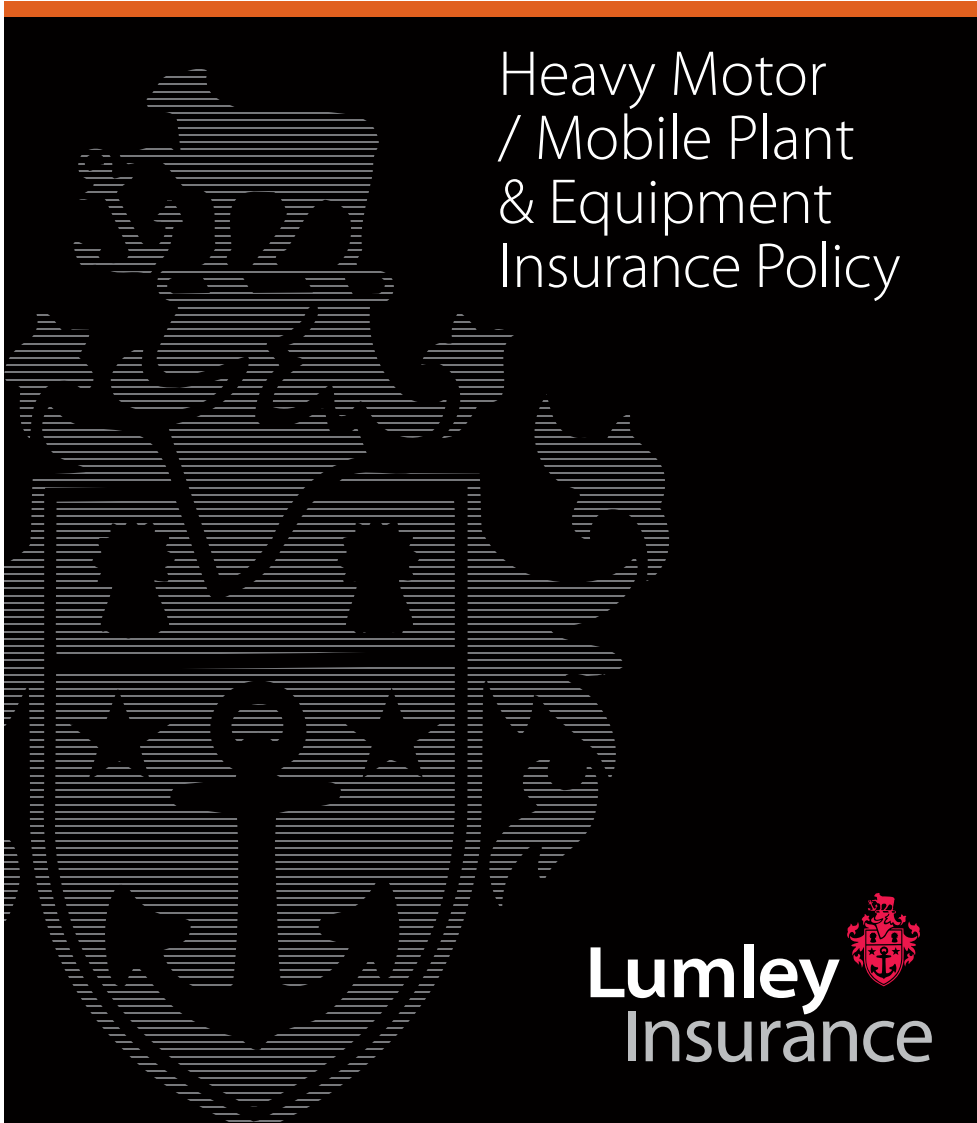


# engineering



Heavy Motor  
/ Mobile Plant  
& Equipment  
Insurance Policy



Lumley   
Insurance

## LUMLEY INSURANCE BRANCH NETWORK

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Level 4, 10 Rudd Street  
Canberra City ACT 2600  
Phone: (02) 6279 0333  
Fax: (02) 6279 0330

### **New South Wales**

Lumley House  
Level 9, 309 Kent Street  
Sydney NSW 2000  
Phone: (02) 9248 1111  
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Newcastle NSW 2291  
Phone: (02) 4925 7500  
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### **Northern Territory**

Level 2, Beagle House  
38 Mitchell Street  
Darwin NT 0800  
Phone: (08) 8946 4600  
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### **Queensland**

Level 2, 99 Melbourne Street  
South Brisbane QLD 4101  
Phone: (07) 3307 4800  
Fax: (07) 3307 4899

Level 5, Northtown Tower  
Flinders Mall  
Townsville QLD 4810  
Phone: (07) 4722 6000  
Fax: (07) 4724 4398

### **South Australia**

465 Pulteney Street  
Adelaide SA 5000  
Phone: (08) 8228 1700  
Fax: (08) 8228 1777

### **Tasmania**

Level 1, 27 Paterson Street  
Launceston TAS 7250  
Phone: (03) 6345 4700  
Fax: (03) 6345 4711

### **Victoria**

Level 3, 99 King Street  
Melbourne VIC 3000  
Phone: (03) 8627 4333  
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### **Western Australia**

Level 9, 50 St Georges Terrace  
Perth WA 6000  
Phone: (08) 9220 8222  
Fax: (08) 9220 8251

## HEAVY MOTOR / MOBILE PLANT & EQUIPMENT INSURANCE POLICY

### **Policy Wording and Product Disclosure Statement**

The insurer of this product is:

Wesfarmers General Insurance Limited, trading as Lumley Insurance

ABN 24 000 036 279

AFS Licence No. 241461

Preparation Date: 5th March 2010

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# IMPORTANT CUSTOMER INFORMATION

## Policy Style

Words shown in bold lettering within the text are subject to a specific definition within the Policy, or appear in the Policy Schedule.

## Introduction

The insurer of this insurance is Wesfarmers General Insurance Limited

ABN 24 000 036 279 Trading as Lumley Insurance, AFS License No. 241461

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

- this Section - Contains information on matters that **You** need to be aware of before applying for this insurance;
- the Definitions Section - Sets out what **We** mean by certain defined terms in this insurance;
- Section One Material Damage - Provides details of the accidental material damage cover along with specific exclusions and conditions that apply to it;
- Section Two Liability - Provides details of the available liability cover along with specific exclusions and conditions that apply to it;
- the General Extensions (Applicable to Sections One and Two) – Sets out various extensions to the relevant covers;
- the Exclusions (Applicable to Sections One and Two) Section – Sets out what **We** do not cover under any section of this insurance as well as under specific exclusions applicable to individual sections of this insurance;
- the General Conditions– Contains additional terms and conditions that apply, including those on how to make a claim; and
- other documents **We** provide to **You** about the insurance which set out details relevant to **You** and may change the standard cover.

## Entering into the Policy with Us

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

**Your** 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 (See Your Duty of Disclosure).

The Policy is entered into on the condition that **You** will pay the premium required by **Us** by the agreed time (including any adjustments). If **Your** premium is not paid on time **We** may cancel **Your** Policy.

**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**, Fire Service Levy and Fire and Emergency Services Levy (NSW))

**Your** Policy is made up of:

- this document;
- the Schedule **We** give **You**; and
- any written endorsements to **Your** 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 and 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 be able to cancel it and/or reduce **Our** liability in respect of a claim to the extent permitted by law.

Where the Policy has been entered into **We** agree, subject to the terms, exclusions, conditions, limitations and other provisions of the Policy, to indemnify **You** as specified in the Policy against the relevant loss or damage arising from any insured **Events/Occurrences** which occur during the **Period of Insurance** stated in the Schedule or any renewal thereof.

However, **Our** total Liability shall not exceed the appropriate **Limit(s) of Liability / Sum(s) Insured** as stated in the Schedule, or as otherwise provided in the Policy, or such amounts as may be substituted by Endorsement to the Policy.

### Your Duty of Disclosure

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

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

**Your** duty, however, does not require disclosure of any matter:

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

If **You** fail to comply with **Your** duty of disclosure, **We** may be entitled to reduce **Our** liability under the contract with respect of a claim and/or may cancel the contract.

If **Your** non-disclosure is fraudulent, **We** may also have the option of cancelling cover under the contract from its beginning.

### Parties to the Policy

Where shown in the Policy, including this introductory Section:

- **We/Our/Ours/Us** – refers to Wesfarmers General Insurance Limited trading as Lumley Insurance; (ABN 24 000 036 279 AFS License No. 241461);
- **You/Your/Yours** - refers to the Insured as defined in the Policy.

### Declared Sum Insured for Insured Property

It is most important that the **Sum Insured You** select for Section One Material Damage is adequate to represent the **Market Value** of the **Insured Property**, and is calculated in accordance with the cover being arranged. Otherwise **You** may be under-insured and in accordance with the Co-insurance provision of the Policy **You** may be responsible for paying part of any loss **You** suffer.

**You** should review the adequacy of the **Sum(s) Insured** periodically during the **Period of Insurance** and prior to renewal each year.

### Subrogation

**You** may not be entitled to cover under the Policy, if **You** enter into or have entered into any agreement that excludes or limits **Your** right of recovery from other parties. This would affect **Our** right to recover from other parties after paying any claim.

### Cooling Off

If **You** are not completely satisfied with the Policy you may cancel it by notifying **Us** in writing within 21 days of its commencement. **You** will receive a refund, as set out under clause 1.15 unless **You** have made or are entitled to make a claim under the Policy. Should **You** cancel the Policy it is **Your** responsibility to notify any other of the Insured parties that may rely on this cover being in effect of the cancellation.

### Confirming Transactions

**You** may contact **Us** in writing or by phone, to confirm any transaction under the Policy. Any transaction will be documented by **Us** as quickly as possible.

### 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**.

## Complaints – Internal and External Complaints Procedure

If **You** do not agree with any decision **We** make in relation to **Your** insurance, please write to **Us** or contact **Us** stating what **You** disagree with and why.

**We** will then either resolve or attempt to resolve **Your** complaint immediately, or refer the matter to **Our** Internal Dispute Resolution Committee (IDRC).

If **You** are not satisfied with the decision of the IDRC, **You** may be able to access the services of an independent external dispute resolution body called Financial Ombudsman Services (FOS) if **Your** dispute falls within the jurisdiction of FOS. If **Your** complaint relates to **Product Liability We** will give **You** information about any other external dispute resolution options that may be available.

FOS Contact details are as follows:  
Financial Ombudsman Service Limited  
GPO Box 3  
Melbourne VIC 3001  
General Enquiries: 1300 78 08 08  
Fax: (03) 9613 6399  
Email: info@fos.org.au  
Website: www.fos.org.au

If **You** require further information about **Our** dispute resolution process, please contact **Us**.

## Privacy

**We** are bound by the National Privacy Principles of the *Privacy Act 1988(Commonwealth)* when **We** collect and handle personal information provided by **You** (this includes the personal information of other persons that **You**, or others, have provided to **Us** in relation to this insurance).

**We** collect personal information for the purpose of providing insurance, including arranging insurance, policy administration and claims handling. **We** also collect **Your** personal information to conduct market or customer satisfaction research and to develop and identify **Products** and services that may interest **You**. If necessary, **We** may collect information about **Your** health and other sensitive information, but **We** will obtain **Your** consent before doing so unless the collection is required or permitted by or under law.

**We** disclose personal information to persons **We** deal with in providing **Our** services to **You**, for example, reinsurers, insurance intermediaries, insurance reference bureaus, credit reference agencies, **Our** and **Your** advisers and those involved in the claims handling process, for the purposes of assisting **Us** and them in providing relevant **Products** and services, and for the purposes of litigation. **We** limit the use and disclosure of any personal information provided by **Us** to them to the specific purpose for which **We** supplied it. By providing **Your** personal information to **Us**, **You** consent to **Us** making these disclosures.

Without this 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** would like a copy of **Our** Privacy Policy, would like to seek access to or correct **Your** personal information, or opt out of receiving materials **We** send, please contact **Us**.

## Goods and Services Tax (GST)

All amounts insured by the Policy exclude **GST**. Any claim settlements, up to the total of all **Sums Insured**, will exclude **GST**. However, if there is a shortfall between the **GST** component of **Your** claim and the amount of input tax credit **You** are entitled to, **We** will pay this shortfall in addition to the claim settlement.

**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 in the settlement of any claim or **Premium** relating to the Policy.

## Terrorism Insurance Act 2003 (Commonwealth)

*Terrorism Insurance Act 2003* cover applies to the relevant sections of the Policy.

## Intermediary

If an intermediary has been used to arrange the Policy **We** may pay them remuneration such as commission or fee.

## DEFINITIONS

For the purpose of this policy the following definitions apply.

### Advertising Liability

Means Injury arising out of:

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

committed or alleged to have been committed during the **Period of Insurance** in any advertisement, publicity article, broadcast or telecast arising out of any activities conducted by **You** in the course of advertising **Your Products**, goods or services.

### Aircraft

Means any craft or object designed to travel through air, atmosphere or space, other than model aircraft.

### Business

Means all of **Your** business activities and operations including ownership and tenancy of premises and the provision or management of canteen, social, sports, welfare, child care organisations for **Your** employees and internal first aid, fire and ambulance services directly associated with that described in the schedule.

### 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/**Operator**.

### Event

Means a happening causing sudden and unforeseen physical loss of or damage to **Insured Property**.

### Excess

Means the amount shown in the Schedule that **You** will bear for each and every **Occurrence/Event** of injury, loss or damage payable under the Policy.

The **Excess** shown in the Schedule may be:

- (a) A specific monetary amount; or
- (b) A percentage of the **Sum Insured** for the item damaged or as a percentage of the loss or damage.

### Goods and Services Tax 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.

**Taxable Percentage** is **Your** entitlement to an Input **Tax Credit** on **Your** premium as a percentage of the total **GST** on that premium.

### Incidental Contract

- (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;
- (d) those contracts designated in the Policy Schedule.



## Insured

- (a) For all Sections of the Policy, **You, Your** means the **Named Insured** noted in the Schedule of the Policy.
- (b) For Section Two - 1.1 Road Risk, **You, Your** also includes:
- (i) anyone using or in charge of **Registered Insured Property** with **Your** consent, but excluding hirers;
  - (ii) any authorised passenger of **Registered Insured Property**;
  - (iii) **Your** employer or Principal where **Registered Insured Property** was, at the relevant time, driven on their behalf with **Your** consent, but excluding hirers.
- (c) For Section Two - 1.2 On-Site **Trade Use**, or Public Liability only, **You, Your** also includes:
- (i) any of **Your** directors, executive officers or employees while acting within the scope of their duties in such capacity;
  - (ii) any principal but only for the principal's vicarious liability that arises out of the work performed by **You** for that principal provided that:
    - the work was carried out by **You** in an attempt to comply with a contract to perform work that was made between **You** and that principal; and
    - **Our** liability shall not exceed the required amount specified within the contract documentation.
  - (iii) Any office bearer or member of any of the following organisations that are formed with **Your** consent:
    - a canteen, social, sports, welfare or child care organisation that is for **Your** employees; or
    - an internal first aid, fire brigade or ambulance service, but only while these persons are acting within the scope of their duties in such capacity.
- (d) For Section Two - 1.3 **Products** Liability only **You, Your** also includes:
- (i) any of **Your** directors, executive officers or employees while acting within the scope of their duties in such capacity;
  - (ii) any office bearer or member of any of the following organisations that are formed with **Your** consent:
    - a canteen, social, sports, welfare or child care organisation that is for **Your** employees; or
    - an internal first aid, fire brigade or ambulance service, but only while these persons are acting within the scope of their duties in such capacity.

## Insured Property

Means mobile and stationary items of plant specifically noted in the Schedule as **Insured Property**.

## Market Value

Means the value of **Insured Property** at a normal sale or, if that value cannot be established, the value taking profit expectations and factors such as age, wear and tear, location, obsolescence and usability into account.

## Operator

Means an appropriately licensed driver or an appropriately licensed operator of **Insured Property**.

## Occurrence

Means an event, including continuous or repeated exposure to substantially the same general conditions, which results in **Personal Injury** and/or **Property Damage** that is neither expected nor intended (other than in the circumstances set out in part (e) of the Definition of **Personal Injury**) from the standpoint of a reasonable person.

All **Occurrences** of a series consequent upon or attributable to one source or original cause shall be deemed to be one **Occurrence**.

All **Advertising Liability** 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 Effects

Means personal property generally carried or worn excluding cash, negotiable instruments, mobile phones, lap top computers, personal computers, electronic organizers, portable music players, video recorders, cameras or tools and equipment.



### Personal Injury

Means bodily injury, death, sickness, personal injury, disease, illness, disability, shock, fright, mental anguish and mental injury including loss of consortium or services resulting there from.

Without limiting the forgoing, **Personal Injury** may arise as a result of:

- (a) false arrest, false imprisonment, wrongful detention, malicious prosecution or humiliation;
- (b) wrongful entry or wrongful eviction or other invasion of privacy;
- (c) the publication or utterance of libel, slander or other defamatory or derogatory material, or a publication of utterance in violation of any individual's right of privacy except:
  - (i) when the first such publication or utterance is related to any publication or utterance made prior to the commencement of the Policy; or
  - (ii) when any such publication or utterance is made in the course of or is related to advertising, broadcasting, telecasting or publishing activities conducted by or on behalf of the Insured;
- (d) assault and battery not committed by or at the direction of an Insured unless committed for the purpose of preventing, eliminating or mitigating the effects of actual or possible danger to persons or property.

### Pollutants

Means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, chemicals or waste. Provided that waste for these purposes shall include but not be limited to all materials which have been or are intended to be recycled, reconditioned or reclaimed.

### Product(s)

Means anything that is not in **Your** physical custody or in **Your** legal control that has been manufactured, grown, extracted, produced, processed, sold, supplied, distributed, imported, exported, repaired, serviced, treated, installed, assembled, erected or constructed, by **You** in the course of **Your Business** including any packaging and containers (other than a **Vehicle**) used to package or contain **Your Product(s)**.

### Product Liability

Means any liability for an **Occurrence** that is caused by or arises out of **Your Product(s)**.

### Property Damage

Means:

- (a) physical loss, destruction or damage to tangible property, including the loss of use thereof at any time resulting there from; and/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 **Occurrence**.

### Registered Insured Property

Means the **Insured Property** and associated attachments that are registered or for public road use or where a conditional registration, or a permit is held or legally required to be held.

### Trade Use

Means use in excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, loading, and unloading, vacuuming and the like including the process of setting up for such operations and reverting from such operative format to travel/transit configuration. It does not include transit to or from a worksite but does include travel within a worksite if simultaneously being used for work.

### Vehicle

Means any machine, including attachments, that is designed to travel on wheels or on 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 ONE - MATERIAL DAMAGE

## EXTENT OF COVER

### 1. Insuring Clause

Subject to the terms and conditions of this Policy, **We** will indemnify **You** for sudden and unforeseen physical loss of or physical damage to the **Insured Property** occurring during the **Period of Insurance** while it is:

#### 1.1 Care Custody and/or Control

within **Your** care, custody and/or control and:

- working or at rest;
- being dismantled for the purposes of cleaning, inspecting, overhauling or repairing; and/or
- being dismantled for the purposes of moving or in the course of subsequent re-erection;

#### 1.2 Dry Hire

on **Dry Hire**, provided that:

- **You** have legally enforceable conditions of hire in place making the hirer responsible for loss or damage; and
- the hire agreement is not subject to any damage waiver, or conditions restricting **Our** rights of subrogation; and/or

#### 1.3 In Transit

in transit, by road, rail or water.

and while it is within the **Location** described in the Schedule, provided that **Our** liability under this Section shall not exceed the **Sum(s) Insured** noted in the Schedule.

### 2. Additional Cover

If **We** agree to indemnify **You** under the Section One of this Policy, then **We** will extend such cover for costs and expenses necessarily and reasonably incurred by **You** or on **Your** behalf for:

#### 2.1 Expediting Expenses

additional costs and expenses incurred for the sole purpose of expediting repairs or replacement. 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 licensed airline(s) 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 shall be limited to the lesser amount of:

- (i) Fifty percent (50%) of the amount payable by **Us** under clause 1 hereof; or
- (ii) \$10,000 for any one **Event**,

unless otherwise noted in the Schedule.

#### 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 **Plant Value** 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:

- (i) \$5,000 in respect of any one such accessory, tool or spare part; or
- (ii) 5% of the **Plant Value** 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 can not 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, immediately before the loss or damage, that complied with legal requirements.

#### 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 can not be attributed to the careless action of the **Operator**.

This additional cover does not extend to provide costs for search, location and retrieval of lost or damaged items unless **We** give **Our** prior written consent to the incurrance of such costs.

**Our** liability for Protection and Removal expenses shall be limited to the lesser amount of:

- (i) 5% of the **Sum Insured** of damaged or immobilised **Insured Property**; or
- (ii) \$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 amount of:

- (i) \$2,500 per item; or
- (ii) \$5,000 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:

- (i) \$500 any one item of **Personal Effect**; or
- (ii) \$1,000 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** working within the forestry or demolition industries; and
- (b) the windscreen is the only damage incurred during the identifiable **Event**.

**Our** liability under the Policy for windscreen repairs and/or replacements shall be limited to a maximum of \$5,000 in aggregate during any one **Period of Insurance**.

## BASIS OF LOSS SETTLEMENT

### 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(s) of **Insured Property**, settlement shall be made on the basis of the costs of restoration to working order and/or condition that existed immediately prior to the **Event** by using normal work practice and comprising the value of replacement parts, labour charged at standard rates of wages, transport costs at ordinary rates and customs duties, dues or other impost(s) if levied.

#### 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 overheads, provided that the person carrying out the repairs is qualified 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 estimate cost for 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 price list.

#### 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 this section.

#### 1.6 Additional Cover

**We** will also pay 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(s) Insured** for such costs nominated within the policy wording or in 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 (2) 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 basis of Total Loss.

### 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(s) Insured** for such costs nominated within the policy wording or in 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 shall be that noted in the Schedule for a single item.

**Our** liability to indemnify **You** for loss under the Policy shall be reduced by the amount of the **Excess(es)** applicable for each and every lost or damaged item.

Where an **Excess** is shown for Section One and Section 2a, only the highest **Excess** will apply to the **Event/Occurrence**.

## 5. Co-Insurance

Where the **Plant Value** appearing against the **Insured Item** which is lost or damaged is less than 90% of the **Market Value** of that item (at the Inception Date of the **Period of Insurance**), **We** will only pay that portion of the Basis of Settlement described in clauses 1, 2 and 3 above, that the declared **Sum Insured** noted in the Schedule relates to the **Market Value** of the lost or damaged **Insured item(s)**

## 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:

### 6.1 Per Item

- (i) the **Plant Value** noted in the Schedule set against the lost or damaged **Insured Item**, less the **Excess**; plus
- (ii) any cover provided under Additional Covers allowed under the Policy.

### 6.2 Per Event

- (i) The **Sum Insured** noted in the Schedule as the maximum for any one **Event**, less any **Excess** applicable; plus
- (ii) any cover provided under Additional Covers allowed under the Policy.

## SECTION TWO - LIABILITY

### EXTENT OF COVER

#### 1. Insuring Clause

**We** will only cover **You** under Sections 2a, 2b, and 2c below if **We** have agreed to do so and acknowledged the cover by including a **Limit of Liability** at the corresponding item in the Schedule.

##### 1.1 (Section 2a) Road Risk Liability

This Section of the Policy 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 the Policy, **We** will pay **You** all amounts which **You** shall become legally liable to pay as compensation for:

- (a) **Property Damage**; and/or
- (b) **Personal Injury**,

happening during the **Period of Insurance** as a result of an **Occurrence** which arises from the use of **Registered Insured Property** anywhere within the Commonwealth of Australia.

##### 1.2 (Section 2b) Trade Use or Public Liability

**On-Site Trade Use** (for registered and unregistered Plant).

Subject to all the other terms and conditions of the Policy, **We** will pay **You** all amounts which **You** shall become legally liable to pay as compensation for:

- (a) **Property Damage**; and/or
- (b) **Personal Injury**,

happening during the **Period of Insurance** as a result of an **Occurrence** which arises from the **Insured Property** being used for **Trade Use**, anywhere within the Commonwealth of Australia.

Or

**Public Liability**

Subject to all the other terms and conditions of the Policy, **We** will pay **You** all amounts which **You** shall become legally liable to pay as compensation for:

- (a) **Property Damage**; and/or
- (b) **Personal Injury**,

happening during the **Period of Insurance** as a result of an **Occurrence** which arises in connection with **Your Business** anywhere within the Commonwealth of Australia.

##### 1.3 (Section 2c) Product Liability

Subject to all the other terms and conditions of the Policy, **We** will pay **You** all amounts which **You** shall become legally liable to pay as compensation for:

- (a) **Property Damage**; and/or
- (b) **Personal Injury**,

happening during the **Period of Insurance** as a result of an **Occurrence** which arises from **Product(s)** in connection with **Your Business** anywhere within the Commonwealth of Australia.

### 2. Defence to Claims and Suits

#### 2.1 General

With respect to the indemnity provided by Section 2 of the Policy, **We** will:

- (a) defend, in **Your** name and on **Your** behalf, any claim or suit against **You** alleging **Personal Injury, Property Damage** and seeking damages on account thereof even if any allegation(s) made in any such claim or suit is or are groundless, false or fraudulent;
- (b) pay all charges, expenses and legal costs incurred by **Us** and/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;
- (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 the Policy;
- (d) pay expenses incurred by **You** for:
  - (i) 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);
  - (ii) temporary protection of damaged and undamaged property of any person or party, including temporary repairs, shoring up and/or underpinning thereof; and/or
  - (iii) purchasing and/or hiring and/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 Government, Local Government 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; and/or
  - (ii) any proceedings in any court or tribunal in connection with liability insured against by this Policy.

Any amounts **We** pay pursuant to paragraphs (a) to (e) (inclusive) hereof will constitute **Defence Costs** for the purposes 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 this Policy.

## 2.2 North America Clause

For 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**.

Provided that:

- (a) **We** shall not be obliged to pay any claims or judgment or to defend any suit after **Our Limit of Liability** has been exhausted by payment or judgment or settlements;
- (b) If payment exceeding **Our Limit of Liability** has been made to dispose of a claim, **Our** liability for any **Defence Costs** in connection with it shall be limited to such portion of the said **Defence Costs** as the **Limit of Liability** bear to the amount paid to dispose of the claims;
- (c) In no event shall **Our** liability in respect of **Defence Costs** exceed fifty percent (50%) of the **Limit of Liability** stated in the Schedule or a maximum of \$5,000,000.00 whichever is the lesser.

## 3. Additional Cover

Section Two, Insuring Clause 1.1, of the Policy is amended to provide the following extensions of cover:

### 3.1 Substitute Vehicles

**Insured Property** for the purposes of 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 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 **Occurrence** in which goods have fallen or leaked from the **Registered Insured Property**. However, our liability under this extension in respect of any one **Occurrence** shall be limited to \$50,000.

### 3.4 Sea Transportation

**We** will insure **You** for General Average and Salvage Charges incurred as a result of a covered **Occurrence** involving **Registered Insured Property** while in transit by sea between places in Australia.

### 3.5 Towing Disabled Machines

**We** will insure **You** for any **Occurrence** 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 **Occurrence** in connection with the use of any trailer attached to **Registered Insured Property**.



#### 4. Cross Liability

For the purpose of the Policy 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 **Occurrence** as stated in the Schedule.

#### 5. Limit of Liability

**Our** liability under Insuring Clauses 1.1, 1.2 and 1.3 shall not exceed the amount stated as the **Limit of Liability** in the Schedule for any one **Occurrence**.

**Our** total aggregate liability during any one **Period of Insurance** for **Product Liability** claims shall not exceed the **Limit of Liability** noted in the Schedule.

In respect of payments made under Insuring Clauses 1.1, 1.2 and 1.3 and/or **Defence Costs**, **We** shall not be liable for the amount of the **Excess** shown in the Schedule in respect of each and every **Occurrence**.

## GENERAL EXTENSIONS

### 1. Automatic Inclusions/Deletion

If **You** acquire a replacement or additional item(s) of **Insured Property**. Valued at not more than \$2,000,000 per item of a similar type to those items of **Insured Property**, specified in the Policy Schedule during the **Period of Insurance**, **We** will insure that replacement or additional item under the Policy 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 \$500,000.

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 property from **Your** care, custody and control.

### 2. LPG Conversion

Cover under the Policy 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 and/or regulatory standard(s).

### 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 this Policy but only to the extent of the financier's remaining interest in the **Insured Property** at the time when loss or damage is suffered.

### 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 items

- (a) **We** will provide cover under Section One for Hired-in mechanically propelled machines. However, the most **We** will pay under Section One for Hired-in items is \$25,000 in aggregate during any one **Period of Insurance**.
- (b) **We** will provide cover under Section Two for **Personal Injury** and/or **Property Damage** arising during the **Period of Insurance** as a result of an **Occurrence** involving the use of Hired-in mechanically propelled machines. However,
  - (i) the most **We** will pay under Section Two for Hired-in items is the **Limit of Liability** shown in the Schedule; and
  - (ii) **We** will not be liable for any **Property Damage** to the Hired-in mechanically propelled machine itself.

## EXCLUSIONS

### 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.

#### 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/Occurrence**:

- (a) was 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/Occurrence** 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 but **We** will not insure, nor waive **Our** right of subrogation against, the **Operator**.

#### 1.3 Overloading

occurring while **Insured Property** is overloaded or loaded and/or configured in a manner other than that for which the **Insured Property** was designed at the time of such **Event/Occurrence**, but this exclusion will not apply unless the excess or unsafe load caused or contributed to the **Event/Occurrence**.



#### 1.4 Unroadworthy Condition

caused or contributed to by the unsafe or unroadworthy condition **Insured Property** unless **You** could not have reasonably detected that condition.

#### 1.5 Improper Use

which occurs as a result of the use of the **Insured Property**:

- (a) for any illegal purpose with **Your** knowledge and consent; and/or
- (b) for any 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 Schedule.

#### 1.8 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 this Policy.

However, any accidental physical damage to an **Insured Item**, 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 and includes programmes, software and other coded instructions for such equipment.

#### 1.9 Terrorism

for costs or expense 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 or 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**.

The Policy is one where the *Terrorism Insurance Act 2003* applies. **We** will provide cover as may be required by the Act, notwithstanding exclusion contained here in.

### 1.10 War

occasioned by or through or in consequence, directly or indirectly, of any of the following:

- (a) war, invasion, act of foreign enemies, hostilities, or war-like operations (whether war be declared or not), civil war; or
- (b) mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power.

### 1.11 Nuclear and Radioactive Contamination Risks

- (a) from property eligible for insurance by the relevant local Nuclear Insurance Pool and/or Association; or
- (b) directly or indirectly caused by or contributed to by or arising from any of the following:
  - (i) ionizing 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; and/or
  - (iv) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter.

## 2. Exclusions – Section One Only

We will not indemnify You 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; and/or
- (c) failure to supply proper coolant or lubricants.

However, if an **Event** causing damage which is otherwise insured under this policy, causes breakdown, explosion, or 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) loss of or damage to:
  - exchangeable tools such as (but not limited to) cutting tools, knives, crushing tools, pressing, and punching tools, drills, bits, blades, and edges;
  - moulding, shaping, forming dies, moulds patterns, or templates;
  - masonry, brick lining, and refractory materials;
  - replacement parts such as (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;
  - overloads, 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 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 visual effect, which means that it 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 making 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

- (a) for damage 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) for damage to any **Insured Property** if damage is due to plant being left unattended and in an insecure condition without all keys having been removed.

## 2.8 Theft

theft of any **Insured Property**, whether or not that theft is discovered only at the time an inventory is taken, 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, or sale or warranty condition or which is covered under a Maintenance Agreement.

## 2.10 Design

loss or damage resulting from any fault or failure of, the design or specification of the **Insured Property**.

## 2.11 Consequential Loss

penalties (contractual or otherwise) for non completion or delay in completion, non compliance with any contract conditions, fines, liquidated damages, or aggravated, punitive, or exemplary damages, extra costs of working, or any other consequential financial loss, unless otherwise agreed and acknowledged by specific endorsement.

## 2.12 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 in any manner or for any purpose other than for which it was designed

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 specific endorsement.
- (f) beyond the manufacturer's recommended safe working limits.

## 2.13 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.

#### 2.14 Down Hole Items

loss or damage to **Down Hole Items** while in the ground, unless:

- (a) nominated with a specific **Plant Value** in the Schedule; and
- (b) acknowledged by **Us** by specific endorsement.

### 3. Exclusions – Section Two Only

#### 3.1 Exclusions Applicable to all Liability Sections (2a, 2b, and 2c).

We will not indemnify **You** for:

##### 3.1.1 Employment Liability

- (a) **Personal 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 or agreement or determination or 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.

##### 3.1.2 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; and/or

(e) any damages incurred by reason of any penalty clause.

#### 3.1.3 Property in Your Physical or Legal Control

**Property Damage** to the following property that is not owned by **You** but which is in **Your** physical or legal control such as:

- (a) any **Aircraft** or **Watercraft**;
- (b) any **Vehicle** or plant, equipment or tool leased by or on loan to **You**;
- (c) any **Vehicle** in a car park owned or operated by **You** for reward as a principal part of **Your Business**; and/or
- (d) that part of any property that **You** are working directly upon when the **Property Damage** results from **Your** work.

This exclusion (d) does not apply to:

- (i) **Property Damage** to other property which is in **Your** physical or legal control, however **Our** liability to indemnify **You** for **Property Damage** to any such property will be limited to \$100,000 any one **Occurrence** and in the aggregate during any one **Period of Insurance**, unless otherwise specified in the Schedule;
- (ii) **Property Damage** to other property while in the course of being lifted, lowered or otherwise moved by a lifting device operated by **You**, or while such property is being prepared for lifting, lowering or moving. However, **Our** liability to indemnify **You** for **Property Damage** to any such property will be limited to the amount specified for "**Goods on Hook**" in the Schedule.

#### 3.1.4 Property Owned by You

**Property Damage** to property that **You** own, or

- (a) liability directly or indirectly arising out of **Your** tenants' or lessees' activities (whether **Business** activities or otherwise); or
- (b) liability arising from **Your** failure to maintain property that **You** own, unless **You** could not have known that maintenance was required.

## 3.15 Design, Formula or Specification

**Property Damage** or **Personal Injury** arising directly or indirectly from the design, formula, or specification of any goods or services or any instructions, advice or information on the characteristics, use, storage, or application of any **Product** provided by **You**.

## 3.16 Watercraft and Aircraft

**Property Damage** or **Personal Injury** caused by or arising directly or indirectly out of or in connection with:

- (a) any **Watercraft** exceeding 8 meters 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 refueled.

## 3.17 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.

## 3.18 Pollution

- (a) **Property Damage** or **Personal Injury** 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 3.1.8.(a) and 3.1.8.(b) will not apply where the **Property Damage** or **Personal Injury** arose from an unexpected, unintended sudden and instantaneous cause which took place at a clearly identified point in time during the **Period of Insurance**.

## 3.19 Asbestos

- (a) any liability for **Personal Injury**, 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.

## 3.1.10 Contractual Liability

any liability that is accepted by **You** under any contract, warranty or agreement requiring:

- (a) insurance to be effected on any property not owned by **You** (whether such insurance was effected or not);
- (b) assumption of a liability, unless that liability would have attached in the absence of such contract, warranty or agreement; and/ or
- (c) the waiving or limitation of **Your** rights of recovery against another party,

provided that this exclusion shall not apply to liability assumed under an **Incidental Contract**.

## 3.1.11 Vibration, Removal or Weakening of Support(s)

any liability for **Property Damage** or **Personal Injury** caused by or arising directly or indirectly from vibration or removal or weakening of support(s) to any property which exceeds the amount of \$50,000 unless **You** have requested an amount for Vibration or Removal or Weakening of Support(s) in the Proposal Form and it is specified in the Schedule, in which case our liability to indemnify **You** for such **Property Damage** or **Personal Injury** will be limited to the amount specified in the Schedule.

## 3.1.12 Internet Operations

any liability directly or indirectly caused by or arising from **Your Internet Operations**

**Internet Operations** means any of the following:

- (a) use of electronic mail systems by **You**, or **Your** employees, including part-time and temporary staff, and others within **Your** organisation;



- (b) access through **Your** network to the World Wide Web or a public internet site by **You**, or **Your** employees, including part-time and temporary staff, 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.

This exclusion will not apply to legal liability arising out of any material which is already in print by a manufacturer in support of its Product, including but not limited to Product use and safety instructions or warnings, and which is also reproduced on **Your** web site, but this exclusion will apply to any other advice or information located on **Your** site that is used for the purpose of attracting customers.

### 3.1.13 Admission of Liability

any liability assumed by **You** as a result of any admission made by **You**.

### 3.1.14 Types of Work

**Property Damage** or **Personal Injury** directly or indirectly arising out of:

- (a) the construction, alteration, repair, restoration, maintenance, extension, installation, demolition or dismantling of buildings, runways, or structures (whether permanent or not), including lighting, power supply, drainage, sanitation, water supply, gas supply, fire protection, security and communications systems, testing and commissioning, site clearance, earthmoving, excavation, tunneling, boring, laying of foundations/footings, landscaping, and the provision of roadways and other access works forming, or to form, part of any:
  - (i) area of an airport where airships and airplanes take off and land, taxi and load/unload. This includes runways, the aprons adjacent to runways, air-bridges, and **Aircraft** standing areas. This does not include the interior of the airport terminal, to which the public and airport staff have normal access.  
However, exclusion 3.1.14(a)(i), will

not exclude **Property Damage** or **Personal Injury** directly or indirectly arising out of vehicular movements within the airport perimeter, provided such movements are conducted within the guidelines and regulations as established by the relevant regulatory authority.

- (ii) railway, rail works, or rail activities; and/or
  - (iii) oil, gas, chemical or petro-chemical plants; and/or
- (b) the demolition of buildings or structures involving the use of explosives or implosion techniques,

unless otherwise agreed and acknowledged by specific endorsement.

## 3.2 Additional Exclusions Applicable to Section 2a – Road Risk Only

**We** will not indemnify **You** for:

### 3.2.1 Trade Use

any liability arising directly or indirectly from the **Insured Property** being used or operated for **Trade Use** or which is otherwise covered under Insuring Clause 1.1

### 3.2.2 Compulsory Personal Injury Legislation

Any liability for **Personal Injury** incurred where **You** are partly or wholly insured under any compulsory statutory insurance scheme or accident compensation scheme, or would have been so insured 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.

### 3.2.3 Dangerous Goods

any liability occurring while the insured **Vehicle** is in use for, or is attached to any other machine in use for, the commercial carriage of any substance to which the Australian Code for the Transport of Dangerous Goods by Road or Rail applies, unless the Code has been complied with. In respect of an **Occurrence** arising out of such use, **Our** liability under Section 2a of the Policy shall not exceed \$200,000 any one capital **Occurrence** any one item of plant carrying dangerous goods unless noted otherwise in the Policy Schedule.



### 3.2.4 Registered Vehicles in Northern Territory

any liability to pay compensation in respect of **Personal Injury** arising as a result of the use of any item of **Insured Property** which is registered in the Northern Territory of Australia.

### 3.2.5 Driver, Employee and Family Members

any liability arising out of **Personal Injury** to anyone who, at the time of **Occurrence**, was:

- (a) operating or in charge of the **Insured Property**; or
- (b) **Your** employee; or
- (c) a member of **Your** immediate family.

### 3.2.6 Loading and Unloading

any liability caused directly or indirectly by or in connection with any operation of loading, unloading, delivery or collection to or from **Your Vehicle** except for the operation of loading or unloading products onto or from **Your Vehicle** direct to a fixed place of rest beside **Your Vehicle**.

## 3.3 Additional Exclusions Applicable to Section 2b On-Site Trade Use Only

**We** will not indemnify **You** for:

### 3.3.1 Vehicles

any liability for **Property Damage** or **Personal Injury** caused directly or indirectly by or arising out of the use of or operation of any **Vehicle** that is legally required to be registered or legally required to have third party bodily injury insurance.

If indemnity is not provided by any other insurance or fund, this exclusion will not apply to **Your** liability for **Property Damage** or **Personal Injury** arising during the **Trade Use** of any **Vehicle** at any site where **You** are working, provided that insurance is not available while the **Vehicle** is:

- (a) travelling to or from a location where it was to be used for **Trade Use**; or
- (b) used only for the transportation or haulage of goods.

### 3.3.2 Designed Use of Machine

any liability arising from **Property Damage** or **Personal Injury** occurring as a result of a **Vehicle** being used other than for the purpose for which it was designed.

### 3.3.3 Underground Services

any liability for or arising from **Property Damage** to any underground pipes, cables, services and supports unless **You** can show that prior to such damage:

- (a) appropriate authorities have been consulted and written details and plans have been obtained showing the position of pipes, cables and services; and
- (b) **You** took reasonable care to identify the location of any underground pipes, cables and services, using details obtained; and
- (c) **You** took reasonable care whilst working so as to avoid contact or impact with pipes, cables and services.

### 3.3.4 Insured Property on Rails

any liability occurring while the **Insured Property** is on rails, other than as cargo.

### 3.3.5 Dry Hire

any liability arising directly or indirectly from any item of **Your** plant hired out under a **Dry Hire** arrangement and caused by the actions of the hirer or employee of the hirer. The Policy will insure **You** for **Your** legal liability arising as a result of mechanical, electrical or service defects in any such hired equipment.

### 3.3.6 Products Liability

any liability for an **Occurrence** that is caused directly or indirectly by or arises out of **Your Product(s)**.

### 3.4 Additional Exclusions Applicable to Section 2b – Public Liability Only

We will not indemnify You for:

#### 3.4.1 Vehicles

**Property Damage** or **Personal Injury** caused directly or indirectly by or arising out of the use of or operation of any **Vehicle** that is legally required to be registered or legally required to have third party bodily injury insurance.

If indemnity is not provided by any other insurance or fund, this exclusion will not apply to **Your** liability for **Property Damage** or **Personal Injury**:

- (a) arising from the actual loading, unloading, delivery or collection of goods from a **Vehicle**; or
- (b) arising during the **Trade Use** of any **Vehicle** at any site where **You** are working or at **Your** premises, provided that insurance is not available while the **Vehicle** is:
  - (i) travelling to or from a location where it was to be used for **Trade Use**; or
  - (ii) used only for the transportation or haulage of goods.

#### 3.4.2 Advertising Liability

**Advertising Liability** that is caused by or arises out of:

- (a) a breach of contract, other than misappropriation of advertising ideas contrary to an implied contract;
- (b) an infringement or passing off of a trade mark, service mark, copyright item or trade name on any **Products**, goods or services sold, offered for sale or advertised, other than an infringement of titles or slogans;
- (c) the incorrect description of the price of **Products**, goods or services; and/or
- (d) the failure of **Products**, goods or services to conform with advertised performance, quality, fitness or durability.

#### 3.4.3 Libel and Slander

**Personal Injury** caused by:

- (a) the publication of any libelous or slanderous statement made prior to the **Period of Insurance**; or
- (b) any statement made by or at **Your** direction if **You** could reasonably be expected to know that the statement was false, libelous, slanderous or illegal.

#### 3.4.4 Underground Services

any liability for or arising from **Property Damage** to any underground pipes, cables, services and supports unless **You** can show that prior to such damage:

- (a) appropriate authorities have been consulted and written details and plans have been obtained showing the position of pipes, cables and services; and
- (b) **You** took reasonable care to identify the location of any underground pipes, cables and services, using details obtained; and
- (c) **You** took reasonable care whilst working so as to avoid contact or impact with pipes, cables and services.

#### 3.4.5 Insured Property on Rails

any liability occurring while the **Insured Property** is on rails, other than as cargo.

#### 3.4.6 Dry Hire

any liability arising directly or indirectly from any **Insured Property** hired out under a **Dry Hire** arrangement and caused by the actions of the hirer or employee of the hirer. The Policy will insure **You** for **Your** legal liability arising as a result of mechanical, electrical or service defects in such hired equipment.

#### 3.4.7 Products Liability

any liability for an **Occurrence** that is caused directly or indirectly by or arises out of **Your Product(s)**.

### 3.5 Additional Exclusions Applicable to Section 2c – Product Liability Only

We will not indemnify You for:

- 3.5.1 **Repair, Replacement or Recall of Your Products**
- (a) the inspection, repair, removal or replacement of **Your Product(s)** or **Property Damage to Your Products**, other than **Property Damage to Your Product(s)** that is caused directly by **You** while repairing, servicing, or treating **Your Product(s)**; or
  - (b) the recall of:
    - (i) any or all of **Your Product(s)**,
    - (ii) work performed by **You** or for **You**,
    - (iii) property that incorporates or has incorporated any of **Your Product(s)**,
    - (iv) property worked on by **You** or worked on by others for **You**; or
  - (c) any liability assumed by any warranty or guarantee given by **You**, other than any warranty as to the safety of **Your Product(s)** implied by Statute.

#### 3.5.2 Lack of Maintenance

**Property Damage** or **Personal Injury** arising directly or indirectly from lack of maintenance of **Your Product(s)**.

#### 3.5.3 Roadwork

**Property Damage** or **Personal Injury** arising directly or indirectly from:

- (a) road surfacing; or
  - (b) road surface maintenance;
- which forms the whole of, or part of, or which is associated with **Your Product(s)**.

#### 3.5.4 Dry Hire

any liability arising directly or indirectly from any **Insured Property** hired out under a **Dry Hire** arrangement and caused by the actions of the hirer or of an employee of the hirer. However, the Policy will insure **You** for **Your** legal liability arising as a result of mechanical, electrical or service defects in such hired equipment.

## 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 placed 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

**Our** liability under the Policy depends upon 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 concluding 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/or **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 **Personal 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 organisation were **You**.

#### 1.5 Claim Co-operation

On the happening of an **Event** 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/or
- (c) receive from **You** all assistance and information **We** may reasonably require for the purpose of defending or settling such claim or the pursuit of any rights of recovery from others.

#### 1.6 Subrogation

Any **Insured** shall at **Our** request and expense do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by **Us** for the purpose of enforcing any rights, remedies, or of obtaining relief or indemnity from other parties to which **We** will be or would become entitled or subrogated upon **Our** paying for or making good any **Personal Injury** or **Property Damage**, or loss or damage under the Policy, whether such acts or things shall be or become necessary or required before or after their indemnification by **Us**.

#### 1.7 Alteration of Risk

##### 1.7.1 Material Alteration

**You** or **Your** agents must notify **Us** as soon as possible in writing of any material alteration(s) to **Our** exposure under this Policy.

##### 1.7.2 Minimisation of Risk and Compliance with Directions

Where **Our** exposure alters, **You** must at **Your** own expense take such additional precautions as may be necessary to minimize the risk of any claim arising under the Policy and must comply with any of **Our** reasonable directions or requirements.

##### 1.7.3 Agreement to Material Alteration

No material alteration will be made or allowed by **Us** whereby the risk is increased unless agreed to in writing by **Us**.

#### 1.8 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 Policy, and **You** must provide to **Us**, **Our** employees or agents all details and information which **We** may reasonably require.

#### 1.9 Defective Product(s)

**You** will, at **Your** own expense, trace, recall, and modify any of **Your Product(s)** that **You** know, or **You** reasonably suspect, may contain any defect or deficiency.

#### 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 **Personal Injury** or **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(s) Insured**, provided that **You** pay any additional premium that may be reasonably required by **Us**.

#### 1.13 Goods and Services Tax

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/Plant Limit** of indemnity or the other limits of cover including **GST**;

- (b) registered for **GST**, **We** will pay the **Sum Insured/Plant Value** of indemnity or the other limits of insurance and where **You** are liable to pay an amount of **GST** in respect of acquisition relevant to **Your** claim (such as services to repair a damaged item insured under the Policy) **We** will pay the **GST** amount.

**We** will reduce the **GST** amount **We** pay for by the amount of any input tax credits to which **You** are or would be entitled if **You** made a relevant acquisition. In these circumstances, the **Input Tax Credit** may be claimable through **Your Business Activity Statement (BAS)**.

**You** must advise **Us** of **Your** correct **Australian Business Number** and **Taxable Percentage**.

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

Where the settlement of **Your** claim is less than the **Sum Insured/Plant Value** of indemnity or the other limit of insurance cover, **We** will only pay the amount for **GST** (less **Your** entitlement for **Input Tax Credit**) applicable to the settlement. This means that if these amounts are not sufficient to cover to cover **Your** loss, **We** will only pay the **GST** relating to **Our** settlement of the claim.

**We** will (where relevant) pay **You** on **Your** claim by reference to the **GST** exclusive amount of any supply made by any **Business** of **Yours** which is relevant to **Your** claim.

#### 1.14 Payment of Premium

**You** will promptly pay the premium for this policy together with any adjustments of premium and other amounts charged for the Policy and any renewal, extension or endorsement.

#### 1.15 Cancellation

The Policy may be cancelled:

- (a) by **You** at any time by giving notice in writing to **Us**. Such cancellation will be effective from the date we physically receive **Your** notice. **You** will be entitled to a pro rata refund of premium for that portion of the policy not utilized, less 10%;
- (b) by **Us** in accordance with the provisions of the *Insurance Contracts Act 1984* (as amended). **You** will be entitled to a pro rata refund of premium for portion of the policy not utilized,

subject at all times to any minimum policy premium in force at the time of cancellation.

## 2. Conditions for Section One only

### 2.1 Notice of Claims

In the event of a claim under Section One the following Conditions apply:

- (a) Following discovery of any loss or damage which might give rise to a claim under the Policy, **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;
  - (ii) take all steps within **Your** power to minimise the extent of the loss or damage;
  - (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.

## 3. Conditions for Section Two only

### 3.1 Notice of Claims

In the event of any **Occurrence** likely to give rise to a claim under Section Two of the Policy **You** must:

- (a) at **Your** own expense, take such immediate action as may be necessary to minimise the extent of **Personal Injury** and/or **Property Damage**;
- (b) as soon as possible, give notice in writing of such **Occurrence** to **Us**;
- (c) send to **Us** immediately on receipt any letter, claim, writ, summons or proceedings which has been or may be commenced against **You**; and
- (d) make no admission, offer, promise, payment, offer of indemnity to any party without **Our** prior written consent.

## OPTIONAL ENDORSEMENTS

### 1. General Endorsements

The following Optional Endorsements will be added for **Your** benefit, if the Policy Schedule indicates that such Options have been requested and accepted.

Such Optional Endorsements are subject to all of the other terms, Conditions, Exclusions, and Definitions of the Policy.

#### 1.1 Underground Risks

Notwithstanding anything contained in this Policy to the contrary, loss or damage to **Insured Plant** whilst underground is not excluded.

#### 1.2 Unintentional Overload

**We** will insure **You** for loss, damage or legal liability arising from **Insured Plant** being overloaded whilst being operated by a licensed **Operator** provided that **You** (being the owner of the **Insured Plant** for the purposes of this Optional Endorsement) are able to prove:

- (a) that such overload was unintended and not deliberate by the **Operator**; and
- (b) that the actions of the **Operator** or any of **Your** employees involved, leading up to the loss, damage or liability fell within generally accepted industry practice; and
- (c) that the **Operator** had been provided with a standard of training and operating instruction, in the use of that plant and equipment, which was within generally accepted industry practice and that **You** had no knowledge of the **Operator's** actions which caused the loss, damage or liability and that **You** were not the **Operator**.

#### 1.3 Railways and Rail-works or Rail Activities

Notwithstanding anything contained in this Policy to the contrary **We** will insure **You** for loss, damage or legal liability directly or indirectly arising from **Insured Plant** whilst working on railways or rail-works, or rail activities.

### 2. Endorsements applicable to Section One only

#### 2.1 Overseas Airfreight

**We** will extend cover provided under Expediting Expenses within the Policy to include necessary and reasonably incurred costs for chartered **Aircraft** by a licensed airline anywhere in the world provided that:

- (a) the transit of parts, equipment or expert labour is required for the repair or replacement of a covered loss or damage to **Insured Property**, and cannot be achieved on a regular scheduled **Aircraft** service;
- (b) the **Limit of Liability** in regards to Overseas Airfreight is \$50,000 unless noted otherwise in the Policy Schedule; and
- (c) an additional **Excess** of 10% of the benefit provided by this Endorsement shall be applied when settling any claim under this Endorsement.

#### 2.2 Agreed Value

In the event that **Insured Property** sustains loss or damage covered under Section One of this Policy, for which **We** decide that settlement by repair is not viable, then **We** will pay the **Agreed Value** on any item of **Insured Property** specified in the Schedule providing that:

- (a) the **Agreed Value** was supplied by a registered valuer (approved by **Us**) prior to the **Period of Insurance** and also prior to any subsequent renewal of the Policy; and
- (b) the valuation is not more than two years old at the last inception or renewal date of this Policy.

In the event that no **Agreed Value** has been specified in the Schedule, **We** will indemnify **You** in accordance with the Basis of Settlement otherwise noted in the Policy.



## 2.3 Appreciation of Plant Value

In the event that:

- (a) **Insured Property** sustains loss or damage covered under Section One of this Policy; and
- (b) the **Market Value** of the lost or damaged item(s) of plant or equipment at the time loss or damage is sustained is greater than its **Sum Insured** noted in the Schedule;

**We** will pay the **Market Value** up to a limit of 120% of the **Sum Insured** noted in the Schedule for the lost or damaged **Insured Property**, provided that the **Sum Insured** noted in the Schedule was not less than 90% of the **Market Value** for the item at the commencement of the **Period of Insurance**.

## 2.4 Finance Gap Protection

In the event that:

- (a) **Insured Property** sustains loss or damage covered under Section One of this Policy; and
- (b) The **Market Value** for the lost or damaged item(s) of **Insured Property**, at the time of loss or damage, is less than the amount owed by **You** under a valid hire purchase, leasing or other financial agreement;

**We** will pay **You** for the difference, between the **Market Value** at the time of the loss, and the amount owed, less

- (i) any payments and interest of finance in arrears at the date of the loss or damage;
- (ii) any discount in respect of finance charges and interest for the unexpired term of such hire purchase or leasing agreement at a date not exceeding 30 days after the date of the loss or damage; and
- (iii) any payment which on the date of loss or damage has not been made solely because such payment under the terms and conditions of the particular agreement has not actually become due,

Provided that:

- A. **You** are not more than 30 days in arrears with any payments at the date of the loss or damage;
- B. **You** contribute 10% of the difference between the **Market Value** and the amount owed by way of an additional **Excess**; and
- C. **Our limit of liability** under this Endorsement shall not exceed 20% of the **Market Value** at the time of the loss or damage.

## 2.5 Substitute Hire Costs

In the event that **Insured Property** sustains loss or damage covered under Section One of this Policy, **We** will insure **You** for the cost necessarily incurred to hire a substitute machine as a consequence of the loss or damage, provided that:

- (a) **Our** liability under this endorsement will not exceed 3 months or as otherwise specified in the Schedule; and
- (b) **You** will pay the first 7 calendar days (following the loss or damage) of hire costs by way of an additional **Excess**; and
- (c) the amount payable under this Endorsement in any one **Period of Insurance** shall not exceed \$50,000 unless otherwise specified in the Schedule.

## 2.6 Ongoing Hire Costs

In the event that **Insured Property** sustains loss or damage covered under Section One of this Policy, **We** will insure **You** for the hire cost necessarily incurred or owed while the lost or damaged hired machine is being replaced or repaired, provided that:

- (a) **You** will pay the first 7 calendar days (following the loss or damage) of hire costs by way of an additional **Excess**; and
- (b) the amount payable under this Endorsement in any one **Period of Insurance** shall not exceed \$50,000 or as otherwise specified in the Schedule.

## 2.7 Finance Payment Protection

In the **Event** that:

- (a) **Insured Property** sustains loss or damage covered under Section One of this Policy; and
- (b) **You** are making payments under a valid hire purchase, leasing or other financial agreement on such lost or damaged plant or equipment at the date of such loss or damage,

**We** will insure **You** for such payments, by paying **You** the equivalent of the daily proportion of **Your Actual Finance Payments**, from the time of the loss or damage until **Your** plant or equipment is replaced, repaired or cash settled provided that:

- (i) **You** will pay ten percent (10%) of **Actual Finance Payments** by way of an additional **Excess**;



- (ii) the period of indemnity under this endorsement is limited to a maximum of six (6) months from the time of loss or damage; and
- (iv) **You** take all reasonable steps to comply with all reasonable requests from **Us** to minimise the period of disruption to **Your Business**;
- (v) the amount payable under this Endorsement in any one **Period of Insurance** shall not exceed \$50,000 unless otherwise specified in the Schedule.

**Actual Finance Payment** means the actual finance payments due and paid by **You** for the period less any balloon or residual payments which fall due during the period.

## 2.8 Extended Dry Hire

**We** will insure **You** or persons using **Your** plant or equipment with **Your** consent, for loss or damage of **Your** plant and equipment when it is hired out provided that:

- (a) **You** have ensured, as far as can be reasonably expected, that all relevant licenses, permits, tickets and knowledge of statutory obligations are held by the hirer and any person employed by the hirer to operate **Your** plant or equipment;
- (b) the hirer has agreed to observe the terms of the Policy (a copy of which is to be supplied by **You** upon request of the hirer); and
- (c) the loss or damage was caused by the **Operator's** error and **You** can demonstrate that **You** provided the hirer with a reasonable standard and level operating instructions.

Provided that **You** have complied with (a) above, then failure of an **Operator** or hirer to comply with the licenses, permits, tickets and statutory obligations with regard to (a) above will prevent the **Operator** or the hirer, but not **You**, from being insured under this Endorsement.

## 2.9 Plant and Equipment mounted on Watercraft

Notwithstanding anything contained in this Policy to the contrary, loss or damage to **Insured Plant** whilst mounted on any **Watercraft** is not excluded, provided that any mounted plant or transit of plant has been certified by a qualified marine surveyor.

## 2.10 Search, Locate, Retrieval and Recovery Costs

In the event that **Insured Property** sustains loss or damage covered under Section One of this Policy, **We** shall include in our settlement any costs associated with search, locate, retrieval or recovery of any lost or damaged **Insured Property**."

However, search, locate, retrieval or recovery costs shall be limited to the lesser of:

- (a) One hundred thousand (100,000) dollars; or
- (b) twenty percent (20%) of the **Market Value** of the lost or damaged **Insured Property**.

## 2.11 Goods on Hooks

**We** will insure **You** under Section One of this Policy for loss or damage to goods or materials being lifted/lowered or positioned by a crane, or other lift device provided that such goods or materials have been prepared for lifting/lowering or positioned in accordance with safe working practice.

However, our liability to indemnify you under this Endorsement shall be limited to a maximum amount of \$50,000 any one **Event**, or otherwise specified in the Schedule.

### 2.12 Multiple Crane Lift

**We** will insure **You** under Section One of this Policy for loss or damage to any **Insured Property** whilst it is used in a specific raising, lowering or positioning operation in which a load is shared or rigged for sharing by more than one machine provided that:

- (a) the safe working load of each machine for the required jib length and operating radius is at least 25% in excess of the calculated share of the load to be handled by each machine during the multi-lift, but in every case, complying with the relevant state regulations governing such lifts; and
- (b) a competent person is specifically appointed to supervise the multi-lift and must be in a position to give clear signals and/or shall remain in constant radio communication with each machine **Operator** during the entire operation of the multi-lift; and
- (c) if any multi-lift involves more than three lifting machines:
  - (i) the area in and around where the lift is taking place must be completely clear of all people except those immediately involved in the lifting; and
  - (ii) the lift must be overseen by a suitably accredited engineer; and
  - (iii) the lift must be rehearsed.

### 2.13 Down Hole Cover

Notwithstanding anything contained in this Policy to the contrary **We** will insure **You** for loss, or damage to **Insured Plant** whilst working or at rest within the ground.

## 3. Endorsements applicable to Section Two only

### 3.1 Endorsements applicable to Section 2b only

#### 3.1.1 Care Custody and Control

**We** will insure **You** under Section 2b of this Policy for **Property Damage** to goods in **Your** Care, Custody or Control provided that:

- (a) such goods have not been in **Your** Care Custody or Control for more than 60 days in any one Period of Insurance; and
- (b) **Our** liability to indemnify you under this Endorsement shall be limited to the amount noted for Care Custody and Control in the Schedule.



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