any person who was or now is or may hereafter become a trustee of a superannuation fund established for the benefit of the Employees of Your Company by whatever name called and whether or not validly appointed to occupy or duly authorised to act in such position;
- (b) any person who by virtue of any applicable legislation or law is deemed to be a director of the Your Company. Provided that the term Your People shall not include:
  - (i) any externally appointed officers such as administrators, receivers, statutory managers, liquidators, mortgagees in possession, or the like; or
  - (ii) any registered company or corporation.

## **b. General Extensions**

The following general extensions apply to all Coverage Parts of this cover section:

### **1. Acquisition of Your Company**

- (a) If during the Period of Insurance:
  - (i) You merge, or consolidate with another organisation or are taken-over; or
  - (ii) another organisation, or person or group of organisations or persons acting in concert acquires Securities or voting rights that result in ownership or voting control by the other organisation or person of more than 50% of the voting rights of Your Company; or

(iii) another organisation, or person or group of organisations or persons acting in concert secures the ability to control decisions made by the board of directors of Your Company; cover under this cover section continues until termination of the Period of Insurance as set forth in the Policy Schedule to this cover section, but only in respect of Claims for Wrongful Acts taking place prior to such merger, consolidation, take-over, acquisition, or the ability to control the board of directors' decisions. As of the effective date of such merger, consolidation, take-over, acquisition or the ability to control board of directors' decisions, all premiums paid or due at any time under this cover section are deemed fully earned and non-refundable.

(b) You agree to provide Us with written notice of such merger, consolidation, take-over, acquisition or ability to control the board of directors' decisions as soon as practicable, together with such further information as We may subsequently request.

## 2. Acquisitions and Creations

- (a) Subsidiaries created or acquired by You prior to the beginning of the Period of Insurance shall have cover available to them under the terms of this cover section for Wrongful Acts committed or alleged to have been committed after the date the Subsidiary was created or acquired.
- (b) Subsidiaries created or acquired by You after the beginning of and during the Period of Insurance, either directly or indirectly through any existing Subsidiary, shall have cover automatically available to them under the terms of this cover section for Wrongful Acts committed or alleged to have been committed after such date the Subsidiary was created or acquired subject to the new Subsidiary not being domiciled, registered, incorporated outside the Commonwealth of Australia, and not having any of its Securities listed on any exchange outside of the Commonwealth of Australia.
- (c) Subsidiaries created or acquired by You after the beginning of and during the Period of Insurance which are excluded under (b) above may apply for extension of cover for such Subsidiaries. We will request any additional information required and if We accept them, We will provide terms and conditions, including any additional premium payable, which may be required to extend cover to these Subsidiaries. If We grant cover it will be extended via endorsement and only for Wrongful Acts committed or alleged to have been committed on or after We provide cover.

## 3. Compensation for Court Attendance

We will pay, a maximum of \$500 per day up to a total sub-limit of \$100,000 for Your People who are legally required to attend court as a witness in respect of a Claim covered by this cover section.

The sub-limit forms part of and is not in addition to the Limit of Indemnity.

## 4. Continuous Cover

If the Insured first becomes aware of a Circumstance prior to the Period of Insurance, and that Circumstance is not notified to Us until a date during the Period of Insurance then;

- (a) providing that the failure to notify such Circumstance was not as a result of fraudulent non-disclosure or fraudulent misrepresentation by the Insured; and
- (b) subject to You having continuously held the relevant Coverage Part with Us between the time when the Insured first became aware of such Circumstance and the time of its notification; and
- (c) subject to any reduction of liability by Us under this cover section to the extent of any prejudice suffered by Us as a result of the failure by the Insured to notify such Circumstance which may give rise to a Claim prior to the Period of Insurance.

We will accept such Circumstance as a valid notification including any Claim arising from it and General Exclusion 7. Known Claims and Circumstances, shall not apply to that Circumstance.

## 5. Discovery Period

If this cover section is not renewed or replaced at the end of the Period of Insurance the Insured may purchase a Discovery Period of 84 months commencing from the end of the Period of Insurance during which time the Insured may continue to notify Us of any Claims but only Claims based on a Wrongful Act committed prior to the expiry of the Period of Insurance.

The Insured must request this Discovery Period in writing prior to the end of the Period of Insurance. We will offer this Discovery Period at an additional premium and on such terms and conditions as We determine.

## 6. Estates and Legal Representatives

This cover section provides cover for Claims for the Wrongful Acts of Your People where those Claims are made against the estates, heirs or legal representatives of Your People who are deceased or against the legal representatives, trustees-in-bankruptcy, guardians or attorneys of Your People who are incompetent, infirm, disabled, insolvent or bankrupt, but only to the extent that in the absence of such death, incompetence, infirmity, disability, insolvency or bankruptcy, such Claims would have been covered under this cover section.

## 7. Preservation of Indemnity

If any of Your People are unable to obtain the full benefit of a right to indemnity against You to which he or she is entitled, by reason only of Your Company suffering Financial Impairment and having insufficient funds available so as to indemnify Your People, then it is hereby agreed that We shall indemnify Your People against Loss arising from any Claim, up to the annual Limit of Indemnity to the extent it has not been reduced by any current Claim or earlier Claim. The burden of adducing satisfactory proof to obtain the benefit of this extension shall rest entirely with Your People and shall include the production of documentary evidence of Your assets and liabilities and any official statements issued by the liquidator, receiver, statutory manager or compromise manager.

## 8. Public Relations & Crisis Management Costs

We will pay the costs and expenses of a public relations firm or crisis management firm in the event of a Circumstance, if such firm would;

- (a) help to mitigate any Loss under this cover section; and/or
- (b) assist in exonerating any Insured against an alleged Wrongful Act in the event of a Claim.

This extension is subject to:

- (a) no costs or expenses being incurred without Our prior written consent; and
- (b) Our being reasonably satisfied that any expenditure with such a firm will be more than proportionately offset by reduced Claims costs to Us; and
- (c) an annual aggregate sub-limit of \$100,000 across all Coverage Parts of this cover section.

## 9. Your Previous Subsidiaries

Subsidiaries sold or dissolved by You after the beginning of the Period of Insurance shall have cover available to them under the terms of this Policy for Wrongful Acts committed or alleged to have been committed prior to the date of sale or dissolution.

### c. General Conditions

The following general conditions apply to all Coverage Parts of this cover section:

#### 1. Alteration and Assignment Clause

No change in, modification of or assignment of interest under this cover section will be effective except when made by a written endorsement to this cover section which is signed by Us or Our authorised representative.

#### 2. Authorisation Clause

By taking this cover section, You agree to act on behalf of the other Insureds and the other Insureds agree that You may act on their behalf in respect of:

- (a) the giving and receiving of notice of a Claim or termination;
- (b) the payment of premiums and the receiving of any return premiums that may become due under this cover section;
- (c) the agreement to and acceptance of endorsements; and
- (d) the giving or receiving of any notice provided for in this cover section except the giving of notice to apply for the Discovery Period.

## 3. Breach of Conditions

Where any Insured breaches any condition of this cover section and this has resulted in prejudice to the handling and/or settlement of any Claim, which in all other respects qualifies to be indemnified under this cover section, the indemnity afforded by this cover section in respect of such Claim shall be reduced to such sum as would have been payable by Us in the absence of such prejudice.

## 4. Claims and the Limit of Indemnity

- (a) All Claims made during the Period of Insurance are subject to Limit of Indemnity set out in the Policy Schedule for that Period of Insurance.
- (b) A Claim is deemed to be first made on the date the Claim is initially made against any Insured, regardless of whether such date is before or during the Period of Insurance.
- (c) For the purposes of this cover section, all Claims arising out of the same Wrongful Act and all Interrelated Wrongful Acts of any Insured will be deemed one Claim.

## 5. Continuing Representations

In granting cover under this cover section, We relied upon the statements and representations in the Proposal. The Insured represents that all such statements and representations will continue to be true and the continuing accuracy of these statements is deemed material to the acceptance of the risk or the hazard assumed by Us under this cover section.

Notwithstanding what is stated above, any act, error, omission, breach, default or knowledge of any director or officer will not be imputed to any Insured for the purposes of a statement or representation made in the Proposal.

## 6. Coverage Parts

The terms and conditions of each Coverage Part of this cover section apply only to that Coverage Part and shall not apply to any other Coverage Part. Each Coverage Part should be read in conjunction with the General Provisions of this cover section. Should there be inconsistency between the General Provisions of this cover section and the terms set in this cover section and each specific Coverage Part, the terms and conditions of the specific Coverage Part shall prevail.

## 7. Fraudulent Claims

If any Insured, being entitled to indemnity under this cover section, makes any application for indemnity under this cover section, knowing that such application for indemnity is false or fraudulent, We may refuse payment of the Claim and may cancel the contract in accordance with the ICA.

## 8. Interpretation of Words

The singular includes references to the plural and vice versa and any gender includes reference to all other genders.

## 9. Non-Fraudulent Non-Disclosure

The Insured acknowledges that the information provided to Us in their Proposal for insurance is relied upon by Us in assessing whether to accept the risk and if so, on what terms. The Insured also acknowledges that in the event of a non-fraudulent, non-disclosure in the Proposal of a matter the Insured knows or a reasonable person in the circumstances would know is relevant to Our decision whether to accept the risk and on what terms, We are entitled to cancel the contract, if a Claim has not been made. Notwithstanding Our right to avoid this cover section for such non-disclosure, We may, in Our absolute discretion, waive Our right to cancel this cover section and confirm indemnity to Your People.

## 10. Severability and Non-Imputation

In determining cover for Claims against Your People, no fact pertaining to, nor knowledge possessed by, nor any Wrongful Act committed by one of Your People will be imputed to any other of Your People.

### d. General Claims Conditions

The following general claims conditions apply to this cover section:

#### 1. Allocation

- (a) If in any Claim, the Insured incur Loss jointly with others, or incur in relation to a Claim an amount consisting of both Loss covered by this cover section and Loss not covered by this cover section, then We and the Insured will allocate such amount between covered Loss and uncovered Loss based upon Our assessment of which parts of the amount fall in and which fall outside this cover section.
- (b) If We and the Insured against whom a Claim is made agree on the allocation of Defence Costs in respect of Loss covered by this cover section and Loss not covered by this cover section, We will advance on a current basis Defence Costs allocated to covered Loss. If there is no agreement on an allocation of Defence Costs, We will advance on a current basis Defence Costs that We believe to be covered under this cover section until a different allocation is agreed, or it is judicially determined.

- (c) Any agreed, or judicially determined allocation of Defence Costs on account of a Claim will be applied retrospectively to all Defence Costs on account of such Claim, notwithstanding any prior advancement to the contrary. Any allocation or advancement of Defence Costs on account of a Claim will not apply to or create any presumption or admission in respect of the allocation of other Loss on account of such Claim or any other Claim.

#### 2. Defence and Settlement

- (a) Unless otherwise agreed by Us in writing, We have the right to investigate any Circumstance and the right, but not the obligation, to conduct in the name of the Insured any investigation and conduct the defence or settlement of any Claim. This right shall cease on the exhaustion of the Limit of Indemnity.
- (b) The Insured agree not to settle or offer to settle any Claim, incur any Defence Costs or otherwise assume any contractual obligation or admit any liability with respect to any Claim without Our prior written consent. We will not be liable for any settlement, Defence Costs, assumed obligation or admission to which We have not so consented to in writing.
- (c) The Insured agree to provide Us with all information, assistance and co-operation We reasonably request. Further, the Insured agree that in the event of a Claim, they will do nothing that may prejudice either the Insured's or Our position or any potential or actual rights of recovery. Should the handling or settlement of any Claim be prejudiced by the Insured's actions, the amount payable in respect of such Claim (including costs and expenses) shall be reduced to reflect such prejudice.
- (d) We may settle any Claim for any amount that We deem reasonable and the Insured shall consent to such settlement and provide any assistance with the resolution of the Claim that we reasonably require. If the Insured withholds consent to such settlement or declines to provide the assistance We require, Our liability for all Loss on account of such Claim will not exceed the amount for which We could have settled such Claim plus Defence Costs accrued as of the date such settlement was proposed in writing by Us to the Insured.
- (e) The Insured will not unreasonably withhold any consent referred to in this General Claims Condition.

#### 3. Defence Costs

- (a) Defence Costs are part of and not in addition to the Limit of Indemnity set forth in the Policy Schedule and any Defence Costs paid by Us reduce the available Limit of Indemnity.
- (b) Subject to Claims Condition 1. Allocation, We will advance on behalf of the Insured, Defence Costs that they have incurred in connection with Claims made against them, prior to settlement of such Claims.

Provided that to the extent it is finally established by judgment, settlement or other final adjudication that any such Defence Costs are not covered under this cover section, all Insured severally according to their interests, agree to repay to Us such Defence Costs.

- (c) We will indemnify the Insured for Defence Costs arising out of any criminal prosecution in which they are Acquitted by a Court, provided that:
- (i) no Defence Costs other than those incurred with Our prior written consent shall be payable under this extension; and
  - (ii) We shall not be under any obligation to advance Defence Costs as they are incurred, but may advance Defence Costs in amounts and at times as We in Our sole and absolute discretion determine; and
  - (iii) the Insured, according to their respective interests, shall repay any payments advanced by Us in the event that they are not entitled to such payment under this cover section.

#### 4. Insured's Right to Contest Claims

If the Insured does not agree with a decision made by Us to settle a Claim, the Insured can elect to contest the Claim at its own expense but Our liability will not exceed the amount for which the Claim should be settled in the opinion of a Senior Counsel appointed under Claims Condition 9. Senior Counsel.

We shall pay all Defence Costs incurred up to the date the Insured notifies Us in writing of its election under this clause, and shall pay the Insured (subject to the Limit of Indemnity and the Excess) the amount for which the Claim should be so settled. The Insured expressly agrees that Our liability in respect of such Claim shall then be at an end. If We believe that the Claim will not exceed the Excess, We may instruct the Insured to conduct the investigation, defence and settlement at their own expense. Should the Claim subsequently exceed the Excess, We agree to reimburse the reasonable Defence Costs incurred by the Insured in excess of the Excess, or pay on their behalf any additional Defence Costs, but not exceeding the lesser of the amount Senior Counsel advised the matter should be settled for or the Limit of Indemnity.

#### 5. Order of Payment

Where you have an overall annual single aggregate Limit of Indemnity for this cover section and have a Claim which is covered by one or more Coverage Parts, We will:

- (a) firstly pay Loss due under Coverage Part 1 – Directors' and Officers Liability, b) Individual Cover;
- (b) then pay Loss under any other applicable Coverage Parts.

#### 6. Other Insurance

Upon giving notice of any Claim the Insured agrees to provide Us with written details of any other insurance or source of indemnification that may cover or partially cover that Claim.

#### 7. Recoveries

We agree not to exercise Our rights of recovery against an Insured, save where Claims Condition 2(b) applies. All recoveries obtained by the Insured from parties other than an Insured, after the settlement or resolution of a Claim and after deducting the reasonable cost of obtaining such recovery, shall be applied in the following order:

- (a) first to the benefit of the Insured, where the Insured has contributed to a payment exceeding the Limit of Indemnity made to resolve the Claim up to the amount of that payment;
- (b) then to Our benefit for the amount We paid to resolve the Claim;
- (c) then to the benefit of the Insured for the Excess paid in respect of the Claim;
- (d) then to the benefit of the Insured for any uninsured losses; and
- (e) then to Our benefit in respect of any administrative costs connected with the Claim.

All recoveries made prior to settlement of any Claim shall be held by You or the lawyer appointed to act for Our benefit pending any settlement. The monies shall not be applied to You or Us in the order set out above until the matter has been fully resolved and all costs and expenses have been ascertained.

#### 8. Reporting and Notification

- (a) The Insured, will give Us written notice of any Claim made against the Insured, or any Fidelity Loss or any Tax Audit Costs as soon as practicable during the Period of Insurance or during any applicable Discovery Period to:  
The Liability Claims Centre of Excellence  
Lumley Insurance  
GPO Box 524  
Brisbane  
Queensland 4000
- (b) Full details of the Claim (including any Writ, Summons or other legal document) shall be provided with the notice, which must be forwarded to Us and the Insured shall provide Us with such further information, documentation and co-operation as We may reasonably require.

#### 9. Senior Counsel

We shall not require the Insured to defend any legal proceedings in respect of any Claim against them, nor shall the Insured be able to require Us to defend, on its behalf, any legal proceedings in respect of any such Claim, unless a Senior Counsel (to be mutually agreed upon by the Insured and Us and in default by the chairman of the bar association of the state in which

this cover section is issued) shall advise that such proceedings should be defended. In formulating such advice, the Senior Counsel shall take into consideration the economics of the matter, the damages and costs that are likely to be recovered by the claimant, the likely Defence Costs and the prospects of the Insured successfully defending the action. The cost of the Senior Counsel's opinion shall be regarded as part of the Defence Costs of any Claim.

In the event that the Senior Counsel advises that, having regard to all the circumstances, the matter should not be defended but should be settled, provided that settlement can be achieved within certain limits that in the Senior Counsel's opinion are reasonable, then the Insured shall co-operate with Us to try to effect such settlement in accordance with this cover section. Should the Insured decide to defend such a Claim, Our liability shall not exceed the amount which the matter could have been resolved for in the advice of the Senior Counsel.

## 10. Subrogation

We shall be subrogated to the Insured's rights of recovery to the extent of any payment made under this cover section. Each Insured agrees to do everything necessary to secure and preserve such rights, including the execution of such documents as are necessary to enable Us to bring proceedings in the name of the Insured.

## e. General Exclusions

The following general exclusions apply to all Coverage Parts of this cover section:

We will not be liable for Loss:

### 1. Asbestos

arising directly or indirectly, out of inhalation of, or fears of the consequences of exposure to or inhalation of, Asbestos, Asbestos fibres or derivatives of Asbestos; or that part of any Loss, cost or expense for the cost of cleaning up, or removal of, or damage to, or loss of use of, property arising out of any Asbestos, Asbestos fibres or derivatives of Asbestos.

### 2. Bodily Injury and Property Damage

for any bodily injury, mental anguish, emotional distress, sickness, disease or death of any person, or for damage to or destruction of any tangible property including loss of use thereof, or for defamation or violation of a person's right of privacy except that:

- (a) this exclusion does not apply in respect of: any liability for actual or alleged mental anguish, emotional distress, defamation or violation of a person's right of privacy in any Claim by Your People for any Employment Related Wrongful Act in Coverage Parts 1 – Directors and Officers Liability and Coverage Part 2 – Employment Practices Liability;
- (b) We will pay, on behalf of Your People, Defence Costs arising from any Claim first made against them and notified to Us during the Period of Insurance involving

criminal proceedings for corporate killing or corporate manslaughter (or other similar criminal offence) provided such payments are not contrary to law; and

- (c) this exclusion does not apply to any Occupational Health and Safety coverage afforded under Coverage Part 1 – Directors and Officers Liability and Coverage Part 3 – Statutory Liability.

## 3. Damages

- (a) for the payment of any tax, including any fine or penalty, resulting from the failure to pay any tax; or
- (b) which consists of punitive, exemplary or aggravated damages; or
- (c) in respect of which it is illegal to insure or indemnify; or
- (d) for damages which are a multiple proportion of any lesser damages award.

## 4. Fraud

for any dishonest, malicious or fraudulent act or omission or any wilful violation of any statute or regulation if a judgment or other final adjudication adverse to any Insured establishes that such Insured committed such an act, omission or wilful violation.

This exclusion 4. does not apply to Coverage Part 4 – Company Expenses, Extension 2. Fidelity Loss.

## 5. Insolvency

arising directly or indirectly out of, or attributable to or in any way connected to the Financial Impairment, bankruptcy, insolvency, receivership or administration of Your Company.

## 6. Jurisdiction

brought in a court or tribunal outside of the Commonwealth of Australia or New Zealand; or any liability arising from the application by an Australian or New Zealand court or tribunal of any foreign law.

## 7. Known Claims and Circumstances

- (a) made against or intimated to the Insured prior to the commencement of the Period of Insurance; or
- (b) notified under any previous policy of insurance; or
- (c) arising out of or connected with any facts or Circumstances which a director or officer of Your Company became aware of prior to the commencement of the Period of Insurance and a reasonable person in the position of the director or officer would have considered those facts or Circumstances might give rise to a Claim against the Insured.

## 8. Personal Profit

based upon, arising out of or attributable to any Insured gaining any personal profit, remuneration or financial advantage to which such Insured was not legally entitled.

## 9. Pollution

based upon, arising out of or attributable to or in any way connected to Pollution, except that:

- (a) under Coverage Part 1 – Directors and Officers Liability of this cover section, We will pay, on behalf of Your People, Defence Costs with a sub-limit up to the lesser amount of the Limit of Indemnity or A\$1,000,000 arising from any Claim first made against them and notified during the Period of Insurance and that Claim involves a criminal or regulatory offence.
- (b) under Coverage Part 1 – Directors and Officers Liability of this cover section, We will pay, on behalf of Your People, Loss arising from any Claim first made against them and notified during the Period of Insurance involving a shareholder and/or bondholder of Your Company either directly or derivatively alleging loss in the value of the share capital of Your Company by reason of Pollution of any kind; and
- (c) under Coverage Part 3 – Statutory Liability of this cover section, We will pay, on behalf of Your Company, Loss for any Claim for a Wrongful Act in respect of Pollution.

## 10. Products or Services

- (a) brought by or on behalf of any Your clients or customers in connection with products or services provided by You; or
- (b) arising directly or indirectly out of any breach of duty in respect of any professional services or professional advice provided by the Insured; or
- (c) arising directly or indirectly out of any breach of any contract for the provision of professional services or professional advice provided by the Insured.

## 11. Retroactive Date

arising out of, or connected with any facts or Circumstances prior to the Retroactive Date, if any, specified in the Policy Schedule, provided that nothing contained within this exclusion is interpreted as releasing the Insured from their obligation to disclose prior to the commencement of this cover section all details of Claims already made or outstanding, or events likely to give rise to a Claim. The application of this exclusion is subject to the operation of General Extension 4. Continuous Cover.

## 12. Securities

arising directly or indirectly out of, or in any way connected with:

- (a) Your offer, sale or listing of any Securities at any time; or
- (b) any of Your People's offer, sale, or listing of any Securities, but only where such Securities have been offered, sold or listed after the commencement of the Period of Insurance.

## 13. Territorial Limits

brought about by a Wrongful Act under the Coverage Part under which indemnity is sought, committed wholly outside the Commonwealth of Australia, or New Zealand to which the laws of the Commonwealth of Australia or New Zealand do not apply, or arising from the application by an Australian or New Zealand court or tribunal of any foreign law to a Wrongful Act under the Coverage Part under which indemnity is sought.

### Coverage Part 1 - Directors & Officers Liability

Note: This Coverage Part 1 is to be read in conjunction with the General Provisions section of this cover section.

#### a. Definitions

The following definitions apply to this Coverage Part 1 only:

**"Claim"** means:

- (a) any written document served upon Your People marking the beginning of a civil, criminal, or arbitral proceeding against Your People alleging a Wrongful Act; or
- (b) any written communication demanding compensation or threatening commencement of proceedings in respect of an actual or alleged Wrongful Act; or
- (c) any formal or official investigation (excluding any internal investigation) by a regulatory, governmental, professional or other authorised institution authorised to carry out such an investigation against Your People which may give rise to a Claim.

**"Loss"** means any amount which Your People become legally obligated to pay on account of any Claim first made during the Period of Insurance. Such Claim must be made against Your People for Wrongful Acts for which cover applies, including, but not limited to, damages, judgments, compensation, contributions, or settlements and Defence Costs.

Loss does not include any amount for which Your People are absolved from payment.

**"Wrongful Act"** means:

any error, misstatement, misleading statement, act, omission, negligence, breach of duty, libel, slander, breach of contract, breach of warranty, wrongful trading, or other act actually or allegedly committed or attempted by Your People in their capacity as a director, secretary, officer or Employee of Your Company or in an Outside Position.

#### b. Coverage

The following coverage applies to this Coverage Part 1 only:

##### 1. Individual Cover

We will pay, on behalf of Your People, Loss for any Claim for a Wrongful Act first made and notified to Us during the Period of Insurance, provided Your People are not indemnified by You and are legally obligated to pay.



## 2. Your Reimbursement Cover

We will pay You for any Loss arising from Your indemnification of Your People, as permitted or required by law, and that Your People have become legally obligated to pay on account of any Claim for a Wrongful Act first made and notified to Us during the Period of Insurance.

### c. Extensions

The following extensions apply to this Coverage Part 1 only:

#### 1. Automatic Reinstatement of the Limit of Indemnity for Non-Executive Directors

In the event the Limit of Indemnity and all other indemnification available to a Non-Executive Director is exhausted We will reinstate the Limit of Indemnity once, provided that this provision is only available to Your People to the extent Your People are a Non-Executive Director of Your Company.

For the purpose of this extension a Non-Executive Director is:

- (a) any natural person who was or is or during the Period of Insurance becomes a member of the board of Your Company; and
- (b) who within the last three years:
  - i) has not served as an executive director of Your Company; and
  - ii) has not served as an Employee of Your Company; and
  - iii) has not received, either directly or indirectly from Your Company, money or benefits of any kind for services given in any capacity except as a director of Your Company.

#### 2. Bail and Civil Bond Expenses

We will pay the cost of Bail and Civil Bond Expenses for Your People incurred in the event of a Claim that is covered under this cover section subject to:

- (a) no costs or expenses being incurred without Our prior written consent; and
- (b) an annual aggregate sub-limit of \$100,000.

#### 3. Employment Superannuation Scheme

We will pay, on behalf of Your People, for any Claim by reason of any Wrongful Act resulting in Loss arising out of their individual or collective capacities as trustees of Your Company's Stand Alone Superannuation Fund. Cover provided by this extension shall not be excluded solely on the ground that a Claim is brought by a member of the superannuation or pension scheme who is also a director or officer of Your Company.

#### 4. Outside Position Liability

- (a) We shall indemnify any of Your People for Loss arising out of a Wrongful Act committed whilst serving in an Outside Position of any Non-Profit Entity or Associated Company or any entity listed in the Policy Schedule.

- (b) Any cover provided in this extension will only be in excess of any indemnity available from or provided by, or insurance taken out by, the entity in which Your People serve in the Outside Position or any insurance taken out by any other entity that covers Your People in the Outside Position.

#### 5. Retired Directors

In the event that any of Your People cease to be a director or officer of Your Company prior to the expiry of the Period of Insurance for reasons other than:

- (a) disqualification from holding the office of director or officer and/or;
- (b) dismissal from their position as director or officer and/or;
- (c) the acquisition of Your Company as noted in General Extensions 1. Acquisition of Your Company and/or;
- (d) Your Company being wound-up.

Your People shall be entitled to a free Discovery Period for a period of 84 months, provided always that this Discovery Period shall not apply where You renew or replace this Coverage Part (whether with Us or not).

#### 6. Spousal Liability

If a Claim against Your People includes a Claim against Your People's Spouse solely by reason of:

- (a) the legal status as a Spouse of Your People; or
- (b) ownership or interest in property which the Claimant seeks as recovery for alleged Wrongful Acts of Your People then:

all Loss which such Spouse becomes legally obligated to pay by reason of such Claim will be treated for purposes of this Coverage Part as Loss which Your People become legally obligated to pay on account of the Claim made against Your People.

All terms and conditions of this Coverage Part, including without limitation the Excess if any, applicable to Loss incurred by Your People in the Claim will also apply to such spousal Loss.

The cover provided by this extension does not apply to the extent the Claim alleges any act or omission by Your People's Spouse.

#### d. Exclusions

The following exclusions apply to this Coverage Part 1 only:

We will not be liable for Loss on account of any Claim:

##### 1. Fine and Penalties

which consists of fines or penalties.

However this exclusion shall not apply, up to a sub-limit of \$1,000,000, where Your People have committed an offence under an Act of Parliament punishable on conviction by a Statutory Fine unless:

- (a) such Statutory Fine is due to an actual or alleged violation of any law or regulation with respect to vehicle,

- air or marine traffic and/or;
- (b) such Statutory Fine is attributable to, or in any way involving Your People's intentional or reckless disregard of the provisions of any Act of Parliament and/or;
- (c) such Statutory Fine (or part of a Statutory Fine) is a penalty imposed for failing to comply with any enforcement order or remedial order or for the cost incurred by Your People in complying with any enforcement or remedial order and/or;
- (d) such Statutory Fine relates to an offence other than in the course of or in connection with Your Business.

## 2. Insured Versus Insured Exclusion

arising out of or instigated against Your People (whether in Your name or not) by any other of Your People, provided that this exclusion shall not apply to:

- (a) any Claim in relation to an Employment Related Wrongful Act; or
- (b) any Claim brought by Your People solely for a contribution or indemnity in respect of a Claim brought against any other of Your People and which is otherwise covered under another Coverage Part of this cover section; or
- (c) any Claim brought in Your name as a shareholders derivative action, provided that such Claim is not solicited or assisted by any of Your People; or
- (d) any Claim brought in Your name by a liquidator, administrator, or receiver or manager, provided that such Claim is not solicited or assisted by any of Your People.

## 3. Major Shareholder

brought or maintained by or on behalf of any shareholder holding or controlling (directly or beneficially) 20% or more of the voting shares or rights or issued capital of Your Company if the Wrongful Act occurred or allegedly occurred on or any time after the date on which that shareholder became a major shareholder.

## 4. Outside Position

for a Wrongful Act by Your People in an Outside Position if such Claim is brought or maintained by or on behalf of the entity in which Your People serve or by or on behalf of any director, officer or trustee of such entity except:

- (a) a Claim that is a derivative action brought or maintained on behalf of such entity without the solicitation, assistance or active participation of such entity or any director, officer or trustee of such entity; or
- (b) a Claim brought or maintained by a director, officer or trustee of such entity for any actual or alleged Employment Related Wrongful Act; or
- (c) a Claim brought or maintained by an external auditor appointed by the Outside Directorship Company; or
- (d) a Claim brought or maintained by a liquidator,

administrator or receiver or manager or equivalent in any jurisdiction on behalf of such entity without the solicitation, assistance or active participation of any of Your People or by or on behalf of any director or officer in such entity.

## Coverage Part 2 - Employment Practices Liability

Note: This Coverage Part 2 is to be read in conjunction with the General Provisions section of this cover section.

### a. Definitions

The following definitions apply to this Coverage Part 2 only:

**"Claim"** means:

- (a) any written document served upon Your Company marking the beginning of a civil, criminal, or arbitral proceeding against Your Company alleging a Wrongful Act; or
- (b) any written communication demanding compensation or threatening commencement of proceedings in respect of an actual or alleged Wrongful Act; or
- (c) any formal or official investigation (excluding any internal investigation) by a regulatory, governmental, professional or other authorised institution authorised to carry out such an investigation against Your Company which may give rise to a Claim.

**"Loss"** means any amount which Your Company becomes legally obligated to pay on account of any Claim made during the Period of Insurance. Such Claim must be made against Your Company for Wrongful Acts for which cover applies, including, but not limited to, damages, judgments, settlements and Defence Costs.

Loss does not include:

- (a) any amount for which Your Company is absolved from payment;
- (b) taxes, fines or penalties imposed by law;
- (c) the multiple portion of any multiplied damage award or punitive or exemplary damages;
- (d) any other amount which is uninsurable under the law pursuant to which this cover section is construed.

**"Wrongful Act"** means an Employment Related Wrongful Act.

### b. Coverage

The following applies to this Coverage Part 2 only:

We will pay, on behalf of Your Company, Loss for any Claim for a Wrongful Act first made and notified to Us during the Period of Insurance.

### c. Exclusions

The following exclusions apply to this Coverage Part 2 only:

We will not be liable for Loss on account of any Claim:

## 1. Employee Entitlements

for payment to any of Your People of any amount which Your Company was obligated (whether under any statute or any express or implied term of any employment agreement or otherwise) to pay prior to the Wrongful Act being committed.

## 2. Employee Remuneration

for the payment of any remuneration or benefit to any of Your People who has been reinstated into their former position after a Wrongful Act.

## 3. Industrial Action

arising from Wrongful Acts committed during any lockout, strike, picket, stand-down or suspension, or other industrial dispute.

## 4. Modifications to Workplace

for the cost of physical modifications to Your Company's workplace, or the cost of changes to workplace procedures.

## 5. Non-Compliance

for non-compliance with any judgment, award, determination or demand against Your Company issued or published by any Employment Relations Authority, Employment Court, Court of Appeal, Human Rights Commission, Complaints Review Tribunal, Privacy Commission, or Labour Inspector employed by a Department of Labour (or equivalent) or any other court or statutory body.

## 6. Redundancy Compensation

for failure by Your Company to pay adequate redundancy compensation or benefit in accordance with any legal requirement to any of Your People dismissed by reason of redundancy.

## 7. Statutory Liability

arising out of or connected with any statute relating to workers compensation, accident compensation or occupational health and safety.

### Coverage Part 3 - Statutory Liability

Note: This Coverage Part 3 is to be read in conjunction with the General Provisions section of this cover section.

#### a. Definitions

The following definitions apply to this Coverage Part 3 only:

**"Claim"** means:

- (a) any formal or official investigation (excluding any internal investigation) by a regulatory, governmental, professional or other authorised institution, authorised to carry out such an investigation against Your Company which might give rise to a Loss; and/or
- (b) any written communication by a regulatory,

governmental, professional or other authorised institution served upon Your Company threatening commencement of legal proceedings, or marking the beginning of legal proceedings against Your Company alleging a Wrongful Act.

**"Loss"** means any Defence Costs and any Statutory Fine issued during the Period of Insurance.

Loss does not include:

- (a) any amount for which Your Company is absolved from payment;
- (b) any compliance, remedial, reparation or restitution costs;
- (c) the multiple portion of any multiplied damage award;
- (d) punitive or exemplary damages;
- (e) taxes, employee remuneration or compensation payable; or
- (f) any other amount which is uninsurable under the law pursuant to which this cover section is construed.

**"Wrongful Act"** means any act or omission by Your Company in connection with Your Business that may result in an allegation that Your Company has committed an offence under an Act of Parliament punishable on conviction by Statutory Fine or imprisonment.

#### b. Coverage

The following coverage applies to this Coverage Part 3 only:

We will pay, on behalf of Your Company, Loss for any Claim for a Wrongful Act first made and notified to Us during the Period of Insurance.

#### c. Exclusions

The following exclusions apply to this Coverage Part 3 only:

We will not be liable for Loss on account of any Claim:

##### 1. Enforcement Order

for payment of any fine (or part of a fine) which is a penalty imposed for failing to comply with any enforcement order or remedial order or for the cost incurred by You in complying with any enforcement or remedial order.

##### 2. Motor, Air and Marine

arising out of an actual or alleged violation of any law or regulation with respect to vehicle, air or marine traffic.

##### 3. Reckless Disregard

arising out of or based upon, attributable to, or in any way involving Your Company's intentional or reckless disregard of the provisions of any Act of Parliament.

## 4. Unreasonable Plea

where Your Company is intending to plead guilty or not guilty, but the intended plea is not reasonable, based on the available evidence, the weight and cogency of that evidence, the burden of proof and the applicable law.

## 5. Your Business

arising out of activities which are not either: (a) part of the ordinary course of Your Business; or (b) directly connected with Your Business.

## Coverage Part 4 - Company Expenses

Note: This Coverage Part 4 is to be read in conjunction with the General Provisions section of this cover section.

### a. Definitions

The following definitions apply to this Coverage Part 4 only:

**"Claim"** means:

- (a) any written communication demanding compensation or threatening the commencement of proceedings in respect of an actual or alleged Wrongful Act;
- (b) any written document served upon Your Company marking the beginning of a civil, criminal or arbitral proceeding against Your Company alleging a Wrongful Act.

**"Loss"** means Solicitors' reasonable fees, expenses and disbursements incurred by Your Company in investigating or defending a Claim.

**"Wrongful Act"** means any error, misstatement, misleading statement, act, omission, negligence, breach of duty, libel, slander, breach of warranty, wrongful trading, or other act actually or allegedly committed or attempted by Your Company in connection with Your Business.

### b. Coverage

The following coverage applies to this Coverage Part 4 only:

We will pay for Loss on behalf of Your Company for any Claim for a Wrongful Act first made and notified to Us during the Period of Insurance.

### c. Extensions

The following extensions apply to this Coverage Part 4 only:

#### 1. Contractual Liability

Notwithstanding Exclusion 1. Breach of Contract, We will pay Defence Costs arising from any Claim in connection with an alleged breach by Your Company of any express contract or agreement. Our total liability during the Period of Insurance for all Claims under this extension will not exceed \$100,000.

## 2. Fidelity Loss

Subject to an Excess of \$4,000 for each and every Claim, We will reimburse Your Company, up to a sub-limit of \$750,000, for a Fidelity Loss.

This extension shall also cover subject to the sub-limit:

- (a) auditors fees, costs, charges and expenses incurred with Our prior written consent that are reasonably necessary to determine the value of a Fidelity Loss and are reasonable in amount on Our acceptance that a Fidelity Loss has occurred; and
- (b) Fidelity Loss in relation to Your Stand Alone Superannuation Fund; and
- (c) Fidelity Loss in relation to any welfare, social or sporting club formed with Your knowledge and consent and designed exclusively for the benefit of Your Employees; and
- (d) Fidelity Loss caused by a director (but only where there are multiple directors of Your Company) is sub-limited up to \$100,000 and is part of and not in addition to the sub-limit for this extension.

However, this extension shall not cover Fidelity Loss;

- (a) if an indemnity is available under any other policy that more appropriately responds to the Loss; or
- (b) arising out of, or in any way related to any proprietary information, intellectual property, trade secrets, confidential processing methods, or other confidential information of any kind; or
- (c) arising out of, or in any way related to the destruction or damage to any premises or building; or
- (d) arising out of, or in any way related to, or caused by an agent, broker, authorised representative, consignee, contractor, subcontractor or similar representative; or
- (e) arising out of, or in any way related to indirect or consequential loss or damage of any kind, provided that this exclusion shall not apply auditors fees, costs, charges and expenses that are reasonably required in determining the value of a Fidelity Loss and are reasonable in amount; or
- (f) first Discovered prior to the commencement of the Period of Insurance, or after the expiry of the Period of Insurance; or
- (g) which can only be proved by means of one or more of the following: a profit and loss computation or comparison, or a comparison of inventory records with an actual physical inventory count; or
- (h) arising out of, or in anyway related to the loss of, damage to, or reproduction of: records, manuscripts, accounts, tapes or any other form of hard copy records or electronic records; or
- (i) arising out of, or in anyway related to the authorised or unauthorised trading of Insured Property by an Employee, regardless of whether such trading is in the name of an Insured or not, and regardless of whether

any accounts used are genuine or fictitious; or

- (j) arising out of, or in anyway related to, the voluntary giving, exchanging, purchasing or surrendering of Insured Property.

### 3. Tax Audit Costs

Subject to an Excess of \$1,000 for each and every Claim, We will pay Tax Audit Costs up to a sub-limit of \$250,000.

However, this extension 3. will not pay for any Tax Audit Costs;

- (a) incurred without Our prior written consent; and/or
- (b) arising from Your improper, unwarranted or unjustified refusal or failure to comply with any lawful request made by a state or federal Commissioner of Taxation for the production of documents or the supply of information. Refusal or failure to comply will not be deemed improper, unwarranted or unjustified if You refuse or fail to comply based upon the reasonable advice of Your accountant or tax agent that such refusal or failure is appropriate and You provided that accountant or tax agent with all relevant documents and information; and/or
- (c) relating to audits or investigations under customs legislation; and/or
- (d) relating to audits or investigations of income received or earned where the source of income is, outside the Commonwealth of Australia or where the services giving rise to the Claim are performed by persons or entities ordinarily resident outside Australia; and/or
- (e) relating to audits or investigations arising out of any fraud or fraudulent act or omission committed by You or on Your behalf; and/or
- (f) arising from audits or investigations where You, or any person acting on Your behalf, has become aware of any error or deficiency in any return of income or other documentation supplied to a state or federal Commissioner of Taxation and You, or any person acting on Your behalf, has failed to notify the Commissioner of that error or deficiency within the lesser of a reasonable time or the time limit for contesting such an error or deficiency.

### d. Exclusions

The following exclusions apply to this Coverage Part 4 only (but do not apply to: Extension 2. – Fidelity Loss or Extension 3. – Tax Audit Costs above)

We shall not be liable for Loss on account of any Claim:

#### 1. Breach of Contract

arising out of any actual or alleged breach of contract.

#### 2. Fines and Penalties

which consists of fines or penalties.

### 3. Intellectual Property

arising out of any actual or alleged breach of intellectual property or copyright.

### 4. Intentional Claims

that Your Company has intentionally encouraged.

### 5. Motor, Air or Marine

arising out of an actual or alleged violation of any law or regulation with respect to vehicle, air or marine traffic.

### 6. Statutory Liability

arising out of an actual or alleged offence under an Act of Parliament.

### 7. Your People

- (a) arising from or solicited by Your People; or
- (b) arising out of or connected with an Employment Related Wrongful Act.

# MOTORPACK - STEADFAST

## PRODUCT DISCLOSURE STATEMENT

This is the Product Disclosure Statement (PDS) for the Motorpack Section of this Policy. The Important Information, General Exclusions and General Conditions sections of the Commercial Business Package also form part of this PDS.

### Premium

In order to calculate Your Premium, We take various factors into consideration, including the level of cover requested and the property to be insured. For the Motorpack section of this Policy these factors include but are not limited to:

- type and value of Vehicle;
- type of Freight carried;
- fleet kilometres travelled;
- type of cover requested;
- age and experience of each Driver;
- location and operating radius of the Vehicle;
- Loss/claims history for the last five years;
- risk management procedures undertaken by Your business.

Factors that increase the risk to Us generally increase the Premium (e.g. high claims experience or higher Sum Insured) and factors that reduce the risk to Us generally reduce the premium (e.g. low claims experience or lower Sums Insured).

Your Premium also includes amounts that take into account Our actual or estimated obligation to pay any relevant compulsory government charges, taxes or levies (for example Stamp Duty, GST and Fire Services Levy).

Where We are required to pay an estimated amount (e.g. for Fire Services Levies) based on criteria set by the Government, We allocate to the Policy Our estimate of the amount We will be required to pay. We may under or over recover in any particular year but We will not adjust Your Premium because of this. You can ask Us for more details if You wish.

When You apply for this insurance, You will be advised of the total amount payable, when it needs to be paid and how it can be paid. This amount will be clearly set out in Your Policy Schedule, which will be sent to You within five days of the issue of this product. If You fail to pay, We may reduce any claim payment by the amount of Premium owing and/or cancel the Policy.

You may also be required to pay an Excess in the event of a claim under this Policy. The amount of any Excess will be shown on Your Policy Schedule.

### Excess

An Excess is the part of a claim You must contribute and it is payable for each and every claim covered by the Motorpack Section. The Excess is shown in the Policy Schedule, and any additional Excesses payable in certain circumstances are shown in the Policy (refer to the Policy wording for further details). Excesses shall be cumulative across all Parts of Motorpack and within each Part of Motorpack.

The Excess is payable unless We are satisfied that another identified party is at fault, You are not at fault, and You provide Us with the other party's name and contact details.

## MOTORPACK SIGNIFICANT FEATURES AND BENEFITS

### Part A – Commercial Motor

This is a **summary only** and must be read in conjunction with the full wording within Part A of the Policy.

Cover For Your Vehicle – Section 1	Included Benefits	Section 1 Limit - Up to \$15million
Summary of Included Benefits – Section 1	<b>Accessories</b>	Reasonable Cost or listed in the Policy Schedule
	<b>Automatic Trailer Cover</b>	Up to \$1,000 per event
	<b>Completion of Journey Costs</b>	Included in Repatriation of Driver and Repatriation of Vehicle
	<b>Death Benefit</b>	Up to \$25,000 (including Funeral Expenses) per event
	<b>Death or Disability</b>	Death included in Death Benefit
	<b>Disability Modifications</b>	Reasonable Costs up to \$5,000 per event
	<b>Emergency Repairs</b>	Reasonable Costs up to \$2,000 per event
	<b>Funeral Expenses</b>	Included in Death Benefit
	<b>Employee Vehicles</b>	Reasonable Costs up to \$25,000 per event in Excess of any claims benefit available under any other Policy of insurance
	<b>Goods in transit</b>	Benefit for Vehicle up to 4.5T GVM up to \$5,000 per event in Excess of any claims benefit available under any other contract of insurance subject to additional \$250 Excess per event
	<b>Hire Car following Theft</b>	Reasonable Costs up to \$100 per day up to 21 days and maximum up to \$2,100 per event
	<b>Immediate Family Travel Expenses</b>	Reasonable Costs up to \$3,000 any one Period of Insurance
	<b>Keys and locks</b>	Reasonable Costs up to \$5,000 per vehicle and maximum up to \$10,000 per event
	<b>Replacement with a New Vehicle (Total Loss of Vehicle)</b>	Vehicle up to 4.5T GVM within 2 years of original registration
	<b>Leased or Financed Payout (Total loss gap cover)</b>	Up to 25% of the market value
	<b>Mechanical Breakdown</b>	Vehicle up to 4.5T GVM, less than 5 years old and travelled less than 100,000 KM (not for passengers carriage and Courier), up to \$2,000 per event or up to \$6,000 any one Period of Insurance
	<b>Personal Effects</b>	Reasonable Costs up to \$1,500 per event
	<b>Removal of Debris</b>	Reasonable Costs up to \$50,000 per event
	<b>Repatriation of Driver</b>	Reasonable Costs up to \$3,000 per event
	<b>Repatriation of Vehicle</b>	Reasonable Costs up to \$1,000 per event
<b>Replacement Glass (Nil Excess)</b>	Reasonable Costs up to \$1,000 per event Vehicle up to 4.5T GVM	
<b>Signwriting</b>	Reasonable Costs of Replacement	
<b>Towing</b>	Reasonable Costs of removal and Towing to the nearest repairer.	
<b>Tyre Replacement</b>	Reasonable Costs of Replacement	
<b>Uninsured Motorist Protection</b>	Material Damage Protection (gap cover) up to \$10,000 per event	
<b>Windscreen</b>	Included in Replacement Glass Vehicle up to 4.5T GVM	
Summary of Benefits – Section 1 - Optional	<b>Hire Car following Collision</b>	Reasonable Costs up to \$100 per day up to 21 days and maximum up to \$2,100 per event subject to additional premium
Liabilities to Third Parties - Section 2	<b>Included Benefits</b>	<b>Section 2 Limit - Up to \$35million</b>

<b>Summary of Included Benefits – Section 2</b>	<b>Dangerous Goods Liability</b>	Up to \$5,000,000
	<b>Damage to Leased Premises</b>	Up to \$100,000 per event
	<b>Defence Costs</b>	Reasonable Costs up to \$10,000 per criminal event
	<b>Liability for goods being Carried, Loaded and Unloaded</b>	Legal liability for damage to Third Party property
	<b>Legal Costs</b>	Legal Costs with prior written consent
	<b>Movement of other Vehicles</b>	Legal liability for damage to Third Party property
	<b>Non-Owned Vehicle</b>	Legal liability for damage to Third Party property
	<b>Non-Owned Vehicles in Car Park</b>	Legal liability for damage to employees or visitors vehicles within car park
	<b>Towing Disabled Vehicles</b>	Legal liability for damage to Third Party property
	<b>Trailers</b>	Legal liability for damage to Third Party property
<b>Extensions to Section 1 and Section 2</b>	<b>Automatic Additions and Deletions</b>	Notify Us within 30 days up to \$250,000
	<b>Contractual Liability</b>	Legal liability for damage to Third Party property
	<b>Cross Liability</b>	Waive Our rights of subrogation
	<b>L.P.G Conversion</b>	Included in General Extensions
	<b>Other Interested Parties</b>	Included in General Extensions
	<b>Sea Transportation</b>	General Average and Salvage Charges
<b>General Condition</b>	<b>Subrogation Waiver</b>	Waive Our rights of subrogation
	<b>No Fault Excess</b>	Waive Excess if Loss was not Your Fault

## Part B –Heavy Motor

This is a **summary only** and must be read in conjunction with the full wording within Part B of the Policy.

<b>Cover For Your Vehicle – Section 1</b>	<b>Included Benefits</b>	<b>Section 1 Limit - Up to \$15million</b>
<b>Summary of Included Benefits – Section 1</b>	<b>Accessories</b>	As Nominated
	<b>Death Benefit</b>	\$25,000 (including Funeral Expenses) per event
	<b>Emergency Accommodation</b>	Reasonable Costs up to \$3,000 per event
	<b>Emergency Repairs</b>	Reasonable Costs up to \$10,000 per event
	<b>Finance Payments of Repaired Vehicles</b>	Up to \$8,000 any one Period of Insurance
	<b>First Aid Kit Expenses</b>	Reasonable Costs up to \$2,500 per event
	<b>Hire Substitute Vehicles Including Theft</b>	Up to \$5,000 or 4 weeks whichever is the less any one event
	<b>Immediate Family Travel Expenses</b>	Reasonable Costs up to \$3,000 any one Period of Insurance
	<b>Keys and Locks</b>	Reasonable Costs up to \$10,000 any one Period of Insurance
	<b>Leased or Financed Payout (Total loss gap cover)</b>	Up to 25% of the market Value
	<b>Non-Owned Trailer</b>	Up to \$100,000 subject to \$2,500 Excess per event
	<b>Personal effects</b>	Reasonable Costs up to \$3,000 per event
	<b>Removal of Debris</b>	Reasonable Costs up to \$50,000 per event
	<b>Removal or Retrieval Costs</b>	Reasonable Costs up to \$50,000 per event
<b>Repatriation of a Driver</b>	Reasonable Costs up to \$5,000 per event	



	<b>Repatriation of a Vehicle Including Theft</b>	Reasonable Costs Up to \$25,000 per event
	<b>Replacement with a New Vehicle (Total Loss of Vehicle)</b>	Within 2 years of original registration
	<b>Reward for Recovery of a Stolen Vehicle</b>	Up to 2.5% of the Sum Insured or \$10,000 whichever is the less per event
	<b>Signwriting</b>	Reasonable Costs of Replacement
	<b>Tarpaulins, gates, chains, dogs, straps.</b>	Reasonable Costs up to \$5,000 per event
	<b>Trauma Counselling</b>	Reasonable Costs up to \$5,000 per event
	<b>Vehicle Modification</b>	Reasonable Costs up to \$10,000 per event
<b>Summary of Benefits – Section 1 - Optional</b>	<b>Downtime Protection</b>	Up to 12 weeks cover subject to additional premium
<b>Liabilities to Third Parties - Section 2</b>	<b>Included Benefits</b>	<b>Section 2 Limit - Up to \$35million</b>
<b>Summary of Benefits – Section 2</b>	<b>Dangerous Goods Liability</b>	Up to \$5,000,000
	<b>Employee Use of Vehicle</b>	Coverage for Employee's Vehicle up to \$25,000 per event in Excess of any claim benefit available under any other Policy of insurance
	<b>Employer, Partner or Principal</b>	Included in Section 2 Liability to Third Parties
	<b>Freight Falling, Leaking or Spilling</b>	Included in Section 2 Liability to Third Parties
	<b>Legal Costs</b>	Included in Section 2 with prior written consent
	<b>Loading/Unloading - Permanently Attached Plant</b>	Where vehicle permanently attached plant forming part of registered vehicle
	<b>Non Owned Trailer</b>	Included in Section 2 Liability to Third Parties
	<b>Vehicle Under Tow</b>	Coverage for a disabled Vehicle under tow
<b>Extensions to Section 1 and Section 2</b>	<b>Automatic Inclusion</b>	Notify Us within 30 days up to \$500,000
	<b>Cross Liability</b>	Waive Our rights of subrogation
	<b>L.P.G Conversion</b>	Included in General Extensions
	<b>Sea Transportation</b>	General Average and Salvage Charges
	<b>Other Interested Parties</b>	Included in General Extensions
<b>General Condition</b>	<b>No Fault Excess</b>	Waive Excess if Loss was not Your Fault

### Part C – Mobile Plant & Equipment

This is a **summary only** and must be read in conjunction with the full wording within Part C of the Policy.

<b>Material Damage – Section 1</b>	<b>Included Benefits</b>	<b>Section 1 Limit - As stated in Schedule</b>
<b>Summary of Included Benefits – Section 1</b>	Dry Hire	Included in Section 1
	In Transit	Included in Section 1
	Expediting Expenses	Up to \$10,000 per event
	Accessories, Tools and Spare Parts	Up to \$5,000 per event
	Signwriting	Restoring Costs per event
	Tyre Replacement	Replacement Costs
	Protection and Removal	Up to 5% of the Sum Insured of \$50,000 whichever is the less per event and in aggregate any one Period of Insurance
	Locks and Keys	Up to \$2,500 per key or \$5,000 in aggregate per event
	Personal Effects	Up to \$500 per item or \$1,000 in aggregate per event
	Windscreen Replacement	Replacement Costs or \$5,000 in aggregate any one Period of Insurance

Road Risk Liability – Section 2	Included Benefits	Section 2 Limit - As stated in Schedule
Summary of Benefits – Section 2	Defence Costs	Included in Section 2 Liability to Third Parties
	First aid Costs	Included in Section 2 Liability to Third Parties
	Legal Costs	Included in Section 2 with prior written consent
	Substitute Vehicles	Repairs or Servicing Costs
	Movement of Other Machines	Included in Section 2 Liability to Third Parties
	Removal of Debris	Up to \$50,000 per event
	Sea Transportation	General Average and Salvage Charges
	Towing Disabled Machines	Coverage for a disabled Vehicle under tow
	Trailers	Coverage Trailers attached
Extensions to Section 1 and Section 2	Automatic Additions and Deletions	Notify Us within 30 days up to \$250,000
	LPG Conversion	Included in General Extensions
	Other Interested Parties	Included in General Extensions
	Hold Harmless	Waive Our rights of subrogation except Dry Hire
	Hired in Plant not noted on the Policy Schedule	Up to \$25,000 in aggregate any one Period of Insurance
	Dangerous Goods Liability	Up to \$100,000
General Condition	No Fault Excess	Waive Excess if Loss was not Your Fault

## Exclusions and Conditions

General Exclusions apply to all sections of this Policy. Each section also contains exclusions which apply specifically to that section. The exclusions explain the circumstances in which We will not cover You. Please refer to the General Exclusions and the exclusions in each section for full details.

General Conditions apply to all sections of this Policy. Each section also contains exclusions which apply specifically to that section.

The conditions explain the obligations which You must comply with to be able to make a valid claim. Please refer to the General Conditions and the conditions in each section for full details.

### Claim Payments Examples

The following examples are designed to illustrate how a claim payment might typically be calculated. It is assumed that the insured is registered for GST purposes. The examples do not cover all scenarios or all benefits and do not form a part of the Policy terms and conditions. They are a guide only.

#### Claim Payments Examples for Parts A and B

##### Example: Total Loss – where the Sum Insured exceeds the Market Value

A Vehicle that is comprehensively insured for a sum insured of \$150,000, or market value, whichever is less. The standard excess is \$1,000 or 1% of the Sum Insured, whichever the greater. The Vehicle is damaged in an accidental event and We assess the cost of repair to be \$200,000. We decide it is a total loss.

The market value is determined as follows:

The Vehicle is 10 years old and We assess the market value to be \$130,000 (GST inclusive).

How much We pay	Explanation
Market Value is less than the Sum Insured We assess the Market Value as \$130,000.	The Vehicle is a total loss with a market value of \$130,000 and the Sum insured is \$150,000. We normally decide a Vehicle is a total loss if the complete repair cost exceeds its Market Value or Sum Insured, whichever is less, less the salvage value.
Less GST component \$11,818.18	The Market Value includes GST. As You do not have a GST liability in respect of any payment We make to You for the Total Loss of Your Vehicle, We will deduct the GST component. In this example the Vehicle is used 100% for business use.
Less Excess \$1,300	The standard Vehicle Excess \$1,000, or 1% of the Sum Insured, whichever the greater. However, in this example, We decided to pay total loss on market value of Your Vehicle, We deduct 1% of the market value, which equals \$1,300.
<b>Total claim \$116,881.82</b>	We would normally pay this amount directly to You in a total loss situation.

Plus lease or finance payout \$30,000	If, instead of owning Your Vehicle outright, Your Vehicle was leased or financed and the amount owing was \$160,000 (excluding any payments in arrears and resulting interest), We will pay the difference between the amount owing under the finance arrangement and the market value (\$160,000 - \$130,000) of \$30,000, this benefit has a limit of 25% of the Market Value (\$32,500) which has not been reached.
<b>Total claim payable \$146,881.82</b>	We would normally pay the claim directly to Your lessor or financier and not to You. You pay them any amounts left owing.

If the Vehicle in the above example was less than 2 years old at the time of the event, instead of paying the claim, as per above example, You can choose to accept a replacement Vehicle including similar accessories and parts, plus Our proportion of on-road costs e.g. registration, compulsory third party, pre-delivery. You must pay the Excess to the dealership that has provided the replacement Vehicle, or to Us at Our option.

If the Vehicle salvage is valued at \$1,000, the salvage becomes Our property and We are entitled to keep the \$1,000 proceeds of its sale, plus any registration and compulsory third party insurance refund. This does not affect the calculations above unless You obtain these refunds directly in which case We will deduct these costs from the total claim example as per above.

### Example: Authorised Repair – Licensed Repairer

A Vehicle that is comprehensively insured for a sum insured of \$150,000 or market value whichever is less. The standard excess is \$1,000 or 1% of the Sum Insured, whichever the greater.

The Vehicle is damaged in an accidental event and We assess the cost of repair to be \$50,000 (GST inclusive).

How much We pay	Explanation
We pay the Cost of repair \$50,000.	The Vehicle is damaged and We authorise repairs to Your Vehicle with the cost of \$50,000 in this example.
Less Excess \$1,500	The standard Vehicle Excess \$1,000 or 1% of the Sum Insured, whichever the greater. 1% equals \$1,500 of the Sum Insured in this example. We deduct this from the amount We pay to the repairer and You would pay the Excess of \$1,500 directly to the repairer.
<b>Total claim payable \$48,500</b>	We would normally pay this amount directly to the repairer.

### Claim Payment Examples for Part C

#### Example: Total Loss – where the Sum Insured exceeds the Market Value

The Insured Property is insured for a sum insured of \$150,000, or market value, whichever is less. The standard excess is \$1,000 or 1% of the Sum Insured, whichever the greater. The Insured Property is damaged while in Transit and We assess the cost of repair to be \$200,000. We decide it is a total loss.

The market value is determined as follows:

The Insured Property is 10 years old and We assess the market value to be \$130,000 (GST inclusive).

How much We pay	Explanation
Market Value is less than the Sum Insured We pay the Market Value of \$130,000.	The Insured Property is a total loss with a market value of \$130,000 and the Sum insured is \$150,000. We normally decide Insured Property is a total loss if the complete repair cost exceeds its Market Value or Sum Insured, whichever is less, less the salvage value.
Less GST Component \$11,818.18	The Market Value includes GST. As You do not have a GST liability in respect of any payment We make to You for the Total Loss of Your Vehicle, We will deduct the GST component. In this example the Vehicle is used 100% for business use.
Less Excess \$1,300	The standard Excess \$1,000, or 1% of the Sum Insured, whichever the greater. However, in this example, We decided to pay total loss on market value of Your Insured Property, We deduct 1% of the market value, which equals \$1,300.
<b>Total claim payable \$116,881.82</b>	We would normally pay this amount directly to You in a total loss situation.
If the Insured Property salvage is valued at \$1,000, the salvage becomes Our property and We are entitled to keep the \$1,000 proceeds of its sale, plus any registration and compulsory third party insurance refund if applicable. This does not affect the calculations above unless You obtain these refunds directly in which case We will deduct these costs from the total claim example as per above.	

**Example: Authorised Repair – Licensed Repairer**

Insured Property is insured for a sum insured of \$150,000 or market value whichever is less. The standard excess is \$1,000 or 1% of the Sum Insured, whichever the greater.

The Insured Property is damaged in an accidental event while in Your care, custody and control and We assess the cost of repair to be \$50,000 (GST inclusive).

<b>How much We pay</b>	<b>Explanation</b>
We pay the Cost of repair \$50,000.	The Insured Property is damaged and We authorise repairs to Your Insured Property with the cost of \$50,000 in this example.
Less Excess \$1,500	The standard Excess \$1,000 or 1% of the Sum Insured of the damaged item, whichever the greater. 1% equals \$1,500 of the Sum Insured in this example. We deduct this from the amount We pay to the repairer and You would pay the Excess of \$1,500 directly to the repairer.
<b>Total claim payable \$48,500</b>	We would normally pay this amount directly to the repairer.

**Claim Payment Example for Parts A, B and C**

**Example: Third Party Liability**

Your Vehicle or Insured Property is insured for a sum insured of \$150,000 or market value whichever is less. The basic excess is \$1,000 or 1% of the Sum Insured, whichever the greater.

You were held legally liable to pay as compensation \$50,000 for damage to Third Party property as a result of an accidental event arising out of the use of Your Vehicle or Insured Property on a public road. The sum of \$50,000 has been adjusted to take into account the tax status of the Third Party.

<b>How much We pay</b>	<b>Explanation</b>
We pay the Third Party Liability \$50,000	Third party property damaged with a demand for compensation of \$50,000 in this example.
<b>Total claim payable \$50,000</b>	We would normally pay the claim directly to Third Party.
Your applicable Excess \$1,500	The standard Excess \$1,000, or 1% of the Sum Insured, whichever the greater. 1% equals \$1,500 of the Sum Insured in this example. We will request the Excess \$1,500 from You if Our Assessor advises there is no damage to Your Vehicle or Insured Property. However, if Our Assessor advises Your Vehicle or Insured Property s damaged and We have authorised repair, then We will deduct from the amount We pay to repair Your Vehicle or Insured Property.

## PART A - COMMERCIAL MOTOR

In Part A of Motorpack the following words have a special meaning. The definitions below apply only to Part A of Motorpack and override all other definitions, including the General Definitions applying to all sections of the Policy and the other definitions contained in the other Parts of Motorpack. The singular shall include the plural and vice versa, except where the context otherwise requires.

### Definitions

**“Accident” or “Accidental”** means unintended, unforeseen, fortuitous or unanticipated happening or mishap, which is not expected or designed.

**“Agreed Value”** means the amount nominated by You that We have agreed to insure Your Vehicle for, as shown in the Schedule.

**“Basic Excess”** means the amount shown in the Policy Schedule which You must contribute to each and every claim in respect of each and every Vehicle.

**“Comprehensive Cover”** means if this is shown on Your Policy Schedule, We will provide cover to You under Section 1 and Section 2 of Part A of Motorpack.

**“Damage”** means any physical Loss, or destruction as appropriate to describe the type of Loss suffered.

**“Dangerous Goods”** means freight that consists of goods defined as dangerous in the Dangerous Goods code.

**“Dangerous Goods Code”** means the current Australian Code for the Transport of Dangerous Goods by Road and Rail.

**“Driver”** is a person who is suitably qualified, experienced and competent and who is a reasonable person, employed or hired to drive Your Vehicle.

**“Excess”** means the Basic Excess and the amounts specified elsewhere in the Policy which You must contribute, in respect of each and every vehicle when You make a claim. Excesses shall be cumulative across all Parts of Motorpack and within each Part of Motorpack.

**“Financial Stress”** means inability to meet debt repayments and daily living costs.

**“GST”** means the Goods and Services Tax.

**“Gross Vehicle Mass (GVM)”** means the maximum weight a Vehicle can carry, including its own weight, according to manufacturer’s specification.

**“Hire Car Costs”** means the amount paid by You to hire any Vehicle, but does not include running costs, Damage to the hire car, any insurance excess or other costs which You may be liable for under the hire car agreement.

**“Included Accessories”** means accessories fitted or installed to upgrade or improve Your Vehicle’s specifications which are not supplied as standard or as optional by the original Vehicle’s

manufacturer on the specific Vehicle model insured by this Policy, but only whilst attached to, on, or within Your Vehicle.

**“Immediate Family”** means Your spouse, de-facto partner, parents, siblings and dependent children.

**“Loss”** means sudden physical loss, Damage or destruction to Your Vehicle caused by an unexpected event not otherwise excluded. The loss must occur at an identifiable time and place.

**“Market Value”** means Our assessment of the value (including GST) of Your Vehicle immediately prior to any Loss or Damage.

**“Mechanical Breakdown”** means the actual breaking, burning out or malfunction of any part of Your Motor Vehicle (excluding such breakdown due to placing an incorrect type, or inappropriate of fuel, lubricant or coolant into a Vehicle, or failing to place the correct or appropriate fuel, lubricant or coolant into a Vehicle.) whilst in the course of use within the limits specified by the manufacturer, as a result of internal, electronic, electrical or mechanical defect causing sudden stoppage of normal operation and necessitating repair before it can resume normal operation.

**“Mobile Plant”** means a self propelled Vehicle or machine which is not normally registered for on road use and is used for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities.

**“Own Damage Cover”** means if this is shown on Your Policy Schedule, We will provide cover to You under Section 1 of Part A of Motorpack only.

**“Part”** means one of the three covers provided by Motorpack, comprising Part A - Commercial Motor, Part B - Heavy Motor and Part C - Mobile Plant & Equipment.

**“Personal Effects”** means personal items owned by You or Your employees, which are designed to be worn on the person, or carried about, but not:

- (a) Money, cheques, financial transaction cards or negotiable instruments;
- (b) Tools or items used in connection with a business or occupation; or
- (c) Portable global positioning systems (GPS) or mobile phones.

**“Reasonable Costs”** means appropriate and fair expenses which are not excessive or extreme in matters of pricing.

**“Section”** means a sub-division of a Part.

**“Standard/Optional Accessories”** means accessories fitted or installed by the manufacturer of Your Vehicle as either standard or optional equipment on a specific model, but only whilst attached to, on, or within Your Vehicle.

**“Sum Insured”** means the Agreed Value or Market Value as shown in the Policy Schedule, excluding Vehicle registration and compulsory third party insurance. The Sum Insured will include or exclude GST depending on the GST status of each Vehicle insured.

**“Third-Party”** means a person who is not the Insured, or is not a person to whom cover is provided directly to by this Policy.

**“Third Party Property Damage Cover”** means if this is shown on Your Policy Schedule, We will provide cover to You under Section 2, Part A of Motorpack only.

**“Third Party Property Damage Fire and Theft Cover”** means if it is shown on Your Policy Schedule, We will only provide cover to You under Section 1, Part A of Motorpack if Your Vehicle is stolen or lost or damaged due to fire, explosion or lightning. We will also provide cover to You under Section 2, Part A of Motorpack.

**Tool of Trade** means use of Your Vehicle:

- (a) for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities;
- (b) in the process of setting up for such operations and reverting from such operative format to a travel or transit configuration;
- (c) whilst being moved simultaneously with or preliminary to or subsequent to, being used for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities;
- (d) whilst temporarily at rest prior to, or subsequent to, being used for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities.

**“Total Loss”** means where We decide to pay You the full Sum Insured for the lost or damaged property. This is usually when the cost of repairs to Your Vehicle is more than the Sum Insured less any amount We can obtain for the Vehicle's salvage. Where a Total Loss settlement has been made the cover on Your Vehicle is fully used and therefore cancelled from the date of Loss, with no refund of premium.

**“Vehicle(s)”** means any machine, including attachments, that is designed to travel on wheels or self-laid tracks and to be propelled by a power source other than manual, or animal power, described in the Policy Schedule; which have a Gross Vehicle Mass (GVM) of 4.5 tonnes or less and including Standard/Optional Accessories and other Included Accessories specified in the Policy Schedule. Vehicles does not mean Mobile Plant.

**“Vehicle Usage”** means the use of Your Vehicle which You have told Us and is shown in the Policy Schedule.

## COVER

### SECTION 1 - COVER FOR YOUR VEHICLE

Cover under this Section will not apply where You have chosen Third Party Property Damage Cover.

We will pay:

- (a) for Loss or Damage to Your Vehicle arising as a result of an Accident occurring during the Period of Insurance . At Our discretion, We will;

- (i) repair Your Vehicle; or
- (ii) pay the cost of repairing Your Vehicle; or
- (iii) pay You the Sum Insured or Market Value, whichever is less ; or
- (iv) if Your Vehicle is within its first 24 months of original registration from new, replace Your Vehicle with a new Vehicle of similar make, model and series subject to local availability.

The maximum that We will pay in respect of Section 1 for any one Loss or all Losses arising from one event is the lesser of is \$15,000,000 or the declared Sum Insured.

### Section 1- Additional Benefits

An Additional Benefit is only payable if it arises as a result of and directly in connection with a Loss payable under Section 1 - Cover for Your Vehicle of Part A of Motorpack. The Additional Benefits will not serve to increase the maximum sum payable under Section 1 beyond \$15,000,000. The Additional Benefits are subject to all the exclusions, terms and conditions of Part A of Motorpack and all the exclusions, terms and conditions of the Policy.

#### 1. Accessories

We will pay the Reasonable Costs to repair or replace Standard/Optional Accessories or Included Accessories that are disclosed and are listed in the Policy Schedule under Included Accessories.

#### 2. Automatic Trailer Cover

We will pay for Damage to any two wheeled or box trailer owned by You whilst attached to Your insured Vehicle, up to a maximum of \$1000.

#### 3. Death Benefit

Where as a result of an Accident You or Your Driver dies, payment will be made to the deceased's next of kin, or to a beneficiary nominated in the deceased's will or last testament, for funeral expenses and assisting with Financial Stress to the next of kin, up to a maximum of \$25,000 per event. However, if You or Your Driver commits suicide, this benefit will not apply.

#### 4. Disability Modifications

Where You or Your Driver have been injured and permanently disabled in an event involving Damage or Loss to Your Vehicle which Part A of Motorpack covers, We will pay Reasonable Costs up to a maximum \$5,000 any one event to carry out modification to Your Vehicle necessitated by Your or Your Driver's injuries and permanent disablement to allow the safe operation of Your Vehicle by You or Your Driver who has been the subject of such injury and permanent disablement.

#### 5. Emergency Repairs

We will pay the Reasonable Costs of emergency repairs required to enable Your Vehicle to be moved to a place of safety, up to a maximum of \$2,000 per event.

## 6. Employee Vehicles

We will provide cover for employees Vehicles if Loss or Damage occurs while Your employee is using his or her Vehicle for the benefit of Your business or while You have instructed Your employee to conduct business on Your behalf while using his or her own Vehicle with Your permission, provided:

- (a) This benefit will only apply to the Loss or Damage for which Your Employee is not covered by any other contract of insurance or which is in excess of any benefit available under any other contract of insurance;
- (b) Your Employee has observed and fulfilled the terms and conditions of this Part A of Motorpack as though Your employee were the Insured.

The maximum We will contribute is \$25,000 per event.

## 7. Goods in Transit

We will pay for damage to Your goods or the goods of a Third Party whilst being carried or in Your Vehicle as the result of a Loss covered by this Section of Part A up to \$5,000 subject to additional \$250 Excess per event. This benefit will only apply to damage to Your goods or the goods of a Third Party if they are not covered by any other contract of insurance or for damage which is in excess of any benefit available under any other contract of insurance.

## 8. Hire Car following Theft

Where there is a Loss which is the result of the theft of the Vehicle, We will pay the Reasonable Costs of hiring a replacement Vehicle of similar type to the Vehicle which has been stolen, up to \$100 per day and to a maximum of \$2,100 per event. Cover will cease after a period of 21 days or when the Vehicle is returned to You in its pre theft condition or when We pay You for a Total Loss, whichever occurs first.

## 9. Immediate Family Travel Expenses

Where You, or Your Driver whilst driving Your Vehicle are injured and hospitalised as a result of an event covered by this Section of Part A We will pay Reasonable Costs up to a maximum of \$3,000 any one Period of Insurance for travel, accommodation, meals and related expenses for You, or Your Driver's Immediate Family.

## 10. Keys and Locks

If the keys or locks to Your Vehicle are lost or damaged or if there are reasonable grounds to believe Your keys or locks may have been illegally duplicated as a result of the Loss, We will pay the Reasonable Costs of replacing Your Vehicle keys or locks up to a maximum of \$5,000 per Vehicle and a maximum of \$10,000 per event.

## 11. Leased or Financed Vehicle Payout

If, as a result of the Loss, Your Vehicle becomes a Total Loss and the Sum Insured (the Market Value or Agreed Value) is less than the amount owed by You under a lease or other finance agreement, subject to the difference between the outstanding finance and lesser of Market Value or the Sum Insured not exceeding 25% of the Market Value, We will pay the lessor or

financier the actual payout figure net of any discount for early payment, less;

- (a) any arrears of lease or finance payments and any interest on those arrears as at the date of Loss, and
- (b) any applicable Excess.

## 12. Mechanical Breakdown

We will pay the Reasonable Cost of repairs to Your Vehicle resulting from Mechanical Breakdown provided that Your Vehicle is:

- (a) less than 5 years old from its original manufacture and has travelled less than 100,000 kilometres at the date of such Mechanical Breakdown
- (b) not used for the carriage of fare paying passengers
- (c) not used by You as a courier in Your business
- (d) less than 4.5 tonnes in Gross Vehicle Mass.

We will not pay more than \$2,000 in respect of any one Mechanical Breakdown, or more than the lesser of \$6,000 or the Market Value of Your Vehicle for all Mechanical Breakdowns in any one Period of Insurance.

## 13. Personal Effects

We will pay the Reasonable Costs to replace or repair Your, or Your employees Personal Effects which are not included on the Policy Schedule as Included Accessories or Standard/Optional Accessories, as the result of a Loss to a Vehicle, up to a maximum of \$1,500 per event.

## 14. Removal of Debris

We will pay the Reasonable Costs that are necessarily incurred to clean up and remove debris from Your Vehicle or from goods falling or leaking from Your Vehicle, including the statutory fees of Fire, Police, Ambulance or other authorities involved in emergency services attendance. The maximum benefit We will pay is \$50,000 per event.

## 15. Repatriation of Driver

We will pay the Reasonable Costs of travel and accommodation expenses necessary for the repatriation of Your Driver to his or her home as the result of Loss or Damage to a Vehicle, up to a maximum of \$3,000 per event.

## 16. Repatriation of Vehicle

We will pay the Reasonable Costs for the return of Your Vehicle to You at Your premises that are closest to the repairer, or location of Your Vehicle as a result of theft, up to a maximum of \$1,000 per event, where Your Vehicle has been repaired or recovered following theft.

## 17. Replacement Glass Benefit

We will pay the Reasonable Cost to repair or replace the damaged fixed glass where the glass is damaged as the result of a Loss, up to a maximum of \$1,000 any one event. An Excess will not be applied to any claim under this benefit.

## 18. Replacement with a New Vehicle

If, as a result of a Loss, Your Vehicle is treated by Us as a Total Loss and at the time it is so determined to be a Total Loss and Your Vehicle is within 2 years of its original registration, We will replace Your Vehicle with one of a similar make and model, or, at Your option, pay You the Sum Insured or Market Value whichever is the less after deducting any Excess.

## 19. Signwriting

We will pay the Reasonable Cost of reinstating signwriting or fixed advertising signs, murals, special art work, or materials, forming a permanent part of Your Vehicle following Loss or Damage to Your Vehicle.

## 20. Towing

We will pay the Reasonable Costs of protection, removal and towing of the Vehicle to the nearest repairer following Loss or Damage to Your Vehicle.

## 21. Tyre Replacement

We will pay the Reasonable Cost of replacing a tyre with a new tyre of similar make and specification to the tyre that is damaged, when a tyre is damaged and unable to be used again as a direct result of Loss, provided that the condition of the damaged tyre's remaining tread conformed with all legal requirements at the time of Loss, and was not recapped or retreaded.

## 22. Uninsured Motorist Protection

Where Your Vehicle is insured only for Third Party Property Damage Cover or Third Party Property Damage, Fire and Theft Cover, as indicated in the Policy Schedule, We will pay for damage to Your Vehicle caused by, or arising from, a collision with another Vehicle (other than Vehicles owned by You or under Your control) provided that;

- (a) the other driver is identified; and
  - (i) has no insurance cover in respect of damage caused by such Vehicle; and
  - (ii) is substantially responsible for the Loss; and
- (b) You agree that We can recover any amount We pay to You from the other driver on Your behalf; and
- (c) You agree not to take separate action without Our written consent.

We will not pay more than \$10,000 under this Additional Benefit in respect of any one event.

## Section 1 – Optional Additional Benefits

Where We have accepted a claim for Section 1 and You have elected to take the Optional Additional Benefit, We will pay:

### 1. Hire Car following Collision

Where Your Vehicle suffers Loss or damage as the result of an Accident and You are unable to use Your Vehicle We will pay the Reasonable Cost of hiring a replacement Vehicle of similar type to the Vehicle that has been lost or damaged, up to \$100 per day and to a maximum of \$2,100 per event. Cover will cease after a period of 21 days or when the Vehicle is returned to You

in its pre-Accident condition or when We pay You for a Total Loss, whichever occurs first.

This benefit is only available if noted on Your Policy Schedule and You have paid an additional premium for the cover.

## SPECIFIC EXCLUSIONS – APPLICABLE TO SECTION 1

We will not pay:

- (a) the costs to repair pre-existing damage;
- (b) for depreciation, wear and tear, rust, corrosion or mechanical, structural, electrical or electronic breakdown or failure, or non performance;
- (c) damage to Your tyres caused by the application of brakes or by road punctures, cuts or bursts;
- (d) any loss arising because reasonable steps were not taken to protect or safeguard Your Vehicle;
- (e) any GST, fine, penalty or charge for which You are liable arising out of Your misrepresentation of, or failure to disclose, Your actual Input Tax Credit entitlement in the settlement of any claim or premium relating to the Policy;
- (f) any consequential loss or financial expenses incurred as a result of You not being able to Use Your Vehicle. This will not apply where this Section of Part A of Motorpack specifically provides cover for consequential loss or financial expenses incurred as a result of You not being able to Use Your Vehicle;
- (g) Loss arising from theft or conversion by a prospective purchaser;
- (h) Loss arising from failure of, or defect or fault in, the design or specification of Your Vehicle;
- (i) where You have chosen Third Party Property Damage, Fire and Theft Cover, for any Loss or Damage to Your Vehicle that does not directly result from fire, lightning, explosion or theft;
- (j) any Damage to the property of a Third Party or the personal injury or death of a Third Party.
- (k) Loss or Damage arising from Your Vehicle if it is being used as a Tool of Trade.

## Section 2 - Cover for Damage to Third Party Property

Cover under this Section will not apply where You have chosen Own Damage Cover Only.

### We will pay for

The amount You are legally liable to pay for Loss or Damage to Third Party property as a result of an Accident arising out of the use of Your Vehicle or caused during loading/unloading.

Cover is extended to the following persons in relation to the use of the Vehicle:

- (a) You;
- (b) Any person holding a valid driving licence for that type of Vehicle who is driving, using, or in charge of Your Vehicle with Your consent;
- (c) Any passenger in, or getting in, or getting out of Your Vehicle;



(d) Your employer or principal if Your Vehicle is being driven on their behalf with their consent.

The maximum that We will pay in respect to Section 2 of Part A is inclusive of all costs, expenses and the Additional Benefits in Section 2 of Part A is \$35,000,000, any one Accident or series of Accidents resulting from the one original cause.

## Section 2 - Additional Benefits

Where We have accepted a claim under Section 2 and subject to the exclusions listed in Section 2 "We will not pay" and all other terms and conditions of the Policy, We will also pay:

### 1. Damage to Leased Premises

For Your legal liability for damage to property leased or rented by You where such damage is caused by Your Vehicle. The maximum We will pay under this additional benefit is \$100,000 any one event.

### 2. Defence Costs

The Reasonable Costs of legal representation if Your driver is charged with careless driving causing death. The maximum We will pay under this additional benefit is \$10,000 for any one event.

### 3. Goods being Carried, Loaded and Unloaded

For Your legal liability for damage to Third Party property caused by goods falling from Your Vehicle and including whilst goods are being loaded and unloaded.

### 4. Legal Costs

All legal costs and expenses incurred with Our written consent.

### 5. Movement of Other Vehicles

For Your legal liability for damage to Third Party property arising out of You lawfully moving any Vehicle parked in a position so as to prevent or impede the loading, unloading or legitimate passage of Your Vehicle.

### 6. Non-Owned Vehicle

For Your legal liability for damage to Third Party property caused by or arising out of the use of any Vehicle not described in the Policy Schedule by You or hired to You while such Vehicle is being driven by any person who is licensed to drive that type of vehicle and is authorised by You and the owner of the Vehicle to use the Vehicle on Your behalf and in connection with Your business. We will not pay for damage to the Vehicle itself under this Additional Benefit.

### 7. Non-Owned Vehicles in Your Car Park

For Your legal liability for damage to Vehicles belonging to Your employees or visitors contained within a car park operated by You, provided the car park is not operated by You for reward.

### 8. Supplementary Bodily Injury (other than "Compulsory Third Party")

The amount which You may be held legally liable to pay as compensation in respect of death, or bodily injury arising out of the use of Your Vehicle with Your consent, but only where cover for such bodily injury or death falls outside the scope

of any compulsory statutory insurance scheme or accident compensation scheme.

This Additional Benefit will apply if all requirements of the 'What We Pay' paragraph of Section 2 are met, other than the requirement for Damage to Third Party property.

## 9. Towing Disabled Vehicles

For Your legal liability for damage to Third Party property occasioned whilst Your Vehicle is towing any disabled Vehicle provided the disabled Vehicle is not being towed for reward or financial gain.

## 10. Trailers

For Your legal liability for damage to Third Party property caused by or arising out of the use of any trailer attached to Your Vehicle provided that the number of trailers towed does not exceed the number permitted By-law.

## SPECIFIC EXCLUSIONS – APPLICABLE TO SECTION 2

### We will not pay for

- (a) damage or loss to property belonging to or held in trust or in the custody or control of You or any entity or person entitled to indemnity under this Section;
- (b) any claim caused by or in connection with Your Vehicle, or any item of plant or equipment attached to Your Vehicle, whilst Your Vehicle is being used as a Tool of Trade;
- (c) Loss or Damage caused by or in connection with Your Vehicle if Your Vehicle is Mobile Plant;
- (d) claims caused by the discharge, dispersal, release or escape of any trade waste material;
- (e) any fines, penalties, or aggravated, exemplary or punitive damages;
- (f) claims in respect of bodily injury if You or any person using Your Vehicle with Your consent:
  - (i) is partly or wholly entitled to indemnity under any compulsory statutory insurance scheme or accident compensation scheme; or
  - (ii) would have been so entitled to indemnity but for the failure to insure or register Your Vehicle or lodge a claim or comply with a term or condition in accordance with the requirements of any such scheme;

This exclusion (f) is included for abundant caution and applies notwithstanding the fact that Additional Benefit 8, Supplementary Bodily Injury (other than "Compulsory Third Party") only provides cover for personal injury where such injury or death falls outside the scope of any compulsory statutory insurance scheme or accident compensation scheme.

- (g) any claim resulting from death or bodily injury to any:
  - (i) Person driving and/or in charge of Your Vehicle;
  - (ii) Of Your employees;
  - (iii) Member of Your family;

- (h) Death or bodily injury if Your Vehicle is registered in the Northern Territory of Australia;
- (i) Damage or loss to Third Party property that is in or being carried by Your Vehicle if the Third Party property is in or being carried by Your Vehicle for hire and reward.

## **GENERAL EXTENSIONS APPLICABLE TO ALL SECTIONS**

### **1. Automatic Additions and Deletions**

We will cover any replacement or additional registered Vehicle acquired by You during the Period of Insurance provided that:

- (a) such Vehicles are of a similar type to Vehicles insured by You at the commencement of the Period of Insurance;
- (b) You notify Us within 30 days of acquiring any Vehicle;
- (c) Cover will not exceed \$250,000 on any one Vehicle unless notified to Us in writing; and
- (d) You pay any additional premium that We tell You We require.

### **2. Contractual Liability**

We will cover You for liability for Third Party property damage arising under any undertaking, or indemnity, given or contracted for by You provided that such liability would have attached under the Policy in the absence of such an undertaking, or indemnity, or contract.

### **3. LPG Conversion**

The Policy includes cover for Your Vehicles which have been modified to operate on liquefied petroleum gas provided such modification has been carried out in accordance with the relevant statutory standard.

### **4. Cross Liability**

The words "You" and "Your" will be considered as applying to each party named in the Policy Schedule in the same manner as if that party were the only party named therein and We waive Our rights of subrogation against each such party. However this extension will not increase any limits specified in the Policy.

### **5. Other Interested Parties**

In the event of any loss of or damage to Insured Property which is subject to a lease or other financing arrangement whereby the financier retains security over the property, the financier will be an Insured under Part A of Motorpack but only to the extent that the financier's remaining interest in the Insured Property was affected at the time of the loss or damage to the insured property.

### **6. Sea Transportation**

We will pay general average and salvage charges which are incurred whilst Your Vehicle is being transported by sea between places in Australia, provided You obtain Our consent before You sign any general average bond and We are satisfied this is appropriate.

### **7. Subrogation Waiver**

We will waive any rights, remedies, or relief to which We may become entitled by subrogation against any entity or person where You have been required by contractual agreement to release such party from liability.

## **GENERAL EXCLUSIONS APPLICABLE TO ALL SECTIONS**

We will not pay for Loss or liability:

- (a) if Your Vehicle is driven by You or by any person with Your consent who is not licensed to drive Your Vehicle under any relevant law, but this exclusion will not apply where a person is driving Your Vehicle with Your consent and You can prove:
  - (i) the driving licence produced to You by that person has been forged or was the subject of unauthorised alteration; or
  - (ii) the forgery or unauthorised alteration could not have been reasonably discerned from the driving licence produced to You; or
  - (iii) the driving licence produced would if it had been valid have authorised that person to drive the particular category or type of Vehicle which was to be driven with Your consent; or
  - (iv) You did not know and could not reasonably have known that that person did not have a licence to drive Your Vehicle;

However, We will not waive Our right of subrogation against that person; but where that person is a member of Your family or in another personal relationship with You, or where that person is Your employee and the loss occurred whilst he or she was acting in the course of his or her employment, We will not exercise Our subrogation rights except where there is serious or wilful misconduct on the part of that person.

- (b) if Your Vehicle is driven by any person:
  - (i) whose faculties are impaired or could reasonably be assumed to be impaired, by any drug or intoxicating liquor; or
  - (ii) who is convicted of driving, at the time of Loss, under the influence of any drug or intoxicating liquid; or
  - (iii) with a percentage of alcohol or drugs in their breath, blood or urine in excess of the percentage permitted By-law; or
  - (iv) who refuses to provide or allow the taking of a sample of breath, blood or urine for testing or analysis as required By-law.

However, We will pay if You did not know or could not reasonably have known that the driver of Your Vehicle was so affected, or refused to undergo an appropriate test at the time of the Loss provided this driver has not to Your knowledge been so affected on a previous occasion, but We will not cover the driver of Your Vehicle.

- (c) if Your Vehicle is used whilst in an unsafe or un-roadworthy condition and such condition caused or contributed to the Loss or legal liability. However, We will pay where You could not have reasonably detected the unsafe or un-roadworthy condition, provided Your Vehicle is regularly serviced in accordance with the manufacturer's instructions;
  - (d) if Your Vehicle is used to carry a greater number of passengers or convey, lift, suspend or tow a load in excess of that for which Your Vehicle was designed, constructed or permitted By-law. However, We will pay, if You prove that the Loss or legal liability was not caused, or contributed to, by such use;
  - (e) intentionally caused by You or by a person acting with Your consent;
  - (f) incurred whilst Your Vehicle is being used:
    - (i) in connection with the motor trade for experiments, trials, demonstration or breakdown purposes; or
    - (ii) for, or being tested in preparation for, any race, trial, test, contest or other motor sport, or any driver training course conducted without Our written consent; or
    - (iii) for carrying passengers for hire or reward other than under a private pooling arrangement; or
    - (iv) for any illegal purpose with Your knowledge or consent.
  - (g) resulting from lawful seizure or other operation of law;
  - (h) occurring whilst Your Vehicle is:
    - (i) on rails other than as cargo;
    - (ii) not running solely on terra firma;
    - (iii) in an underground mine, mining shaft, or tunnels which are not public roads;
    - (iv) operating within the confines of any airport including aprons.
  - (i) for Damage to Your Vehicle including any agitator, barrel, bowl or pump and its fittings caused by the hardening or setting of concrete.
  - (j) of any nature, directly or indirectly caused by, resulting from, or in connection with asbestos.
  - (k) arising directly or indirectly as a result of Your Vehicle being driven or Used whilst either the dimensions of the load (including any load projection limit) or the mass limit of the Vehicle (or its axles) are exceeded. However if an oversize or over mass Vehicle permit has been obtained and the load is being carried in accordance with such a permit, this exclusion will not apply.
  - (l) if Your Vehicle is being used for the commercial transportation of Dangerous Goods as defined in the Australian Code for the Transport of Dangerous Goods by Road or Rail. However, if transportation complies with such Code, then the maximum We will pay in respect of all claims arising out of one accident is \$5,000,000 unless otherwise noted in the Policy Schedule or excluded in the Policy.
  - (m) in respect of bodily injury if You or any person using Your Vehicle with Your consent:
    - (i) is partly or wholly entitled to indemnity under any compulsory statutory insurance scheme or accident compensation scheme; or
    - (ii) would have been so entitled to indemnity but for the failure to insure or register Your Vehicle or lodge a claim or comply with a term or condition in accordance with the requirements of any such scheme.
  - (n) in respect of any claim for loss or damage of whatsoever kind arising directly or indirectly out of:
    - (i) the corruption, destruction or alteration of or damage to data, coding, programme or software; or
    - (ii) the unavailability of data or reduction in the functionality, availability or operation of hardware, software and embedded chips; or
    - (iii) Any business interruption losses resulting there from.
- This exclusion will not apply where such loss or damage occurs as a direct result of physical damage which is otherwise covered in Part A of Motorpack.
- (o) any GST, or any fine, penalty or charge for which You are liable arising out of Your misrepresentation of, or failure to disclose, Your actual Input Tax Credit entitlement in the settlement of any claim or premium relating to the Policy.

### GENERAL CONDITIONS APPLICABLE TO ALL SECTIONS

#### 1. The Lumley Repair Network

We have established a preferred repairer network system for Commercial Motor Vehicles covered by this Part of the Motorpack Policy. Members of the Lumley Repair Network must meet Our stringent acceptance criteria which require the highest standards of repair and service.

When You use a repairer from the Lumley Repair Network You do not need to obtain an alternative quotation. Additionally We guarantee:

- (a) the quality of repairs and workmanship involved in the repair and
- (b) that the structural integrity of Your Vehicle has been maintained.

You may choose Your own repairer, however if You do, We are unable to provide the guarantees.

#### 2. Claims Procedures

- (a) In the event of a loss which may become the subject of a claim under the Policy You must immediately forward to Us:
  - (i) Full details in writing
  - (ii) Any communication or court documents received.
- (b) You may choose a repairer from the Lumley Repair network or Your own licensed repairer, but before repairs are authorised:
  - (i) You must obtain Our written agreement
  - (ii) You must make Your Vehicle available for Our inspection
- (c) In respect of each claim or potential claim, You must:

- (i) Not make any admission of guilt or offer of payment without Our written consent
- (ii) Allow Us to have the sole conduct of all negotiations and proceedings;
- (iii) Give Us all reasonable assistance and co-operation that We request;
- (iv) Permit Us to initiate legal proceedings in Your name against any person and sign any documents necessary for that purpose;
- (v) Notify Us of any other insurance that also provided cover, whether in whole or in part;
- (vi) Notify the Police as soon as possible in respect of any theft of or malicious damage to Your Vehicle.

We reserve the right to invite, accept, adjust or decline estimates or to arrange (at Our expense) for the removal of Your Vehicle to other repairers for quotation purposes.

### **3. Entitlement**

Any person or entity entitled to cover under the Policy is only entitled to such indemnity subject to the terms, conditions and exclusions of the Policy.

### **4. Excess**

You have to contribute the Basic Excess shown in the Policy Schedule and of the following additional amounts if the driver of Your Vehicle is:

- (a) Aged less than 21 years of age at the time of loss, then an additional amount of \$1,500 is payable;
- (b) Aged 21 and less than 25 at the time of the loss, then an additional amount of \$1,000 is payable;
- (c) Aged 25 and over and has less than 2 years licensed driving experience, then an additional amount of \$500 is payable.

However, You will not have to contribute the Excess if, in Our opinion, the Loss was not Your fault and You can provide Us with the name, current address and vehicle registration number of the person responsible for the Loss.

### **5. Transfer of Interest**

No interest in the Policy can be transferred without Our written consent.

### **6. Duty of Care to Mitigate Loss**

You must exercise reasonable care and precaution to mitigate Loss and ensure safety of any Vehicle insured under this Policy. In so doing, You must also maintain Your Vehicles in a safe working and roadworthy condition, conduct safe work practices, employ competent and suitably qualified Driver. You must also discharge Your legal obligations imposed by the relevant authorities and government bodies.

## PART B – HEAVY MOTOR

### Definitions

In Part B of Motorpack the following words have a special meaning. The definitions below apply only to Part B of Motorpack and override all other definitions, including the General Definitions applying to all sections of the Policy and the other definitions contained in the other Parts of Motorpack. The singular shall include the plural and vice versa, except where the context otherwise requires.

**“Accident” or “Accidental”** means unintended, unforeseen, fortuitous or unanticipated happening or mishap, which is not expected or designed

**“Aviation Works”** means any of the following work:

- (a) the refuelling of aircraft; or
- (b) the construction, alternation, repair, restoration, maintenance, extension, demolition or dismantling of buildings, runways or structures (whether permanent or not) forming, or to form part of the airport areas; or
- (c) the installation, alteration, repair, or maintenance or fittings, including lighting, power supply, drainage, sanitation, water supply, gas supply, fire protection, security and communications systems in any of the airport areas; or
- (d) any operation on any of the airport areas involving site clearance, earthmoving, excavation, tunnelling, boring, laying of foundations, erection or dismantling of scaffolding, site restoration, landscaping and the provision of roadways and other access works.

However, Aviation Works do not extend to vehicular movements within the airport perimeter conducted in accordance with the guidelines and regulations established by the relevant regulatory authority.

**“Damage”** means any physical Loss, or destruction as appropriate to describe the type of Loss suffered.

**“Dangerous Goods”** means Freight that consists of goods defined as dangerous in the Dangerous Goods Code.

**“Dangerous Goods Code”** means the current Australian Code for the Transport of Dangerous Goods by Road and Rail.

**“Dogs”** means a load binder used in conjunction with a chain to secure a load.

**“Downtime”** means the period of time during which Your Vehicle cannot be used by You as a result of an event causing Loss or Damage to that Vehicle.

**“Driver”** is a person who is suitably qualified, experienced and competent and who is a Reasonable Person, employed or hired to drive Your Vehicle.

**“Emergency Accommodation”** means temporary accommodation required at short notice.

**“Excess”** means the amounts specified in the Policy Schedule and elsewhere in the Policy which You must contribute to each and every claim in respect of each and every Vehicle. Excesses shall be cumulative across all Parts of Motorpack and within each Part of Motorpack.

**“Financial Stress”** means inability to meet debt repayments and daily living costs.

**“Fixed Costs”** means pre-existing business costs, or overheads relating to the operation of Your business applying regardless of the use and operation of Your Vehicle.

**“Freight”** means goods transported by Your Vehicle for hire and reward.

**“GVM”** means gross Vehicle mass of Your Vehicle.

**“Immediate Family”** means Your spouse, de-facto partner, parents, siblings and dependent children.

**“Included Accessories”** means accessories fitted or installed to upgrade or improve Your Vehicle’s specifications which are not supplied as standard or as optional by the original Vehicle’s manufacturer on the specific Vehicle model insured by this Policy, but only whilst attached to, on, or within Your Vehicle.

**“Insured”** means the person named as such in the Policy Schedule.

**“Liability” or “Liable”** means a legal liability to another.

**“Loading/Unloading”** means the process of placing goods on, or removing goods from, Your Vehicle whilst it is stationary.

**“Loss”** means sudden physical Loss, Damage or destruction to Your Vehicle caused by an unexpected event not otherwise excluded by this Policy.

**“Market Value”** means Our assessment of the value (including GST) of Your Vehicle immediately prior to any Loss.

**“Mobile Plant”** means a self propelled Vehicle, or machine, which is not normally registered for on road use and is used for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities

**“Nominated Driver”** means a person who has completed a Driver questionnaire, been approved by Us, and has been listed in the Policy Schedule as a Nominated Driver.

**“Part”** means one of the three covers provided by Motorpack, comprising: Part A Commercial Motor; Part B Heavy Motor; and Part C Mobile Plant & Equipment.

**“Permanently Attached Plant”** means a piece of equipment which can not be easily removed and is necessary for Your Vehicle to operate in the ordinary course of Your business. This may include a crane arm, hydraulic lifting equipment, concrete bowls, tilt trays, concrete pumping equipment and similar equipment.

**“Pollutants”** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals, asbestos and any waste material regardless of whether or not such material is to be recycled, reconditioned or reclaimed by You or any other person.

**“Principal”** means a person for whom You act as agent or representative and includes the Commonwealth of Australia or a State of Territorial Government.

**“Professional Indemnity Policy”** means an insurance contract providing Liability cover for negligent advice or work carried out by an individual with particular skills or knowledge, or qualifications, or experience.

**“Reasonable Costs”** means appropriate and fair expenses which are not excessive or extreme in matters of pricing.

**“Reasonable Person”** has the meaning established at common law.

**“Section”** means a sub-division of a Part.

**“Standard/Optional Accessories”** means accessories fitted or installed by the manufacturer of Your Vehicle as either standard or optional equipment on a specific model, but only whilst attached to, on, or within Your Vehicle.

**“Sum Insured”** means the amount shown in the Policy Schedule for which Your Vehicle is insured.

**“Third-Party”** means a person who is not the Insured, or is not a person to whom cover is provided directly to by this Policy.

**“Third Party Details”** means information identifying a Third-Party and includes, but is not limited to, details of his or her: name; address; driving licence number; telephone number; vehicle registration number; and insurance details.

**“Total Loss”** means the Damage beyond an amount We consider economical to repair. Where a Total Loss settlement has been made, the cover on Your Vehicle is fully used and therefore cancelled from the date of Loss, with no refund of premium.

**“Tool of Trade”** means use of Your Vehicle:

- (a) for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities
- (b) in the process of setting up for such operations and reverting from such operative format to a travel or transit configuration
- (c) while being moved simultaneously with or preliminary to or subsequent to, being used for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities
- (d) while temporarily at rest prior to or subsequent to being used for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities.

**“Vehicle”** means any machine, including attachments, that is designed to travel on wheels or self-laid tracks and to be propelled by a power source other than manual or animal power described in the Policy Schedule which have a Gross Vehicle Mass (GVM) of more than 4.5 tonnes and including Standard/Optional Accessories and other Included Accessories specified in the Policy Schedule. Vehicles will not include Mobile Plant.

## THE AGREEMENT

After You have agreed to pay the premium to Us within the timeframe agreed, We will indemnify You against Loss or Liability as described occurring within Australia, during the Period of Insurance.

If shown in Your Policy Schedule, one or more of the following options will apply:

### SECTION 1 – COVER FOR YOUR VEHICLE

We will indemnify You for Loss by paying, at Our option:

- (a) to repair or replace Your Vehicle, or
- (b) the amount of the Loss, provided payment does not exceed the Sum Insured or Market Value, whichever is the less.

If the cost of repairs to Your Vehicle is more than the Sum Insured or Market Value, whichever is less (less any amount We can obtain for the salvage), We will treat it as a Total Loss and pay You, after deducting any Excess, the lesser of the Sum Insured or Market Value.

When a Total Loss settlement has been made, the cover on Your Vehicle is cancelled with no refund of premium. At Our option, salvage will be retained by Us.

If more than one Vehicle insured under this Policy is lost or damaged as a result of one event the maximum that We will pay under Section 1 for that event is the lesser of:

- (a) \$15,000,000, or
- (b) the combined Sum Insured or Market Value, whichever is less, plus any Included Benefit entitlement amount of Your Vehicles involved in the event.

### INCLUDED BENEFITS – Applicable to Section 1

An Included Benefit is only payable if it arises as a result of and directly in connection with a Loss payable under Section 1, Part B of Motorpack. The Included Benefits will not serve to increase the maximum sum payable under Section 1 beyond \$15,000,000.

#### 1. Accessories

We will pay the Reasonable Costs to repair or replace fixed accessories provided that they are disclosed and are listed in the Policy Schedule under either Standard/Optional Accessories or Included Accessories.

#### 2. Death Benefit

Where as a result of an Accident You or Your Driver dies, payment will be made to the deceased Driver's next of kin, or to a beneficiary nominated in Your or Your deceased Driver's

will or last testament, for funeral expenses and assisting with Financial Stress resulting from Your or Your Driver's death which is experienced by his or her next of kin, up to a maximum of \$25,000 per event. However, if You or Your Driver commit suicide, this benefit will not apply.

### 3. Emergency Accommodation

We will pay the Reasonable Costs of Emergency Accommodation for You or Your Driver, where required as a result of the Loss up to a maximum of \$3,000 per event. This does not include any cost to repatriate You or Your Driver to his or her home.

### 4. Emergency Repairs

We will pay the Reasonable Costs of emergency repairs required to enable Your Vehicle to be moved to a place of safety up to a maximum of \$10,000 per event.

### 5. Finance Payments

If You cannot use Your Vehicle as a result of the Loss or Damage and it is subject to a pre-existing finance agreement, We will pay the daily pro-rata finance payment for the period from the date of Loss to the date of completion of repairs, provided that:

- (a) the maximum We will pay in respect of this Included Benefit is \$8,000 any one Period of insurance; and
- (b) We will not pay any Vehicle finance payment in relation to any period after Your Vehicle has been repaired.

### 6. First Aid Kit Expenses

Where You, or Your Driver have been involved in an event causing injury to a Third-Party and the event involves Loss or Damage to Your Vehicle which is covered by Part B of Motorpack, We will pay Your or Your Driver's Reasonable Costs up to a maximum \$2,500 for any one event towards Your or Your Driver's first aid costs regarding the Third-Party, but only to the extent that such first aid has been administered.

### 7. Immediate Family Travel Expenses

Where You, or Your Driver, while driving Your Vehicle are injured and hospitalised as a result of an event covered by this Policy, We will pay Reasonable Costs up to a maximum of \$3,000 during any one Period of Insurance for travel, accommodation, meals and related expenses for You, or Your Driver and his or her Immediate Family.

### 8. Hire Substitute Vehicle

We will pay the Reasonable Costs incurred to hire a replacement Vehicle of a similar type to that which has suffered Loss or Damage. The maximum We will pay is the lesser of \$5,000, or four weeks hire, subject to a Loss being payable by Us for either:

- (a) Your Vehicle being damaged and unusable as a result of Accidental Damage; or
- (b) Your Vehicle being stolen.

This Included Benefit is subject to a seven day Excess which means that You must pay the first seven days of Vehicle hire charges prior to Us paying such charges. A day means each day that a daily hire charge has been incurred. However, We will not

pay hire Vehicle charges from the date Your Vehicle has been repaired, or a replacement Vehicle provided by Us, or from the date We pay for the Total Loss of Your Vehicle.

For example: if a Hire Vehicle is used for 32 days at a cost of \$100 per day while the insured Vehicle is being repaired, We deduct a seven day Excess and reimburse 25 days hire Vehicle charges, amounting to \$2,500.

### 9. Keys and Locks

If the keys or locks to Your Vehicle are lost or damaged or if there are reasonable grounds to believe Your keys or locks may have been illegally duplicated as a result of the Loss, We will pay the Reasonable Costs of replacing Your Vehicle keys and/or locks up to a maximum of \$10,000 during any one Period of Insurance.

### 10. Leased or Financed Vehicle Payout

If, as a result of the Loss, Your Vehicle becomes a Total Loss and the Market Value or Sum Insured, whichever is less, is less than the amount owed by You under a lease or other finance agreement, subject to the difference between the outstanding finance and lesser of Market Value or the Sum Insured not exceeding 25% of the Market Value, We will pay the leaser or financier the actual payout figure net of any discount for early payment, less:

- (a) any arrears of lease or finance payments and/or any interest on those arrears as at the date of Loss and
- (b) any applicable Excess.

### 11. Non-Owned Trailer

We will pay, for a trailer connected to Your Vehicle, up to a value of \$100,000 any one event, provided the trailer is in Your or Your Driver's control and not owned, mortgaged or otherwise financed by You. However, this Included Benefit is subject to \$2,500 Excess for any one event.

### 12. Personal Effects

We will pay the Reasonable Costs to replace or repair Your, or Your Drivers' personal effects (excluding Money and negotiable instruments) not included on the Policy Schedule as Included Accessories or Standard/Optional Accessories as a result of a Loss to a Vehicle, up to a maximum of \$3,000 per event.

### 13. Removal of Debris

We will pay the Reasonable Costs that are necessarily incurred to clean up and remove debris from Your Vehicle or from goods falling or leaking from Your Vehicle, including the statutory fees of Fire, Police, Ambulance or other authorities involved in emergency services attendance. We will not pay more than \$50,000 under this Included Benefit in respect of all claims arising from one event. Payment of this Included Benefit is only applicable for Reasonable Costs that are not covered by or are in excess of any claim benefit available under any inland marine, or road Freight cargo insurance Policy covering Freight in transit.

### 14. Removal or Retrieval Costs

We will pay the Reasonable Costs of removal, or retrieval of Your Vehicle (excluding debris or Freight) to the nearest repairer, or nearest place of safety or to any other location approved by Us,

as a result of a Loss or Damage to that Vehicle other than by theft, up to a maximum of \$50,000 per event.

#### **15. Repatriation of a Driver**

We will pay the Reasonable Costs of travel and accommodation expenses necessary for the repatriation of Your Driver to his or her home, as a result of Loss or Damage to that Vehicle up to a maximum of \$5,000 per event.

#### **16. Repatriation of a Vehicle**

The Reasonable Cost for the return of Your Vehicle to You at Your premises that are closest to the repairer, or location of Your Vehicle as a result of theft, up to a maximum of \$25,000 per event, where Your Vehicle has been repaired or recovered following theft.

#### **17. Replacement with a New Vehicle (Total Loss of a Vehicle)**

If, as a result of a Loss, Your Vehicle is treated by Us as a Total Loss and at the time it is so determined to be a Total Loss and Your Vehicle is within 2 years of its original registration, We will replace Your Vehicle with one of a similar make and model, or, at Your option, pay You the Sum Insured or Market Value whichever is the less after deducting any Excess.

#### **18. Reward for Recovery of a Stolen Vehicle**

Where Your Vehicle has sustained a Loss by a theft, We at Our option will pay a reward to obtain the recovery of the Vehicle, where with Our prior written consent that reward has been offered by You. We will pay the amount specified in Our prior written consent to You, which shall not exceed a maximum 2.5% of the Sum Insured, or \$10,000 whichever is the less, for any one incident of theft.

#### **19. Signwriting**

We will pay the Reasonable Costs of signwriting or fixed advertising signs, murals, special art work, or materials, forming a permanent part of Your Vehicle following Loss or Damage to Your Vehicle.

#### **20. Tarpaulins, Gates, Chains, Dogs and Straps**

We will pay for the Reasonable Costs to repair or replace tarpaulins, gates, chains, Dogs and straps lost or damaged as a result of a Loss, up to a maximum of \$5,000 per event. However this Included Benefit will not apply to any theft claim, unless Your Vehicle has been stolen at the same time.

#### **21. Trauma Counselling**

We will pay the Reasonable Costs for counselling for You, Your Drivers or the Immediate Family of You or Your Drivers following:

- (a) Your death if it arose from the Accident which caused the Loss, or
- (b) the death of Your Driver if it arose from the Accident which caused the Loss, or
- (c) the death of any other person if it arose from the Accident which caused the Loss and either You or Your Driver was present at the Accident scene when it occurred.

We will pay for trauma counselling up to a maximum \$5,000 per event. The trauma counselling must be directly arranged by Us.

#### **22. Vehicle Modification**

Where You or Your Driver have been injured and permanently disabled in an event involving Damage or Loss to Your Vehicle to which this Policy covers, We will pay Reasonable Costs up to a maximum \$10,000 any one event to carry out modification to Your Vehicle necessitated by Your or Your Driver's injuries and permanent disablement to allow the safe operation of Your Vehicle by You or Your Driver who has been the subject of such injury and permanent disablement.

### **OPTIONAL BENEFITS – Applicable to Section 1**

#### **1. Downtime Protection**

We will reimburse You for up to 12 weeks of Downtime experienced by Your Vehicle during the indemnity period as a result of Loss or Damage causing the loss of use of Your Vehicle, provided:

- (a) You acquire a Substitute Vehicle of a similar type, and
- (b) the included 'Hire Substitute Vehicle' benefit 8 in Section 1 has been exhausted; and
- (c) Your Vehicle is not a Total Loss;

We will also pay Your further Finance Payments in excess of included 'Finance Payments' benefit 5 in Section 1, and any other Fixed Costs related to loss of use of Your Vehicle.

Downtime Protection is only available if noted on Your Policy Schedule and You have paid an additional premium for the cover.

### **SPECIFIC EXCLUSIONS – Applicable to Section 1**

We will not pay for:

- (a) the costs incurred to repair pre-existing damage;
- (b) depreciation, wear and tear, rust, corrosion; or mechanical, structural, electrical or electronic breakdown or failure, or non-performance; or
- (c) Damage to Your tyres by the application of brakes or by road punctures, cuts or bursts; or
- (d) any Loss arising because reasonable steps were not taken to protect or safeguard Your Vehicle; or
- (e) any GST, or any fine, penalty or charge for which You are liable arising out of Your misrepresentation of, or failure to disclose, Your actual Input Tax Credit entitlement in the settlement of any claim or premium relating to the Policy; or
- (f) any Damage to the property of a Third-Party or the personal injury or death of a Third-Party.

The maximum that We will pay in respect of Section 1 is the lesser of \$15,000,000 for any one Loss or all Losses arising from one event, or the declared Sum Insured.



**SECTION 2 – LIABILITIES TO THIRD PARTIES**

We will pay the amount which:

- (a) You; or
- (b) any person driving, using or in charge of Your Vehicle with Your consent; or
- (c) any passenger in, getting in, or getting out of Your Vehicle,
- (d) Your employer or principal if Your Vehicle is being driven on their behalf with their consent

may be held Liable to pay for Damage to property, premises and/or Loss of use of property, or premises, as a result of an Accident arising out of the use of Your Vehicle or caused during Loading or Unloading of Your Vehicle.

Provided that We will not pay for Liability for Damage to property, premises and/or Loss of use of property, premises belonging to, or held in trust or in the custody or control of, any of the persons described in Clauses (a), (b), (c) or (d) of this Section.

We will also pay the amount which You may be held Liable to pay for personal injury or death of a Third Party as a result of an Accident arising out of the use of Your Vehicle or caused during Loading or Unloading of Your Vehicle provided cover for such injury or death falls outside the scope of any Commonwealth, State or Territory compulsory Third-Party motor vehicle insurance scheme.

The maximum that We will pay in respect of Section 2, inclusive of all costs, expenses and the Included Benefits of Section 2, is \$35,000,000 for any one Accident or series of Accidents resulting from the one original cause. This limit of \$35,000,000 will not extend to liability where the event creating that Liability arises from Freight which includes any of the following Dangerous Goods:

Class 1	Explosives
Class 2.1	Flammable Gases
Class 2.2	Non Flammable Non-Toxic Gases
Class 2.3	Toxic Gases
Class 3	Flammable Liquids
Class 4.1	Flammable Solids
Class 4.2	Spontaneously Combustible Substances
Class 4.3	Dangerous When Wet
Class 5.1	Oxidizing Substances
Class 5.2	Organic Peroxides
Class 6.1	Toxic Substances
Class 8	Corrosives
Class 9	Miscellaneous Dangerous Goods (Excluding asbestos)

Where the maximum that We will pay including all costs, expenses and the Included Benefits of Section 2 is \$5,000,000, or any greater amount shown by endorsement in the Policy Schedule for any one Accident or series of Accidents resulting from the one original cause.

**INCLUDED BENEFITS – Applicable to Section 2**

Where there is Liability under Section 2 above We will pay (provided Our maximum Liability under Section 2 does not exceed \$35,000,000 or \$5,000,000 where the liability under Section 2 arises from Dangerous Goods).

**1. Employee Use of Vehicle Liability**

To indemnify Your employee for Liability for Loss or Damage to Third-Party property arising while driving his or her own Vehicle for the benefit of Your business, or while You have instructed Your employee to conduct business on Your behalf while using his or her own Vehicle with Your permission, up to a maximum of \$25,000 for any one event. This benefit will only apply to that Liability of Your employee which is not covered by any other contract of insurance or which is in excess of any benefit available under any other contract of insurance.

**2. Employer, Principal or Business Partner**

To indemnify Your employer, Principal or business partner and meet his or her legal costs incurred with Our consent for Liability for Damage or Loss to Third-Party property arising from Your Vehicle being used by You or any other licensed person with Your consent on behalf of Your employer, principal or business partner. This Included Benefit will only apply to that Liability of Your employer, Principal or business partner which is not covered by any other contract of insurance or which is in excess of any benefit available under any other contract of insurance.

**3. Freight Falling, Leaking or Spilling**

For Liability to a Third-Party for Damage to Third-Party property not belonging to You caused by Freight falling, leaking or spilling from Your Vehicle (but excluding Damage to the Freight itself), while Your Vehicle is in transit, or during the course of Loading or Unloading.

**4. Legal Costs**

Your legal costs and expenses incurred with Our written consent in respect of Your Liability to a Third-Party for Damage to that Third-Party's property as a result of the use of Your Vehicle.

**5. Loading/Unloading – Permanently Attached Plant**

For Liability to a Third-Party for Damage to that Third-Party's property arising out of the use of Permanently Attached Plant to Your road registered Vehicle required for Loading/Unloading, which is part of the ordinary course of conducting Your business.

**6. Non-Owned Trailer**

For Liability to a Third-Party for Damage to a Third-Party's property arising out of use of a trailer connected to Your Vehicle, provided the trailer is in Your or Your Driver's control and not owned, mortgaged, leased or otherwise financed by You. There is no cover for Your Liability to the owner of the trailer for Damage to the trailer itself. However, there is cover for Material Damage under Section 1's Included Benefit: '11. Non-Owned Trailer.

## 7. Vehicle Under Tow

for Liability for Loss or Damage to a disabled Vehicle under tow by Your Vehicle for the purpose of recovery, provided You are not performing this Vehicle recovery for hire, reward, or to secure salvage rights.

### SPECIFIC EXCLUSIONS – Applicable to Section 2

We will not pay for any Liability whatsoever:

1. caused by or in connection with Your Vehicle if Your Vehicle is Mobile Plant;
2. caused by or in connection with Your Vehicle when Your Vehicle is being used as a Tool of Trade;
3. arising from Freight in respect of Dangerous Goods where:
  - (a) the requirements of the Dangerous Goods Code have not been complied with; or
  - (b) the Dangerous Goods fall within 'Class 6.2 Infective Substances' or 'Class 7 Radioactive Substances' as defined under the Dangerous Goods Code.
4. in connection with, or directly or indirectly caused by, or directly or indirectly arising from asbestos, asbestos products or asbestos contained in any products;
5. for any fines, penalties, punitive, exemplary or aggravated damages;
6. arising from an event occurring on a public road if Your Vehicle is not registered for use on a public road;
7. arising from the use of any trailer that You do not own while it is in Your custody, or control, and is connected to Your Vehicle at the time of Loss, beyond the Liability covered in Section 2 Included Benefit '6. Non-Owned Trailer';
8. in respect of death or bodily injury if You or any person using, or in control of, Your Vehicle with Your consent:
  - (a) is partly or wholly entitled to indemnity under any compulsory statutory insurance scheme or accident compensation scheme; or
  - (b) would have been entitled to indemnity under any such scheme but for failure to:
    - (i) insure or register Your Vehicle, or
    - (ii) make a claim in accordance with its requirements, or
    - (iii) comply with any of its terms or conditions.
9. for death or bodily injury to any:
  - (a) person driving and/or in charge of Your Vehicle; or
  - (b) of Your employees; or
  - (c) members of Your Family, or
  - (d) person if Your Vehicle is registered in the Northern Territory of Australia.

This exclusion 9, is included for abundant caution and applies notwithstanding the fact that the insuring clause only provides cover for personal injury where such injury or death falls outside the scope of any Commonwealth, State or Territory compulsory Third-Party motor vehicle insurance scheme.

10. for death, bodily injury, property damage, financial loss, or loss of use of property or any consequential loss:

- (a) directly or indirectly arising out of the discharge, dispersal, release or escape of Pollutants; or
- (b) for the cost of removing nullifying or cleaning up of Pollutants; or
- (c) for fines, penalties, punitive or exemplary damages arising directly or indirectly out of the discharge, dispersal, release or escape of Pollutants.

However, We will indemnify You in respect of Liability:

- (i) otherwise excluded under 10 (a) and (b) above; and
- (ii) which is caused by a sudden, identifiable, unintended and unexpected event, which takes place in its entirety at a specific time and place; and
- (iii) does not involve providing any cover for Your Liability for personal injury or death of a Third-Party, arising out of the use of Your Vehicle; unless cover for such injury or death falls outside the scope of any State or Territory compulsory Third-Party motor vehicle insurance schemes.

11. for:

- (a) the wrongful delivery of Freight; or
- (b) the delivery of contaminated or spoiled Freight; or

12. while Your Vehicle is being used:

- (a) in an underground mine, mining shaft, or tunnel which is not a public road; or
- (b) within the boundaries of any airport or airfield.

13. which could be covered by a Professional Indemnity Policy.

14. arising in any way from the structural maintenance of dams, reservoirs or weirs.

15. arising in any way from Aviation Works.

16. arising in any way from the construction, maintenance or repair of oil and gas wells or refineries.

17. arising in any way from structural ship building or repair.

### GENERAL EXTENSIONS – Applicable to all Sections

#### 1. Automatic Inclusion of Vehicles and Trailers

We will automatically provide You with cover for any substitute or replacement Vehicle or Trailer purchased, hired, leased, or otherwise acquired, from the time of purchase, hire, lease or acquisition. Provided You agree to notify Us within 30 days of the purchase, hire, lease or acquisition of any Vehicles and Trailers.

However You must tell Us immediately where:

- (a) the Vehicle has a Market Value in excess of \$500,000, or
- (b) as a result of the acquisition of the Vehicle the total value, of all Your Vehicles exceeds the total Sum Insured declared at the commencement of the Policy by twenty five per cent (25%); or

- (c) as a result of the acquisition of the Vehicle the total number of all Your Vehicles exceeds by 25% of the total number of Vehicles and Trailers disclosed at the start of the current Period of Insurance; or
- (d) You acquire the Vehicle as a result of Your being involved in a merger or takeover; or
- (e) the acquisition of the Vehicle results in a material change in business activity from Your normal operations which You have disclosed to Us earlier; or
- (f) a Trailer is in Your care, custody and control and You do not own it and the Included Benefit in Section 1 '11. Non-Owned Trailer' is exhausted.

Provided You pay any additional premium and any applicable Excess if requested.

## 2. Cross Liability

The words "You" and "Your" will be considered as applying to each party named in the Policy Schedule in the same manner as if that party were the only party named in the Policy Schedule. We will waive Our rights of subrogation against each such party. This General Extension will not increase any limits specified in the Policy.

## 3. LPG Conversion

The Policy includes cover for Your Vehicles which have been modified to operate on liquefied petroleum gas provided such modification has been carried out in accordance with the relevant statutory standard.

## 4. Sea Transportation

We will pay any General Average and Salvage Charges incurred by You whilst Your Vehicle is being transported by sea between places in Australia.

## 5. Other Interested Parties

In the event of any loss of or damage to Insured Property which is subject to a lease or other financing arrangement whereby the financier retains security over the property, the financier will be an Insured under Part B of Motorpack but only to the extent that the financier's remaining interest in the Insured Property was affected at the time of the loss or damage to the insured property.

## GENERAL EXCLUSIONS – Applicable to all Sections

We will not pay for Loss or legal Liability:

1. if Your Vehicle is with Your consent driven by, or is under the control of, any person who is:
    - (a) not licensed to drive Your Vehicle under any relevant law, but this exclusion will not apply where a person is driving Your Vehicle with Your consent and You can prove:
      - (i) the driving licence produced to You by that person has been forged or was the subject of unauthorised alteration; or
      - (ii) the forgery or unauthorised alteration could not have been reasonably discerned from the driving licence produced to You; or
      - (iii) the driving licence produced would if it had been valid have authorised that person to drive the particular category or type of Vehicle which was to be driven with Your consent.
- However, We will not waive Our right of subrogation against that person; but where that person is a member of Your family or in another personal relationship with You, or where that person is Your employee and the loss occurred whilst he or she was acting in the course of his or her employment, We will not exercise Our subrogation rights except where there is serious or wilful misconduct on the part of that person.
- (b) noted in the current Schedule as a "declined Driver".
2. if Your Vehicle is driven by, or is under the control of, any person:
    - (a) who has ingested any drug, substance or alcohol which may impair his or her faculties; or
    - (b) who is convicted of driving or being in control of the Vehicle, at the time of Loss, while under the influence of any drug, substance or alcohol; or
    - (c) who has a percentage of alcohol in his or her breath or blood, at the time of Loss in excess of the percentage permitted By-law; or
    - (d) who refuses to provide or allow the taking of a sample of breath, blood or urine for testing or analysis as required by the law of any the Commonwealth, a State or Territory.
- We will indemnify You for Your vicarious Liability to a Third-Party for damage to property, if You prove You did not know, or could not reasonably have known, that the Driver of Your Vehicle was so affected or refused to undergo an appropriate test at the time of Loss. However, We will not indemnify Your Driver in respect of any Liability they incur as a result of he or she being in control of Your Vehicle where one or more of the circumstances in (a) to (d) above apply.
3. if Your Vehicle is used whilst in an unsafe or un-roadworthy condition and that condition caused or contributed to the Loss or Liability. However, this exclusion will not apply where You could not have detected the unsafe or un-roadworthy condition following reasonable examination or enquiry. You will be deemed not to have conducted such reasonable examination or enquiry if You fail to have the Vehicle regularly serviced in accordance with its manufacturer's recommendations.
  4. if Your Vehicle is used to carry a greater number of passengers or convey, lift, suspend or tow a load in excess of that for which Your Vehicle was designed, constructed or permitted By-law. However, We will pay, if You prove to Our satisfaction that the Loss or legal Liability was not caused or contributed to, by such excessive use.

5. intentionally caused by You or Your Driver or by a person acting with Your or Your Driver's consent.
6. incurred while Your Vehicle is being used:
  - (a) in connection with the motor trade for experiments, trials, demonstration or breakdown purposes; or
  - (b) in any formal or informal race, trial, test, contest or other motor sport to be carried out on public or private roads; or
  - (c) in preparation for any formal or informal race, trial, test, contest or other motor sport.
7. resulting from the lawful seizure of Your Vehicle or Your Loss of the Vehicle by any other legal process or operation of law.
8. incurred by You because You cannot use Your Vehicle, or use any trailer whether owned by You or not.
9. incurred while Your Vehicle is on rails other than as cargo.
10. incurred while Your Vehicle is not running solely on terra firma.
11. arising directly or indirectly as a result of Your Vehicle being driven or used whilst either the dimensions of the load (including any load projection limit) or the weight limit of the Vehicle (or its axles) are exceeded. This exclusion will not apply if an over size or over weight Vehicle permit has been obtained and the load is being carried in accordance with such a permit, provided this does not render the Vehicle unsafe or unmanageable.
12. any Loss or Damage of whatever kind arising directly or indirectly out of:
  - (a) the corruption, destruction or alteration of or damage to data, coding program or software; or
  - (b) the unavailability of data or reduction in the functionality, availability or operation of hardware, software and embedded chips; or
  - (c) any business interruption losses arising therefrom.

Provided this Exclusion 12 shall not apply where such Loss or Damage occurs as a direct result of any physical damage, which is otherwise covered by Part B of Motorpack.

## GENERAL CONDITIONS – Applicable to all Sections

### 1. Driver Declaration

Where the Policy Schedule states that this is a Nominated Driver Policy, You must complete Driver declarations for the Drivers of every Vehicle listed in the current Policy Schedule, as well as those covered by General Extension: '1. Automatic Inclusion of Vehicles'.

You must submit to Us for each:

- (a) existing Driver, a Driver declaration within 30 days of the Policy inception; and
- (b) for each additional Driver, provide a Driver declaration within five business days of his or her commencement as Your Driver.

### 2. Additional Excess

In addition to the Excess shown in the current Policy Schedule, You will have to contribute the following additional Excess or Excesses, if at the time of Loss or incurring legal Liability Your Vehicle is:

- (a) a rigid truck greater than 4.5 tonnes GVM and the person driving is under 25 years of age or has less than 2 years experience driving such type of Vehicle then You must pay an additional Excess of \$1,000; or
- (b) an articulated truck and the person driving is under 25 years of age and has less than 2 years experience of driving this type of Vehicle then You must pay an additional Excess of \$5,000; or
- (c) an articulated truck and the person driving is 25 years of age or older and has less than 2 years experience driving such type of Vehicle then You must pay an additional Excess of \$3,000; or
- (d) a Vehicle being used outside Your radius of operation which has been nominated by You to Us then You must pay an additional Excess of \$3,000, or
- (e) a rigid body tipper or a tipping trailer, the additional Excesses set out in (a) to (d) above that You must pay will be doubled if Damage is incurred whilst the tipping hoist is partially or fully extended.

### 3. Claim Procedure

To make a claim under this Policy:

- (a) You, or Your legal representative, must provide Us with full details in writing as soon as possible after an event involving the occurrence of any Loss, or the incurring of Liability, which may become the subject of a claim under the Policy;
- (b) We may request any evidence which We reasonably require to substantiate Your claim, including but not limited to a Statutory Declaration. Any communication from other parties (including letters of demand and court documents) must be sent to Us immediately;
- (c) Where there is a claim or potential claim under Section 2 You must:
  - (i) not make any admission of responsibility or any offer of payment without Our written consent, and
  - (ii) allow Us to have the sole conduct of all negotiations and proceedings, and
  - (iii) provide Us with all reasonable assistance and co-operation which We may request.

### 4. Subrogation

Subject to the *Insurance Contracts Act 1984*, We have the right to recover any amount paid by Us from any person You may be able to hold liable (this is termed a subrogation right) and:

- (a) We will have full discretion in the conduct, defence or settlement of any claim and the right to take any action in Your name;

- (b) You will provide Us with all documents and information We require to conduct any action in Your name; and
- (c) You and any other party entitled to cover under the Policy must provide Us all information and co-operation We may require in a timely fashion when requested by Us.

### **5. Authorising Repairs**

Other than as provided under Section 1, Included Benefit: '4 Emergency Repairs', You must not, without Our prior consent, authorise repairs to Your Vehicle which are, or may be, the subject of a claim under the Policy.

### **6. Average**

If the Sum Insured on Your Vehicle is less than 80% of the Market Value at the time of Loss giving rise to a claim under Section 1, then We will only pay that proportion of the repair costs that the Sum Insured bears to 80% of the Market Value.

For the purpose of establishing the Market Value for the application of this provision, prime movers and their attached trailers will be regarded as separate and distinct items.

### **7. Other Insurance**

You must notify Us in writing if You have already effected, or if You intend in the future to effect, any other insurance that covers Your Vehicle in whole or in part. You must provide Us with the full name and address of Your other insurer or intended insurer, together with the Policy number of the insurance contract if known.

### **8. Replacement Parts or Accessories**

If any replacement part or accessory necessary for the repair of Your Vehicle is not available within Australia at the time of such repair, We will pay up to the current or last available Australian list price of the manufacturer of the part or the Australian distributor for that part or accessory. If there is no Australian list price We will only pay the Reasonable Costs excluding the cost to import the replacement part or accessory.

### **9. Salvage**

If Your Vehicle is declared by Us to be a Total Loss and We pay You under Section 1, You must either allow Us to take possession of Your Vehicle or We will reduce what We pay You by the Vehicle's salvage value as assessed by Us.

### **10. Duty of Care to Mitigate Loss**

You must exercise reasonable care and precaution to mitigate Loss and ensure safety of any Vehicle insured under this Policy. In so doing, You must also maintain Your Vehicles in a safe working and roadworthy condition, conduct safe work practices, employ competent and suitably qualified Driver. You must also discharge Your legal obligations imposed by the relevant authorities and government bodies.

## PART C - MOBILE PLANT & EQUIPMENT

### Definitions

In Part C of Motorpack the following words have a special meaning. The definitions below apply only to Part C of Motorpack and override all other definitions, including: the General Definitions applying to all sections of the Policy; and the other definitions contained in the other Parts of Motorpack. The singular shall include the plural and vice versa, except where the context otherwise requires.

**“Aircraft”** means any craft or object designed to travel through air, atmosphere or space, other than model aircraft.

**“Accident or Accidental”** means unintended, unforeseen, fortuitous or unanticipated happening or mishap, which is not expected or designed.

**“Aviation Works”** means any of the following work:

- (a) the refuelling of Aircraft; or
- (b) the construction, alteration, repair, restoration, maintenance, extension, demolition or dismantling of buildings, runways or structures (whether permanent or not) forming, or to form part of the airport areas; or
- (c) the installation, alteration, repair, or maintenance or fittings, including lighting, power supply, drainage, sanitation, water supply, gas supply, fire protection, security and communications systems in any of the airport areas; or
- (d) any operation on any of the airport areas involving site clearance, earthmoving, excavation, tunnelling, boring, laying of foundations, erection or dismantling of scaffolding, site restoration, landscaping and the provision of roadways and other access works.

However, Aviation Works do not extend to vehicular movements within the airport perimeter conducted in accordance with the guidelines and regulations established by the relevant regulatory authority.

**“Down Hole Items”** means drill pipes, drill rods, drill shanks, jointing sleeves, collars, rock bits and reamers.

**“Dry Hire”** means the hiring out of an item of Insured Property without a driver or Operator.

**“Event”** means a happening causing sudden and unforeseen physical loss of or damage to Insured Property.

**“Excess”** means the amount shown in the Policy Schedule that You will bear for each and every Accident/Event of loss or damage payable under the Policy.

The Excess shown in the Policy Schedule may be:

- (a) a specific monetary amount; or
- (b) a percentage of the Sum Insured for the item damaged; or
- (c) a percentage of the loss or damage.

Excesses shall be cumulative across all Parts of Motorpack and within each Part of Motorpack.

### Goods and Services Tax (GST) Definitions

**“GST”, “Input Tax Credit (ITC)”, “Business Activity Statement (BAS)”, and “Acquisition”** have the same meaning given to those expressions in A New Tax System (Goods and Services Tax) Act 1999 and related legislation as amended from time to time.

**“Incidental Contract”** means:

- (a) any written rental agreement or lease of real personal property not requiring an obligation to insure such property or be strictly liable regardless of fault;
- (b) any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities;
- (c) any written contract with any railway authority for the loading, unloading and/or transport of Products, including contracts relating to the operation of railway sidings; or
- (d) those contracts designated in the Policy Schedule.

**“Insured”** means:

- (a) For all Sections of Part C of Motorpack, You, or Your means the Named Insured noted in the Policy Schedule.
- (b) For Section 2 - Road Risk, You, or Your also includes:
  - (i) anyone using or in charge of a Registered Insured Property with Your consent, but excluding hirers.
  - (ii) any authorised passenger of a Registered Insured Property.
  - (iii) Your employer or Principal where the Registered Insured Property was, at the relevant time, driven on their behalf with Your consent, but excluding hirers.

**“Insured Property”** means any:

- (a) Vehicle; or
- (b) items of plant which are able to move or be moved freely or easily; specifically noted in the Policy Schedule as Insured Property.

**“Limit of Liability”** means the amount shown in the Policy Schedule as the Limit of Liability.

**“Location”** means the Location stated in the Policy Schedule.

**“Market Value”** means the value of Insured Property at a normal sale between an unconnected buyer and seller or, if that value cannot be established, its value taking account of all factors including but not limited to age, wear and tear, location, obsolescence and usability into account.

**“Operator”** means an appropriately licensed driver or an appropriately licensed operator of the Insured Property.

**“Part”** means one of the three covers provided by Motorpack, comprising: Part A Commercial Motor; Part B Heavy Motor and Part C Mobile Plant & Equipment.

**“Personal Effects”** means personal property generally carried, or worn, on the person excluding: cash; negotiable instruments; mobile phones; notebook computers; personal computers; electronic organisers; portable music or DVD players; video recorders; cameras; tools or equipment.

**“Pollutants”** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to: smoke; vapour; soot; fumes; chemicals or waste. Waste will include, but not be limited, to all materials that have been or are intended to be recycled, reconditioned or reclaimed.

**“Property Damage”** means:

- (a) physical loss, destruction or damage to tangible property, including the loss of use from such physical loss, destruction or damage; or
- (b) the loss of use of tangible property that has not been physically lost, destroyed or damaged.

provided that any such loss of use is caused by, or arises out of, an Accident.

**“Provisional Repairs”** means repairs to Insured Property that are carried out to prevent further loss, or damage, occurring; or to move Insured Property to a place of safety.

**“Registered Insured Property”** means the Insured Property and associated attachments that are:

- (a) registered for public road use; or
- (b) have a conditional registration or a road permit; or
- (c) are required by any Commonwealth, State or Territorial law to hold a conditional registration or road permit.

**“Section”** means a sub-division of a Part.

**“Sum Insured”** means the amount stated in the Policy Schedule as the Sum Insured.

**“Third Party”** means a person who is not the Insured, or is not a person to whom cover is provided directly to by this Policy.

**“Trade Use”** means Insured Property while:

- (a) used for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities;
- (b) in the process of setting up for such operations and reverting from such operative format to a travel or transit configuration;
- (c) the Insured Property is being moved within a worksite simultaneously with or preliminary to or subsequent to, being used for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading and unloading, vacuuming and similar activities.

However, Trade Use does not include transit of the Insured Property to or from a worksite. If Road Risk Cover has been taken out, then Trade Use includes cover within the terms of the Road Risk Cover.

**“Transit”** means any Insured Property which is being transported by vehicle, vessel or train.

**“Vehicle”** means any machine, including attachments, which is designed to travel on wheels or self-laid tracks and to be propelled by a power source other than manual or animal power.

**“Watercraft”** means any vessel, craft or thing made or intended to float on, in, or travel through or under water, other than model boats.

### SECTION 1 - MATERIAL DAMAGE

#### Extent of Cover

##### 1. Insuring Clause

Subject to the terms and conditions of Part C of Motorpack, We will indemnify You for sudden and unforeseen physical loss or damage to the Insured Property occurring during the Period of Insurance, within the Commonwealth of Australia, and while it is:

##### 1.1 Care Custody and/or Control

in Your care, custody and/or control or while:

- (i) engaged for Trade Use or at rest
- (ii) being dismantled for the purposes of cleaning, inspecting, overhauling or repairing; or
- (iii) being dismantled for the purposes of moving or in the course of subsequent re-erection.

##### 1.2 Dry Hire

on Dry Hire, provided that:

- (i) You have an executed contract for hire agreement in place containing a provision that the hirer will be responsible for loss or damage; and
- (ii) the hire agreement is not subject to any damage waiver, or conditions restricting Our rights of subrogation.

##### 1.3 In Transit

In Transit by road, rail or water provided that Our liability under this Section shall not exceed the Sum Insured noted in the Policy Schedule.

#### 2. Additional Cover

If We agree to indemnify You under Section 1, Part C of Motorpack, then We will extend such cover for the following costs and expenses necessarily and reasonably incurred by You or on Your behalf.

##### 2.1 Expediting Expenses

Additional costs and expenses incurred for the sole purpose of expediting repairs or replacement parts. Such costs are limited, unless otherwise agreed by Us, to costs and expenses for:

- (a) express delivery within Australia. Express delivery will include carriage by air freight within Australia by the use of a licensed airline operating a regular scheduled service, but not Aircraft chartered specifically for such carriage;
- (b) Your travel costs, provided such costs are for regular service fares within Australia, but not Aircraft chartered specifically for such travel;
- (c) overtime or penalty rates of labour and other related allowances or payments;
- (d) accommodation and boarding costs, including meals and other costs associated with them.

Our liability for Expediting Expenses, unless otherwise noted in the Schedule shall be limited to the lesser amount of:

- (i) 50% of the amount payable by Us for loss or damage to Insured Property under clause 1.1 of Section 1, Part C ; or
- (ii) \$10,000 for any one Event.

## 2.2 Accessories, Tools and Spare Parts

Loss of or damage to accessories, tools and spare parts that were attached to or within the Insured Property, (but not included in the item's Sum Insured noted in the Schedule) at the time of loss or damage.

Our liability for Accessories, Tools and Spare Parts shall be limited to the lesser amount of:

- (a) \$5,000 in respect of any one such accessory, tool or spare part; or
- (b) in the aggregate for any one loss, 5% of the Sum Insured of the Insured Property lost or damaged.

## 2.3 Signwriting

Restoring any sign writing, advertising signs and the like which formed a permanent part of the Insured Property at the time of loss or damage.

## 2.4 Tyre Replacement

The replacement of any damaged tyre that cannot be safely used again, with a new tyre similar in make and specification, provided the damaged tyre was not a recap or retread, and had a remaining tread depth that complied with legal requirements immediately before the loss or damage.

## 2.5 Protection and Removal

- (a) the cost of protecting and removing damaged Insured Property to the nearest repairer or place of safety, or to any other location that We approve; or
- (b) the cost of protecting and removing Insured Property to a place of safety, following it becoming bogged, immobilised or stranded, without loss or damage having occurred, provided immobilisation, bogging, stranding is not be attributable to the careless action of the Operator in Our opinion.

This additional cover does not extend to provide costs for search, location and retrieval of lost or damaged items unless We provide Our prior written consent to the incur such costs.

Our liability for Protection and Removal expenses shall be limited to the lesser amount of:

- (a) 5% of the Sum Insured of damaged or immobilised Insured Property, or
- (b) \$50,000 any one Event and in aggregate during one Period of Insurance.

## 2.6 Lock and Keys

Locks and keys that are lost or damaged or believed to have been duplicated.

Our liability for Locks and Keys shall be limited to the lesser of:

- (a) \$2,500 per key or lock; or
- (b) \$5,000 in the aggregate for any one Event.

## 2.7 Loss of Personal Effects

Loss of or damage to Personal Effects belonging to You or Your employee driver that were contained in Your lost or damaged Insured Property at the time of loss.

Our liability for Loss of Personal Effects shall be limited to the lesser amount of:

- (a) \$500 for any one item of Personal Effect; or
- (b) \$1,000 in the aggregate for any one Event.

## 2.8 Windscreen Replacement

We shall not apply an Excess to the settlement of a repair to or replacement of a damaged windscreen, provided that:

- (a) the damaged windscreen is not part of any Insured Property used in the forestry or demolition industries; and
- (b) only the windscreen is damaged during the identifiable Event.

Our liability under Section 1 of Part C for windscreen repairs or replacements shall be limited to a maximum of \$5,000 in aggregate during any one Period of Insurance.

## BASIS OF LOSS SETTLEMENT – SECTION 1 ONLY

### 1. Where Repair takes place

#### 1.1 Repairable Items

Where damage is repairable, and the cost of repair is less than Market Value of the damaged item of Insured Property, settlement shall be made on the basis of the costs of restoration to the working order or condition that existed immediately prior to the Event by using normal work practice with:

- (a) the value of replacement parts charged at manufacturers list price; and
- (b) labour charged at standard rates and transport costs of parts at ordinary rates together with customs duties or dues.

#### 1.2 Depreciation of Parts

No deduction shall be made for depreciation in respect of parts replaced.



## 1.3 Repairs Carried out by You

If You carry out repairs at Your own situation or Your own workshop, We will pay the cost of replacement parts, wages and transport costs at ordinary rates and custom dues or other impost, incurred for the purpose of carrying out the repairs, plus a reasonable mark-up for Your overheads, provided that the person carrying out the repairs is qualified and competent to do so.

## 1.4 Unavailable or Obsolete Parts

If it is necessary to replace parts which are unavailable or obsolete, We will not pay more than the cost of similar parts for similar type of plant currently available. If similar parts are found to be unprocurable, We shall not pay more than the manufacturer's or supplier's latest list price.

## 1.5 Decrease in Market Value as a Result of Repair

We will not indemnify You for any decrease in the Market Value of the Insured Property as a result of any repair carried out under Section 1.

## 1.6 Additional Cover

We will also pay the necessary and reasonable costs covered by Additional Cover previously specified, but Our liability for Additional Cover items under the Policy will be limited to the Sum Insured for such costs nominated in the Policy wording or on the Policy Schedule.

Repair costs will also include any additional cover provided by Optional Endorsements issued by Us and acknowledged in the Schedule.

## 1.7 Provisional Repair

The cost of Provisional Repair will be borne by Us if such repair constitutes part of the final repair and does not increase the total repair cost.

## 1.8 Residual Value of Damaged Parts

We will deduct the residual value of any damaged part from the amount otherwise indemnified.

## 2. Where Repair does not take place

### 2.1 Property Not Repaired Within 2 Years

If any lost, or damaged, Insured Property is not repaired within a period of two years from the date of loss, or damage, We will only pay the lesser of:

- (i) the estimated cost of carrying out repairs at or shortly after the date of loss or damage; or
- (ii) the difference in the Market Value of the Insured Property immediately prior to and immediately after the Event.

### 2.2 Residual Value of Damaged Parts

We will deduct the residual value of any damaged part from the amount otherwise indemnified.

## 3. Total Loss

If the cost of repair is greater than the Market Value of the Insured Property immediately prior to the Event, settlement shall be made on the following Total Loss basis:

## 3.1 Replacement Item or Market Value

We will at Our option either:

- (i) supply an equivalent replacement item similar in type, capacity and condition to the Insured Property immediately prior to the Event; or
- (ii) pay the Market Value of the Insured Property immediately prior to the Event.

## 3.2 Residual Value of Damaged Parts

We will deduct the residual value of any damaged part from the amount otherwise indemnified.

## 3.3 Additional Cover

We will also pay necessary and reasonable costs covered by Additional Cover previously specified, but Our liability for any such costs will be limited to the Sum Insured for such costs nominated in the Policy wording or on the Policy Schedule.

We will also pay any additional benefits provided by specific endorsement issued by Us.

## 4. Excess

Where only one item is lost or damaged then the Excess applicable is that noted in the Schedule for a single item.

Our liability to indemnify You for loss under Part C of Motorpack shall be reduced by the amount of the Excess applicable for each and every lost or damaged item.

Where an Excess is shown for Section 1 and Section 2, only the highest Excess will apply to the Event or Accident.

## 5. Co-Insurance

Where the Sum Insured of any item of Insured property which is lost or damaged is less than 90% of the Market Value of that item at the commencement date of the Period of Insurance, We will only pay that portion of the Basis of Settlement described on clauses 1, 2 and 3 above, that the Sum Insured bears to the Market Value of the lost or damaged insured item.

The following example is designed to illustrate how the co-insurance clause might typically operate. This example does not cover all scenarios or all benefits and does not form a part of the Policy terms and conditions. It is a guide only.

Example:

An item of Insured Property has a Sum Insured of \$162,000. The item is damaged by an event covered by the Policy. We determine that the Market Value of the item is \$200,000 and the repair cost is \$100,000. The claim payment will be calculated as follows:

$$90\% \text{ of Market Value} = \$180,000$$

$$(\$162,000 / \$180,000) \times \$100,000 = \$90,000.00$$

We would pay \$90,000 to repair the damaged item.

## 6. Limit of Liability

Our total liability for any claim arising out of one Event or a series of Events arising out of one source or original cause will not exceed:

- (a) For each item of Insured Property - the Sum Insured noted in the Policy Schedule set against the lost or damaged item of Insured Property, less the Excess, and any cover provided under Section 1 of Part C's Additional Covers provided that the Additional Covers do not serve to extend the amount payable beyond the Sum Insured for the lost or damaged item of Insured Property.
- (b) For each Event - The Sum Insured noted in the Policy Schedule as the maximum cover for any one Event, less any Excess applicable, and any cover provided under Section 1 of Part C's Additional Covers provided that the Additional Covers do not serve to extend the amount payable beyond the Sum Insured for any one Event.

## SECTION 2 - ROAD RISK LIABILITY

### Extent of Cover

#### 1. Insuring Clause

We will only cover You for Road Risk liability if We have agreed to do so and acknowledged such cover by including a Limit of Liability at the corresponding item on the Policy Schedule.

#### 1.1 Road Risk Liability

Section 2 of Part C applies only if the Insured Property is registered for use on public roads, or has a road permit or conditional registration.

Subject to all the other terms and conditions of Part C and the Policy, We will pay You all amounts which You shall become legally liable to pay as compensation for Property Damage or bodily injury:

- (a) happening during the Period of Insurance as a result of an Accident which arises directly or indirectly from the use of Registered Insured Property on a public road;
- (b) which is anywhere within the Commonwealth of Australia;
- (c) but not while the Insured Property is being used for Trade Use.

#### 2. Defence to Claims and Suits

##### 2.1 General

With respect to the indemnity provided by Section 2 of Part C, We will:

- (a) defend, in Your name and on Your behalf, any claim or suit against You alleging bodily injury, Property Damage and seeking damages on account thereof even if any allegation(s) made in any such claim or suit is groundless, false or fraudulent;
- (b) pay all charges, expenses and legal costs incurred by Us or by You with Our prior written consent:

- (i) in the investigation, defence or settlement of such claim or suit, including loss of salaries or wages because of Your attendance at hearings or trials at Our request; and/or
  - (ii) in bringing or defending appeals in connection with such claim or suit provided We are satisfied there are reasonable grounds for a successful appeal;
- (c) pay all charges, expenses and legal costs recoverable from or awarded against You in any such claim or suit and all interest accruing on Our portion of any judgement until We have paid, tendered or deposited in court that part of such judgement which does not exceed the limit of Our liability under Part C of the Policy.
  - (d) pay expenses incurred by You for:
    - (i) personally rendering first aid or surgical or medical relief to others at the time of any bodily Injury (other than any medical expenses which We are prevented from paying by any law);
    - (ii) the temporary protection of damaged and undamaged property of any person or party, including temporary repairs, shoring up or underpinning thereof; and
    - (iii) purchasing or hiring or erecting and dismantling of hoarding, barriers, fences and any other form of temporary protection, including such protection which You must provide in compliance with the requirements of any Commonwealth, State, Territory or, other Statutory Authority;
  - (e) pay all legal costs incurred by You with Our prior written consent for Your representation at:
    - (i) any Coronial inquest or inquiry; or
    - (ii) any proceedings in any court or tribunal in connection with liability insured against by Section 2, Part C of Motorpack.

Any amounts We pay pursuant to paragraphs (a) to (e) inclusive will constitute Defence Costs for the purposes of Section 2, Part C of Motorpack of the Policy.

The amounts of such Defence Costs incurred, except payments in settlement of claims and suits, are payable by Us in addition to the applicable Limit of Liability of Section 2, Part C of Motorpack.

#### 3. Additional Cover

Section 2, Insuring Clause 1.1, of Part C of is amended to provide the following extensions of cover.

##### 3.1 Substitute Vehicles

Insured Property for the purposes of Section 2 of Part C Insuring Clause 1.1, shall include registered items of plant that are not owned by the Insured, but are in the Insured's possession as a substitute item while the Insured's item of plant is undergoing repairs or servicing.

### 3.2 Movement of Other Machines

We will pay You all amounts that You become legally liable to pay as compensation arising out of Property Damage happening during the Period of Insurance, within the Location specified in the Schedule, that was caused by You having lawfully moved or attempted to move, any other machine that was parked in a position which prevented or impeded the loading, unloading or lawful passage of Your Vehicle.

### 3.3 Removal of Debris

We will insure You for costs necessarily incurred in cleaning up or removing debris resulting from a covered Accident in which goods have fallen or leaked from the Registered Insured Property. However, Our liability under this extension in respect of any one Accident shall be limited to a maximum of \$50,000.

### 3.4 Sea Transportation

We will insure You for General Average and Salvage Charges incurred as a result of a covered Accident involving Registered Insured Property while in transit by sea between places in Australia.

### 3.5 Towing Disabled Machines

We will insure You for any Accident to any disabled machine being towed by Registered Insured Property, but not if it was being towed for any kind of reward.

### 3.6 Trailers

We will insure You for any Accident in connection with the use of any trailer attached to Registered Insured Property.

## 4. Cross Liability

For the purpose of the Part C of Motorpack the word Insured shall be considered as applying to each party comprising the Insured in the same manner as if a separate Policy had been issued to each of them.

Notwithstanding the above, the Limit of Liability does not apply to each Insured separately and will apply to all such Insured's in the aggregate so the Limit of Liability will not be increased for any one Accident as stated in the Policy Schedule.

## 5. Limit Of Liability

Our liability under Section 2, Part C of Motorpack is inclusive of all Defence Costs, expenses and the Additional Cover of Section 2, shall not exceed the amount stated as the Limit of Liability in the Policy Schedule for any one Accident or series of Accidents resulting from the one original cause.

## GENERAL EXTENSIONS

The following extensions apply to Sections 1 and 2 of Part C. The cover provided by the following extensions does not serve to extend any amounts payable beyond the relevant Sums Insured or Limits of Liability noted in the Policy Schedule.

### 1. Automatic Inclusions/Deletion

If You acquire a replacement or additional item of Insured Property, of a similar type to those items of Insured Property specified in the Policy Schedule during the Period of Insurance,

We will insure such replacement or additional item under Part C of Motorpack from the date on which You acquire it, but You must notify Us:

- (a) immediately if the value of the replacement or additional item exceeds \$500,000; or
- (b) within 30 days of acquisition if the value of the replacement or additional item does not exceed \$250,000.

If You dispose of or sell any Insured Property, or pass any Insured Property from Your care, custody and control with the intention of disposing of, or selling it, cover for any such item will cease at the time of any such disposition, sale or passing of the property from Your care, custody and control.

### 2. LPG Conversion

Cover under Part C of Motorpack will not be prejudiced by modification of any Insured Property to operate on liquefied gas, provided that the modification has been carried out in accordance with any relevant statutory or regulatory standard.

### 3. Other Interested Parties

In the event of any loss of or damage to Insured Property which is subject to a lease or other financing arrangement whereby the financier retains security over the property, the financier will be an Insured under Part C of Motorpack but only to the extent that the financier's remaining interest in the Insured Property was affected at the time of the loss or damage to the insured property.

### 4. Hold Harmless (Subrogation Waiver)

We will waive any rights or remedies or relief to which We may become entitled by subrogation against any person or organisation where You have been required by contractual agreement to release such person or organisation from liability. However, this extension will not apply to Dry Hire arrangements.

### 5. Hired-in Plant not noted on the Policy Schedule

We will provide cover under Section 1, Part C of Motorpack for hired-in plant not noted on the Policy Schedule. The most We will pay under Section 1 for hired-in plant is \$25,000 in aggregate during any one Period of Insurance.

Plant for the purposes of this extension will not include any:

- (a) sedan, 4 –wheel- drive, vehicle with a gross mass vehicle weight of 3.5 tonnes or more, ute, van, wagon or any other vehicle ordinarily used to carry passengers,
- (b) building; or
- (c) living organism.

### 6. Hired-in items noted on the Policy Schedule

(a) We will provide cover under Section 1, Part C of Motorpack for hired-in items that are specifically noted in the Policy Schedule. The most We will pay under Section 1 for hired-in items is the amount shown in the Policy Schedule.

- (b) We will provide cover under Section 2, Part C of Motorpack for Property Damage arising during the Period of Insurance as a result of an Accident involving the use of hired-in items that are specifically noted on the Policy Schedule. However,
- (I) The most We will pay under Section 2 for hired-in items is the Limit of Liability shown in the Policy Schedule; and
  - (II) We will not be liable for any Property Damage to the hired-in item itself.

## GENERAL EXCLUSIONS

The following exclusions apply to Sections 1 and 2 of Part C of Motorpack.

### 1. General Exclusions

The Policy does not apply to any loss or damage or legal liability:

#### 1.1 Licenced or Permitted Operator

Occurring while You are, or anyone with Your consent is, operating Insured Property without a current licence, except where that person is permitted to do so By-law, but this exclusion will not apply where a person is operating Insured Property with Your consent and You can prove:

- (i) the current licence produced to You by that person has been forged or was the subject of unauthorised alternation; or
- (ii) the forgery or unauthorised alteration could not have been reasonably discerned from the current licence produced to You; or
- (iii) the current licence produced would if it had been valid have authorised that person to operate the particular category or type of Vehicle which was to be driven with Your consent.

However, We will not waive Our right of subrogation against that person; but where that person is a member of Your family or in another personal relationship with You, or where that person is Your employee and the loss occurred whilst he or she was acting in the course of his or her employment, We will not exercise Our subrogation rights except where there is serious or wilful misconduct on the part of that person.

#### 1.2 Alcohol and Drugs

Caused by or arising out of the use, operation or preparation for operation of any Insured Property by anyone who, at the time of Event or Accident:

- (a) Was or could reasonably be assumed to be, under the influence of any drug or intoxicating liquor; or
- (b) had a percentage of alcohol or drug in their breath, blood or urine in excess of the percentage permitted By-law in the State or Territory where the Event or Accident took place; or
- (c) who subsequently refused to provide or allow the taking of a sample of breath, blood or urine for testing.

However, We will insure You if You did not know or could not reasonably have known of the above circumstances. However, We will not waive Our right of subrogation against the Operator or indemnify the Operator in respect of any liability they incur as a result of he or she being in control of, or operating, Insured

Property where one or more of the circumstances in (a) to (c) above apply.

#### 1.3 Overloading

Occurring while Insured Property is overloaded, loaded or configured in a manner other than that for which the Insured Property was designed at the time of such Event or Accident, but this exclusion will not apply unless the overloading or configuration other than that for which the Insured Property was designed caused or contributed to the Event or Accident.

#### 1.4 Unroadworthy Condition

Caused or contributed to by the unsafe or unroadworthy condition of Insured Property; unless You could not have reasonably detected that condition and You followed the servicing requirements of the Insured Property's manufacturer.

#### 1.5 Improper Use

That occurs as a result of the use of the Insured Property:

- (a) for any illegal purpose with Your knowledge and consent; or
- (b) for any official or informal race, trial, test, contest or in preparation for any of these.

#### 1.6 Requisition

Caused by the lawful seizure, or requisition of Insured Property, or by other operation of law, or arising from any breach of contract, agreement or obligation.

#### 1.7 Underground Risks

Occurring while the Insured Property is underground, unless otherwise agreed and acknowledged in the Policy Schedule.

#### 1.8 Vehicles on Rails

Incurred while Your Vehicle is on rails, other than as cargo.

#### 1.9 Vehicles on Terra Firma

Incurred while Your Vehicle is not running solely on terra firm,

#### 1.10 Electronic Data

Arising directly or indirectly out of:

- a) any total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data;
- (b) any error in creating, amending, entering, deleting or using Electronic Data;
- (c) any total or partial inability or failure to receive, send, access or use Electronic Data for any time or at all; and/or
- (d) any business interruption losses resulting from an event referred to in (a) to (c) above.

Regardless of any other contributing cause or Event, whenever it may occur, unless such loss or damage or legal liability arises as a direct consequence of physical damage to Insured Property which is otherwise insured under Part C of Motorpack.

However, any accidental physical damage to an Insured Property, which originates directly from an action of You to Your own property, and which causes or is caused by any of the matters referred to in (a) to (c) above, will be covered, subject to all other provisions of the Policy.

For the purpose of this Exclusion Electronic Data shall mean 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, including: programs, software and other coded instructions for such equipment.

### 1.11 Terrorism

For costs, or expenses, directly or indirectly caused by, contributed by, resulting from, or arising out of or in connection with any act of Terrorism, regardless of any other cause or Event contributing concurrently or in any other sequence to the loss.

Any act of Terrorism includes any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof; or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone, on behalf of, or in connection with any organisation(s) or government(s) de jure or de facto and which:

- (a) involves violence against one or more persons; or
- (b) involves damage to property; or
- (c) endangers life other than that of the person committing the action; or
- (d) create a risk to health or safety of the public or a section of the public; or
- (e) is designed to interfere with or to disrupt an electronic system.

This Exclusion also excludes loss of or damage to Insured Property of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing, retaliating against or responding to any act of Terrorism.

This exclusion will supersede the Terrorism Exclusion contained in the General Exclusions section of this Policy.

## 2. SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 1

We will not indemnify You under Section 1 of Part C for:

### 2.1 Mechanical and Electrical Breakdown

Loss or damage consisting of, or resulting from:

- (a) electrical, electronic or mechanical breakdown;
- (b) explosion of any boiler or pressure vessel subject to internal steam or fluid pressure, or of any combustion engine; or
- (c) a failure to supply or insert or maintain proper fuel, coolant or lubricants or

- (d) placing an incorrect or inappropriate type of fuel, coolant or lubricant into Your Insured Property.

However, if an Event causing damage which is otherwise insured under Part C of Motorpack, causes a secondary consequence to such damage, breakdown, explosion, or a lack of coolant or lubricants, We will indemnify You for such consequential loss or damage.

### 2.2 Marine Exposure

Loss or damage:

- (a) due to the total or partial immersion in tidal water; or
- (b) whilst being used for Trade Use on any Watercraft; or
- (c) whilst in the course of ocean marine transit;

unless otherwise agreed and acknowledged by specific endorsement.

### 2.3 Wear and Tear and General Maintenance

- (a) loss or damage which is specifically wear, tear, corrosion, erosion, oxidization, or gradual deterioration due to atmospheric conditions or otherwise;
- (b) cost of replacing:
  - (i) exchangeable tools including but not limited to cutting tools, knives, crushing tools, pressing, and punching tools, drills, bits, blades, and edges;
  - (ii) moulding, shaping, forming dies, moulds patterns, or templates;
  - (iii) replacement parts including but not limited to fuels, bulbs, X-ray tubes, filters, seals, ropes, belts, felts, caterpillar tracks, chains, conveyor belts, roller covering links, jointing, packing materials, connecting wires, hoses, flexible pipes, batteries, tyres, tracks, heating elements, electrical contacts, and any other part or parts which require periodic or frequent replacement;
  - (iv) overloads, protectors, fuses, shear pins, rupture plates, or similar protective devices.

However, paragraph (b) shall not apply if loss or damage to such tools, parts or devices has occurred as a direct result of a sudden and unforeseen external Event otherwise covered under Part C of Section 1 of the Policy.

- (c) costs relating to normal maintenance, service or adjustment.

### 2.4 Minor Visual Damage

Loss or damage to Insured Property that only has a visual effect and does not increase the risk of material damage nor does it decrease the output of the Insured Property.

### 2.5 Relinquished Custody

The loss of any Insured Property:

- (a) where You have entrusted any Insured Property to anyone posing as a prospective buyer; or
- (b) where You have entrusted any Insured Property under any hire purchase or lease arrangement, and do not have legally enforceable conditions of hire in place which make the hirer responsible for loss or damage, or;

- (c) where You have entrusted any Insured Property under any hire purchase or lease arrangement, and the conditions of hire include any damage waiver or any conditions restricting Our rights of subrogation;

unless We have otherwise agreed and acknowledged by specific endorsement .

## 2.6 Security for a debt

Loss of Insured Property where the Insured Property stands as security for a debt and is the subject of repossession or seizure by any financier.

## 2.7 Malicious Damage

For damage:

- (a) resulting from foreign matter having been maliciously placed in the Insured Property while such property is unattended, unless such loss or damage is as a direct result of forcible entry of any locking mechanism designed and fitted to prevent such loss or damage;
- (b) to any Insured Property if damage is due to plant being left unattended and in an insecure condition including, but not limited to, where all keys have not been removed from the locks.

## 2.8 Theft

Theft of any Insured Property, unless You have taken all reasonable precautions to protect or safeguard the Insured Property

## 2.9 Warranty and Maintenance Agreements

Loss or damage for which the supplier or manufacturer is responsible By-law or under contract, sale or warranty condition or which is covered under a Maintenance Agreement.

## 2.10 Consequential Loss

Penalties whether contractual or otherwise, for non completion or delay in completion, non compliance with any contract conditions, fines, liquidated damages, penalty costs or aggravated, punitive, or exemplary damages, extra costs of working, or any other consequential financial loss, unless otherwise agreed and acknowledged by specific endorsement.

## 2.11 Plant Operation

Loss or damage:

- (a) that could have been avoided if any fitted safety/security devices had been properly activated;
- (b) occurring while Insured Property is undergoing a test of any kind, except as required By-law;
- (c) occurring while Insured Property is being used, operated or prepared for operation:
- (i) in any manner or for any purpose other than for which it was designed; or
- (ii) beyond the manufacturer's recommended safe working limits or in a fashion contrary to that recommended.

However, if You have given instructions or taken precautions that are adequate to prevent such use and did not know or could not reasonably have known that the Operator was using the Insured Property in this manner, then We will not deny any claim under this exclusion (c), but We will not waive Our subrogation rights against the Operator;

- (d) caused by failure to provide Insured Property with adequate or appropriate, fuel, oil, lubricant or coolant; or
- (e) occurring while any crane insured by the Policy is being used in a lifting operation in which a load is shared or rigged for sharing with other cranes, unless otherwise agreed and acknowledged by Us in advance by a specific endorsement.

## 2.12 Search Locate and Retrieval Costs

Costs associated with the search, location, retrieval or recovery of any lost or damaged Insured Property unless such costs are acknowledged by specific endorsement taken out in advance of the incident covered.

## 2.13 Down Hole Items

Loss or damage to Down Hole Items while in the ground, unless:

- (a) nominated with a specific Sum Insured in the Policy Schedule, and
- (b) acknowledged by Us by specific endorsement taken out in advance of the incident covered.

## 2.14 Third Party Property Damage or Injury

Loss or damage to any Damage to the property of a Third-Party or the personal injury or death of a Third-Party.

## 3. SPECIFIC EXCLUSIONS APPLICABLE TO SECTION 2

We will not indemnify You for:

### 3.1 Damages, Fines and Penalties

- (a) any fines or penalties imposed By-law;
- (b) any liquidated damages;
- (c) any aggravated, exemplary or punitive damages;
- (d) any additional damages resulting from the multiplication of compensatory damages; or
- (e) any damages incurred by reason of any penalty clause.

### 3.2 Property Owned by You

Property Damage to property that You own, or liability arising from Your failure to maintain property that You own, unless You could not have known that maintenance was required.

### 3.3 Watercraft and Aircraft

Property Damage or Bodily Injury caused by or arising out of or in connection with:

- (a) any Watercraft exceeding 8 metres in length, except where such Watercraft is not owned by You but is used by You for business entertainment.

- (b) the ownership, repair, construction, maintenance, servicing of any Aircraft, or installation of any property in or on any Aircraft.
- (c) the ownership, use or control of any area on which Aircraft take off, land, load/unload, taxi, are housed, maintained or refuelled.

### 3.4 Professional Advice

Any legal liability arising out of any breach of a duty owed in a professional capacity by You or by persons for whose breaches of a professional duty You may be legally liable.

However, this Exclusion will not apply to the rendering of or failure to render professional medical advice by medical persons employed by You other than qualified medical practitioners.

### 3.5 Pollution

- (a) Property Damage, bodily Injury, personal injury, death or financial loss directly or indirectly arising out of the discharge, dispersal, release or escape of Pollutants,
- (b) the cost of removing, nullifying or cleaning-up Pollutants, and
- (c) the cost of preventing the escape of Pollutants.

Exclusions 3.5(a) and 3.5(b) will not apply where the Property Damage, bodily injury or death:

- (i) arose from an unexpected, unintended sudden and instantaneous cause which took place at a clearly identified point in time during the Period of Insurance;
- (ii) does not involve providing any cover for Your liability for personal injury or death of a third-party, arising out of the use of Insured Property unless cover for such injury or death falls outside the scope of any State or Territory compulsory third-party motor vehicle insurance schemes or any other compulsory statutory compensation scheme.

### 3.6 Asbestos

- (a) Any liability for directly or indirectly arising, out of inhalation of, or fears of the consequences of exposure to, or inhalation of, asbestos, asbestos fibres or derivatives of asbestos; and/or
- (b) that part of any loss, cost or expense for the cost of cleaning up, or removal of, or damage to, or loss of use of, property arising out of any asbestos, asbestos fibres or any derivatives of asbestos.

### 3.7 Railways

Loss, damage or liability arising in any way from the construction or structural maintenance of railways.

### 3.8 Aviation Works

Loss, damage or liability arising in any way from Aviation works.

### 3.9 Oil and Gas Wells and Refineries

Loss, damage or liability arising in any way from the construction, maintenance or repair of oil and gas wells and refineries.

### 3.10 Ship Building

Loss, damage or liability in any way arising from ship building or repair.

### 3.11 Dams, Reservoirs and Weirs

Loss, damage or liability arising in any way from structural maintenance of dams, reservoirs or weirs.

### 3.12 Admission of Liability

Any liability assumed by You as a result of any admission made by You.

### 3.13 Trade Use

Any liability arising directly or indirectly from the Insured Property being used or operated for Trade Use.

### 3.14 Compulsory Personal Injury Legislation

Any liability for bodily injury, personal injury, illness or death incurred where You or any person using Your Insured Property with Your consent are partly or wholly entitled to indemnity under any compulsory statutory insurance scheme or accident compensation scheme, or would have been so entitled to indemnity but for Your failure, or the failure of someone acting on Your behalf, to:

- (a) insure or register the Insured Property; or
- (b) lodge a claim; or
- (c) comply with any term or condition of any such scheme.

### 3.15 Dangerous Goods

Any liability occurring while the Insured Property is in use for, or is attached to any other machine in use for, the commercial carriage of Dangerous Goods as defined in the Australian Code for the Transport of Dangerous Goods by Road or Rail. However if transportation complies with such Code the maximum We will pay in respect of all claims arising out of any one Accident, is \$100,000 unless noted otherwise in the Policy Schedule.

### 3.16 Registered Vehicles in Northern Territory

Any liability to pay compensation in respect of bodily injury arising as a result of the use of any item of Insured Property which is registered in the Northern Territory of Australia.

### 3.17 Driver, Employee and Family Members

Any liability arising out of death or bodily injury to anyone who, at the time of any Accident, was:

- (a) operating or in charge of the Insured Property; or
- (b) Your employee; or
- (c) a member of Your family.

### 3.18 Loading and Unloading

Any liability caused by, or in connection with, any operation of loading, unloading, delivery or collection to or from Your Vehicle or Insured Property except for the operation of loading, or unloading, products onto or from Your Vehicle direct to a fixed place of rest beside Your Vehicle.

### 3.19 Employment Liability

- (a) Bodily Injury to any Employee arising out of or in the course of their employment by or with You.
- (b) liability caused by, arising from or in any way connected with, any provision of any applicable workers' compensation legislation or accident compensation legislation, or
- (c) liability caused by, arising from or in any way connected with, any industrial award or agreement or determination or any contract of employment or workplace agreement, where such liability would not have been imposed in the absence of any such industrial award, agreement, determination, contract of employment or workplace agreement; or
- (d) liability for which You are or would have been entitled to seek indemnity under any Policy of insurance, fund, scheme or self insurance arrangement, required pursuant to any legislation relating to workers' or workmen's' compensation including any legislation of any State or Territory (whether insurance is effected or not).

For the purpose of this exclusion, Employee means any person engaged under a contract of service or apprenticeship with You but does not include any person employed under such a contract who is excluded from the definition of worker under any applicable workers' compensation legislation.

### 3.20 Underground Services

Any liability for or arising from Property Damage to any underground pipes, cables, services and supports.

## GENERAL CONDITIONS

### 1. General Conditions

#### 1.1 Misrepresentation and Non-Disclosure

If You have:

- (a) failed to disclose any matter which You were under a duty to disclose to Us; or
- (b) made a misrepresentation to Us before the Policy of insurance was entered into;

and if We would not have entered into the Policy for the same Premium and on the same terms and Conditions expressed in the Policy but for the failure to disclose or the misrepresentation, then;

- (i) Our liability in respect of any claim shall be reduced to an amount which places Us in the same position in which We would have been if the failure to disclose had not occurred or the misrepresentation had not been made; or

- (ii) if the non-disclosure or misrepresentation was fraudulent, We may avoid the Policy.

Where more than one party is insured under the Policy, any misrepresentation or non-disclosure will only affect the party responsible for the misrepresentation or non-disclosure and no other party.

#### 1.2 Observance of Terms and Conditions

Indemnity under Part C of Motorpack will depend upon Your compliance with the following conditions:

- (a) The observance of the terms, conditions and endorsements of and to the Policy by any person or entity insured under it in so far as they relate to anything to be done or complied with by any persons or entities insured;
- (b) The truth of the verbal and written statements made to Us by any of the persons or entities insured or their representative or agents prior to entering into the Policy; and
- (c) The notification as soon as practical by any of the persons or entities insured of any alteration of risk which materially affects this insurance.

#### 1.3 Reasonable Care

You and Your employees and agents, must at Your or their own expense use due diligence to:

- (a) take all reasonable precautions to prevent or minimise loss or damage;
- (b) comply with all reasonable recommendations made by Us to prevent or minimise loss or damage;
- (c) comply with all statutory requirements and recommendations of manufacturers and suppliers; and
- (d) prevent the occurrence of bodily Injury and Property Damage insured against hereunder.

#### 1.4 Entitlement

Each person or organization entitled to insurance under the Policy will be subject to its terms as if such person or organization were You.

#### 1.5 Notice of Claims – (Section 1 - Material Damage Only)

In the event of a claim under Section 1 the following conditions apply:

- (a) Following discovery of any loss or damage which might give rise to a claim under Section 1, Part C of Motorpack, You or Your representative must:



- (i) notify Us as soon as possible and confirm such notification in writing giving an indication of the nature and extent of the loss, destruction or damage to Insured Property;
  - (ii) take all steps within Your power to minimise the extent of the loss or damage to Insured Property;
  - (iii) preserve all parts affected and make them available for inspection by Us, Our employees or agents;
  - (iv) furnish all such information and documentary evidence as We may reasonably require; and
  - (v) notify the police of any actual or attempted theft, burglary or malicious damage.
- (b) Upon notification of any loss or damage being given to Us, You may carry out repairs or make good any minor damage, but in all cases You must give Us, Our employees or agents an opportunity to inspect the loss or damage before any repairs or alterations are effected. If no inspection is carried out by Us or on Our behalf within a period of time which is reasonable having regard to the location of risk, weather conditions and any other relevant factors, You may proceed with such repairs or replacement.
- (c) We will not pay for any additional damage to any item caused by the failure to repair that item properly and without delay.

### 1.6 Notice of Claims (Section 2 Only)

In the event of any Accident likely to give rise to a claim under Section 2, Part C of Motorpack of the Policy You must:

- (a) at Your own expense, take such immediate action as may be necessary to minimise the extent of bodily injury or Property Damage;
- (b) as soon as possible, give notice in writing of such Accident to Us;
- (c) send to Us immediately upon Your receipt any letter, claim, writ, summons or proceedings; and
- (d) make no admission, offer, promise, payment or offer of indemnity to any party without Our prior written consent.

### 1.7 Claim Co-operation (Section 1 and Section 2)

On the happening of an Event or Accident for which a claim is made or may be made under the Policy We may at Our election:

- (a) take over and conduct in Your name the defence or settlement of such claim;

- (b) at Our own expense and for Our own benefit conduct proceedings or prosecute any action to enforce Your rights against others whether or not any payment has been made by Us in respect of such claim; and
- (c) receive from You all assistance and information We may reasonably require for the purpose of defending or settling such claim or in the pursuit of any rights of recovery from others.

### 1.8 Subrogation

Subject to the *Insurance Contracts Act 1984*, We have the right to recover any amount paid by Us from any person You may be able to hold liable (this is termed a subrogation right) and:

- (a) We will have full discretion in the conduct, defence or settlement of any claim and the right to take any action in Your name;
- (b) You will provide Us with all documents and information We require to conduct any action in Your name; and
- (c) You and any other party entitled to cover under the Policy must provide Us all information and co-operation We may require in a timely fashion when requested by Us.

### 1.9 Inspection

We or Our employees or agents will at any reasonable time have the right to inspect and examine at any location, any item, plant or equipment associated directly or indirectly with the risk, the subject of the Part C of Motorpack, and You must provide to Us, Our employees or agents all details and information which We may reasonably require.

### 1.10 Other Insurances

In the event of a claim You must give Us written notice if You have any other insurance covering the loss or damage to the Insured Property, or liability cover for Property Damage.

### 1.11 Assignment

No interest in this insurance can be transferred to anyone other than an existing Insured party under this Policy without Our prior written consent.

### 1.12 Reinstatement of Sum Insured

Following any claim being paid under the Policy We will reinstate the Sum Insured, provided that You pay any additional premium that may be reasonably required by Us.

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