

# Trades Package

Business Pack Insurance Policy



POLICY

This Policy is underwritten by QBE Insurance (Australia) Limited  
ABN 78 003 191 035 of 82 Pitt Street, Sydney.

QM969

**tradesure**  
*I'm covered.*



# TRADES PACKAGE POLICY

## Welcome to QBE Australia

In this policy booklet you'll find all the information you need to know about the type of cover(s) available, our terms and conditions, and making a claim.

Please read this booklet and make sure that you are satisfied with what we offer.

Unless we have already agreed to issue a cover note, insurance protection only begins when we receive and accept your completed application form and the premium.

This booklet and the insurance schedule we send you form your legal contract with us, so please keep them together in a safe place.

Please do not hesitate to contact your broker or agent if you have any questions about this policy booklet or your insurance cover.

## About QBE Australia

QBE Insurance (Australia) Limited is a member of the QBE Insurance Group (ASX: QBE). QBE Insurance Group is Australia's largest international general insurance and reinsurance group, and one of the top 25 insurers and reinsurers worldwide. The company has been operating in Australia since 1886 and continues to provide industry-leading insurance solutions that are focused on the needs of intermediaries and their clients.

QBE is a household name in Australian insurance, backed by sizeable assets, and well known as a strong and financially secure organisation.

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# TRADES PACKAGE POLICY

## Important Information

### Insurer

The Policy is underwritten by QBE Insurance (Australia) Limited, ABN 78 003 191 035, AFS Licence No. 239545 of 82 Pitt Street, Sydney.

### Information about your Policy

This is the Policy wording. It tells you

- what the Policy covers,
- what the Policy does not cover,
- how to make a claim,
- what excesses apply, and
- other terms and conditions.

Details of the insurance which are personal to you are shown on the Schedule, which we send to you with the Policy wording.

The date when your insurance cover begins and ends is particularly important.

Please read this Policy carefully and retain it in a safe place.

### How Goods and Services Tax affects any payments we make

The amount of premium payable by you for this Policy includes an amount on account of the GST on the premium.

When we pay a claim, your GST status will determine the amount we pay.

When you are:

- (a) not registered for GST, the amount we pay is the sum insured/limit of liability or the other limits of insurance cover including GST.
- (b) registered for GST, we will pay the sum insured/limit of liability or the other limits of insurance and where you are liable to pay an amount for GST in respect of an acquisition relevant to your claim (such as services to repair a Damaged item insured under the Policy) we will pay for 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/limit of liability or the other limits of insurance cover, we will only pay an 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 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.

GST, Input Tax Credit (ITC), Business Activity Statement (BAS) and Acquisition have the same meaning as given to those expressions in A New Tax System (Goods and Services Tax) Act 1999 and related legislation as amended from time to time.

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

### Duty of Disclosure – What you must tell us

Under the Insurance Contracts Act 1984 (the Act), you have a Duty of Disclosure. You are required before you enter into, renew, vary, extend or reinstate your Policy, to tell us everything you know and that a reasonable person in the circumstances could be expected to know, is a matter that is relevant to our decision whether to insure you, and anyone else to be insured under the Policy, and if so, on what terms.

- **You do not have to tell us about any matter**
  - that diminishes the risk
  - that is of common knowledge
  - that we know or should know in the ordinary course of our business as an insurer, or
  - which we indicate we do not want to know.
- **If you do not tell us**

If you do not comply with your Duty of Disclosure we may reduce or refuse to pay a claim or cancel your Policy. If your non-disclosure is fraudulent we may also have the option of avoiding the contract from its beginning.

### Evidence of value

Please retain receipts of purchase or proof of the value of all property insured by this Policy so that you can prove the amount of any loss if you have to claim under this Policy.

### Our agreement

This Policy is a legal contract between You and Us. You pay Us the premium, and We provide You with the cover You have chosen as set out in the Policy Schedule, subject to the terms and conditions of the Policy. Cover is provided during the Period of Insurance shown on Your Policy Schedule or any renewal period.

We will not pay any more than the sum insured or limit of liability for each section which is shown in the Policy Schedule, unless stated otherwise in the Policy wording.

We will not pay the Excesses shown in the Policy wording or Policy Schedule. If any loss or damage or liability leads to a claim under more than one section of this Policy, You must pay the highest applicable Excess, but You need pay only one Excess.

### Privacy

Privacy legislation regulates the way private sector organisations can collect, use, keep secure and disclose personal information. We are bound by the Privacy Act 1988 (Cth.), when collecting and handling your personal information. QBE has developed a privacy policy which explains what sort of personal information we hold about you and what we do with it.

We will only collect personal information from or about you for the purpose of assessing your application for insurance and administering your insurance policy, including any claims you make or claims made against you. We will only use and disclose your personal information for a purpose you would reasonably expect.

We may need to disclose personal information to our reinsurers (who may be located overseas), insurance intermediaries, insurance reference bureaux, credit reference agencies, our advisers and those involved in the claims handling process (including assessors, investigators and other insurers), for the purposes of assisting us and them in providing relevant services and products, or for the purposes of recovery or litigation. We may disclose personal information to people listed as co-insured on your policy and to family members or agents authorised by you. Computer systems and support services may be provided to us by related companies within the QBE Group that may be located overseas. We may also disclose information to organisations which conduct customer service surveys on our behalf. We will request your consent to any other purpose.

By providing your personal information to us, you consent to us making these disclosures. Without your personal information we may not be able to issue insurance cover to you or process your claim.

You also have the opportunity to find out what personal information we hold about you and, when necessary, correct any errors in this information. Generally we will do this without restriction or charge. For further information about our Privacy Policy or to access or correct your personal information, please contact The Compliance Manager, QBE Insurance (Australia) Limited, GPO Box 82 Sydney NSW 2001 or email: [compliance.manager@qbe.com](mailto:compliance.manager@qbe.com).

### The General Insurance Code of Practice

QBE Insurance (Australia) Limited is a signatory to the General Insurance Code of Practice. The Code aims to:

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

### Dispute resolution

We will do everything possible to provide a quality service to you. However, we recognise that occasionally there may be some aspect of our service or a decision we have made that you wish to query or draw to our attention.

We have a Complaints and Dispute Resolution Procedure which undertakes to provide an answer to your complaint within 15 working days.

If you would like to make a complaint or access our internal dispute resolution service please contact your nearest QBE office and ask to speak to a dispute resolution specialist.

If you are not happy with our answer, or we have taken more than 15 working days to respond, you may take your complaint

to the Financial Ombudsman Service (FOS), an ASIC approved external dispute resolution body.

FOS resolves certain insurance disputes between consumers and insurers and will provide an independent review at no cost to you. QBE is bound by the determination of FOS but the determination is not binding on you.

We will provide the contact telephone number and address of the FOS office upon request.

## General definitions applying to all sections of this policy

Wherever the words listed below are used in the Policy wording, they mean what is set out below.

Word or Term	Meaning
Business	your trade or occupation which is described in the Policy Schedule and is carried out at and from the Location.
Business hours	the office and working hours (including overtime) during which you or your employees are at the Location for the purpose of your Business.
Excess	the amount specified in the Policy Schedule, payable by you on each and every claim arising out of one event under that Section. If more than one excess is payable under this Policy for any claim or series of claims arising from the one event, such excesses will not be aggregated and the highest single level of excess only will apply.
Family	your spouse (legal or de facto), your or your spouse's children, parents or grandparents who normally live in your home.
Flood	the inundation of normally dry land by water escaping from or released from the confines of any natural watercourse or lake, whether modified or not, or from any reservoir, dam or canal.
Indemnity Value	the cost necessary to replace, repair or rebuild the insured property to a condition substantially the same as but not better nor more extensive than its condition at the time of the loss or damage taking into consideration its age, condition and remaining useful life.
Location	the place(s) listed in the Policy Schedule.
Money	cash, notes, negotiable instruments, cheques, postal notes, post office money orders, negotiable securities, stamps, credit card sales vouchers, telephone credit cards and/or franking machine credits.
Our/we/us	QBE Insurance (Australia) Limited, ABN 78 003 191 035
Period of Insurance	the duration that this Policy is in force as specified in the Policy Schedule, or any renewal period for which the appropriate premiums are paid in each case.

Word or Term	Meaning
Policy	includes this Policy wording, the Policy Schedule and any endorsements issued to you.
Policy Schedule	the most recent Schedule for your Policy we have supplied.
You, your	the insured(s) listed in the Policy Schedule.

## Property

### 1. What we insure

This Section insures loss or damage:

- 1.1 to Property you have chosen to insure,
- 1.2 caused by any of the defined events listed in this Section (unless otherwise specified),
- 1.3 during the Period of Insurance.

### 2. Definitions which apply to this section

#### 2.1 Breakage

A fracture extending through the entire thickness of the External or Internal Glass.

#### 2.2 Buildings

The buildings and outbuildings at the Location which are owned by you or for which you are legally responsible and includes:

- (a) fixtures, fittings and underground and overhead services, and
- (b) walls, gates, fences and all other structural improvements at the Location.

#### 2.3 Capital additions

Alterations and additions to Buildings, during the course of their erection and which are commenced during the Period of Insurance.

#### 2.4 Contents

- (a) The contents used in the Business, and are owned by you, your directors, partners or employees or for which you are legally responsible, all whilst contained in the Buildings.
- (b) Contents does not include:
  - (i) mechanically or electrically propelled vehicles which are required under any legislation to be registered or conditionally registered,
  - (ii) caravans or trailers,
  - (iii) watercraft or aircraft,
  - (iv) Money, jewellery, furs, watches, precious or semi-precious stones,
  - (v) stock-in-trade or samples,
  - (vi) pets, livestock or plants.

#### 2.5 External glass

External Glass means fixed glass in external windows, doors, showcases and skylights.

#### 2.6 Internal glass

Internal Glass means glass in internal partitions, windows and doors, refrigerating cabinets, glass in counters, shelving, interior showcases, fixed mirrors and other fixed internal glass, porcelain urinals, toilet pans and hand basins.

#### 2.7 Property

Property includes the Buildings, Contents and Stock that we have agreed to insure in this Section as shown in the Policy Schedule.

#### 2.8 Records and documents

Written, printed, filmed or taped records (including computer records), deeds, plans or drawings or documents of any other type which are:

- (a) used in the Business,
- (b) in a Building at the Location, and
- (c) are owned by you or are in your custody in the ordinary course of the Business.

#### 2.9 Replacement cost

- (a) the reasonable and necessary cost of rebuilding, replacing or repairing any lost or damaged Buildings or Contents to a condition substantially the same as but not better nor more extensive than their condition when new, or
- (b) at our option, the actual reinstatement, replacement or repair of the lost or damaged item.

#### 2.10 Sea

Oceans, bays, ports or tidal waters.

#### 2.11 Stock

Goods owned by you or for which you are legally responsible, held for sale or repair in the normal course of the Business.

#### 2.12 Water

Includes snow, sleet or hail.

### 3. Defined events

We will cover the Property you have chosen to insure against loss or damage caused by the defined events set out in the table below.

Defined events	What we will not pay for
3.1 Fire, lightning	Loss or damage to Property caused by any process involving the direct application of heat. However if other Property is damaged or destroyed by Fire we will pay for that ensuing damage to other Property.
3.2 Explosion or collapse of boilers, economisers or pressure vessels or their equipment and contents.	Damage to boilers, economisers or pressure vessels or their equipment or contents other than where the item: <ul style="list-style-type: none"> <li>• is used solely for domestic purposes, or</li> <li>• has a value of less than \$200,000.</li> </ul>
3.3 Earthquake, tsunami, subterranean fire or volcanic eruption	
3.4 Escape of water from any water tank, pipe, gutter, drain, or other water carrying apparatus installed at the Location.	The costs of repairing or replacing any defective parts that caused the loss or damage.
3.5 Wind and water	Loss or damage caused by: <ul style="list-style-type: none"> <li>• action by the sea, high water, storm surge or tidal wave;</li> <li>• Flood;</li> <li>• erosion, subsidence, landslide, mudslide, shrinkage or an earth movement other than earthquake;</li> <li>• water seeping from outside any Buildings;</li> <li>• steam or condensation; or</li> <li>• water entering into any Buildings as a result of structural defects, faulty design or faulty workmanship.</li> </ul> Loss or damage to: <ul style="list-style-type: none"> <li>• Property in the open air unless it forms part of a permanent structure designed to function without the protection of walls or roof;</li> <li>• retaining walls, textile or plastic awnings, outside blinds or signs;</li> </ul>

Defined events	What we will not pay for
3.5 Wind and water (continued)	<ul style="list-style-type: none"> <li>• Buildings in the course of construction or re-construction or property in them unless such Buildings are enclosed and under a roof with all outside doors and windows permanently in place.</li> </ul>
3.6 Impact Damage caused by: <ul style="list-style-type: none"> <li>• any vehicle or animal;</li> <li>• television or radio aerials, satellite dishes or masts which break or collapse;</li> <li>• aircraft, aerial devices, meteorites or space debris or any part of it or from any article falling from them;</li> <li>• sonic boom; or</li> <li>• a falling tree or branch of a tree.</li> </ul>	Loss or damage <ul style="list-style-type: none"> <li>• caused to paths, driveways, or underground services by vehicles;</li> <li>• resulting from tree lopping or tree felling by you or by anyone acting with your express or implied consent;</li> <li>• caused by animals kept on the premises.</li> </ul>
3.7 Deliberate or intentional acts of persons acting maliciously including acts committed in connection with theft or any attempt at theft.	Loss or damage caused by: <ul style="list-style-type: none"> <li>• persons who live at the Location;</li> <li>• persons at the Location with your consent;</li> <li>• tenants;</li> <li>• the Defined Event 3.11 and Additional Benefit 5.12(c).</li> </ul>
3.8 Riot or civil commotion and acts of: <ul style="list-style-type: none"> <li>• strikers or locked out workers or persons taking part in labour disturbances;</li> <li>• persons of malicious intent acting on behalf of or in connection with any political organisation;</li> <li>• any lawfully constituted authority causing damage when acting in connection with any events insured by this clause.</li> </ul>	
3.9 Action of a civil authority in attempting to prevent the spread of a fire.	

Defined events	What we will not pay for
<p>3.10 Accidental Breakage of Internal Glass and/or External Glass.</p>	<p>Breakage which:</p> <ul style="list-style-type: none"> <li>occurs during installation, removal or any maintenance, alteration or repair being carried out to Internal or External Glass, or the framework or fittings of Internal or External Glass.</li> </ul> <p>Damage to:</p> <ul style="list-style-type: none"> <li>tubing or light fittings;</li> <li>signs (except under Additional Benefit 5.12.(e));</li> <li>Internal or External Glass which was cracked or imperfect at the beginning of the Period of Insurance;</li> <li>Internal or External Glass which has been used for a purpose for which it was not intended.</li> </ul> <p>Damage caused by:</p> <ul style="list-style-type: none"> <li>the application of artificial heat.</li> </ul>
<p>3.11 Theft or attempted theft of Contents or Stock.</p> <p>Up to the lesser of:</p> <ul style="list-style-type: none"> <li>20% of the sum insured for Contents; or</li> <li>\$10,000;</li> </ul> <p>but only</p> <ul style="list-style-type: none"> <li>\$2,000 for theft of electronic equipment which occurs where there is no actual forcible and violent entry into or out of a building.</li> </ul>	<ul style="list-style-type: none"> <li>Theft, fraud or dishonesty by any member of your Family, directors, or partners whether as a principal or accessory;</li> <li>theft or attempted theft by an employee (except under the Defined Event 3.13);</li> <li>theft from any yard, garden or open space.</li> </ul>
<p>3.12 Accidental loss or damage to Money.</p> <p>Up to \$1000, including Money being carried directly between the Location shown in the Policy Schedule and your normal bank.</p>	<p>Loss or damage to Money which:</p> <ul style="list-style-type: none"> <li>is due to shortage resulting from clerical or accounting errors or errors in receiving or paying out;</li> <li>is not discovered within seven (7) working days after the loss occurred;</li> <li>occurs while the Money is being carried by professional money carriers, professional carriers or common carriers;</li> <li>is stolen from any unattended vehicle;</li> <li>is stolen from a safe or strongroom which has been opened by a key or</li> </ul>

Defined events	What we will not pay for
<p>3.12 Accidental loss or damage to Money. (continued)</p>	<p>the use of a combination, the details of which have been left at the Location outside Business Hours.</p>
<p>3.13 Fraud or dishonesty. \$1,000 for loss of Contents or Stock due to fraud or dishonesty by any of your employees.</p>	<p>Any loss which:</p> <ul style="list-style-type: none"> <li>is not discovered within 21 days after it occurs;</li> <li>is committed by an employee who is also a director or partner of the Business or a member of your Family.</li> </ul>
<p>3.14 Accidental Damage. Up to 10% of sum insured on Contents for unforeseen accidental physical loss or damage to the insured Contents.</p>	<p>Any loss or damage caused by</p> <ul style="list-style-type: none"> <li>the defined events 3.1 to 3.13; or</li> <li>circumstances expressed in the Exclusions.</li> </ul>

#### 4. Basis of settlement

##### 4.1 Buildings

###### (a) Loss or damage to buildings

We will pay the Replacement Cost for loss or damage to the Buildings, provided that the work of repairing or rebuilding:

- (i) is carried out upon the same site, and
- (ii) as far as you can influence it, is commenced within six months of the date on which the loss or damage occurred and must complete within a reasonable period of time.

Otherwise we will pay the Indemnity Value for the loss or damage.

The work of repairing or rebuilding may be carried out in any manner suitable to your requirements, provided there is no increase in cost to us.

###### (b) Requirements of statutory authorities

Providing your sum insured is not otherwise exhausted, we will also pay up to 10% of the sum insured on Buildings for the cost of complying with the requirements of any statutory authority in force at the date when the loss or damage to the Buildings occurs.

However, if the cost of reinstatement of the Buildings is less than fifty percent (50%) of the cost of reinstating the whole of the Buildings (if it had been completely destroyed), the amount we will pay for the cost of complying with the requirements of any statutory authority:

- (i) will not exceed the cost of complying with the statutory requirements that relate to the part of the Buildings that is damaged; and

- (ii) will not exceed, in any event, the amount which we would have been required to pay if the Buildings had been wholly destroyed.

#### 4.2 Contents and stock

We will pay for loss or damage to

- (a) the Contents (other than Stock) you have chosen to insure at their Replacement Cost;
- (b) the Stock you have insured at their Indemnity Value.

### 5. Additional benefits

In addition to the sum insured shown in the Policy Schedule under this Section, we will pay:

#### 5.1 Architects, surveyors, legal and consulting engineers fees

The fees of architects, surveyors, lawyers and consulting engineers which are reasonably and necessarily incurred for the reinstatement or replacement of the Buildings.

#### 5.2 Capital additions

Up to 10% of the sum insured on Buildings for loss or damage that occurs during the Period of Insurance to the construction work for any Capital Additions.

#### 5.3 Temporary protection

Up to 5% of the sum insured on Buildings for the reasonable cost of temporary repairs to the Buildings as a direct result of a Defined Event to secure and safeguard the insured Property from further loss.

#### 5.4 Replacement of locks

Up to \$1,000 for the cost of

- replacing key(s) or re-coding or replacing locks to which keys are stolen from the Location; or
- replacing any locks at the Location that are damaged as a result of any Defined Event.

This cover is limited to the cost of replacing keys or locks of the similar type and quality.

#### 5.5 Personal effects of directors, partners and employees

Personal property of directors and employees of your business if:

- the personal property is used solely for business purposes, and
- the person to whom the personal effects belong is not named as an Insured.

Cover is limited to \$2,000 any one person but if any person is entitled to indemnity under any other policy of insurance effected by him/her or by any person other than you, this cover will only apply in respect of any amount in excess of that provided by such other policy. There is no cover for you or any person named as the Insured on your Policy Schedule.

#### 5.6 Removal of debris

Up to \$5,000 or the amount specified in the Policy Schedule, whichever is the greater, for the cost of removal of debris following damage to the Property and required demolition of undamaged Buildings as a direct result of a Defined Event.

#### 5.7 Fire extinguishment costs

Up to \$5,000 for the cost of extinguishing any fire and re-charging extinguishers used in extinguishing any fire at the Location.

#### 5.8 Rewriting of records

Up to \$10,000 for the reasonable cost of restoring or re-creating Records and Documents destroyed as a result of a Defined Event.

#### 5.9 Outstanding debts

Up to \$10,000 to reimburse you for any outstanding debts for work completed, which were owed to you at the time the loss or damage occurred, and are now not recoverable because the necessary documentary evidence to substantiate the debts has been destroyed as a result of a Defined Event.

#### 5.10 Search and find

Up to \$5,000 for exploratory costs reasonably incurred in locating the source of the damage water damage has occurred in accordance with Defined Event 3.4.

#### 5.11 Additional increased cost of working

Up to \$10,000 for the additional expenditure you reasonably incur within six months of any loss or damage arising out of a Defined Event for the purpose of minimising the effect of the loss or damage on the profitability of the Business.

#### 5.12 Glass

Up to \$1,000 or the amount specified in the Policy Schedule, whichever is the greater, for each benefit under clauses 5.12.(a) to 5.12.(e) in the event of accidental Breakage of Internal and/or External Glass (Defined Event 3.10):

- (a) the cost of temporary shuttering, boarding up or other security protection necessary, pending replacement of the broken glass;
- (b) damage to signwriting, ornamentation, reflective materials or burglar alarm tapes and connections,
- (c) damage caused by external violence to window / door frames and tiled shop fronts,
- (d) damage or spoilage to Stock due to Breakage of insured glass, and
- (e) damage to electrically illuminated signs.

### 6. The maximum amount we will pay

Unless we specifically agree to pay an amount in addition to the sum insured, we will not pay more than the sum insured shown in the Policy Schedule.

### 7. Excess

We will not pay:

- (a) the excess(es) shown in the Policy Schedule for this Section;
- (b) the lesser of
  - (i) the first \$20,000 of the loss or damage, and
  - (ii) an amount equal to 1% of the total sum insured for this Section.

for loss or damage which occurs during any period of 48 consecutive hours as a result of earthquake, subterranean fire or volcanic eruption, or fire resulting from any of those events.

## 8. Conditions which apply to this section

### 8.1 Co-insurance Condition

In the event of loss or damage to the insured property, we shall be liable for no greater proportion of the loss or damage than the sum insured at the Location bears to eighty percent (80%) of the value of the property insured at the commencement of the Period of Insurance (as if it had been totally destroyed), provided that our liability shall not exceed the sum insured stated against each item in the Policy Schedule.

This condition shall not apply if the amount of any loss or damage does not exceed five percent (5%) of the total of the sums insured at the Location.

### 8.2 Theft Protection Condition

If this condition is shown in the Policy Schedule, we will not pay any amount under this Section unless the burglary alarm system installed in the Buildings is:

- (a) maintained in good condition and in working effectively
- (b) regularly tested in accordance with the manufacturer's recommendations, and
- (c) engaged and operational during the time that the premises are closed for business and are not attended by you or any employees.

## 9. Exclusions which apply to this section

### 9.1 We do not insure you for the following types of loss or damage:

- (a) scratching of painted or polished surfaces;
- (b) loss or damage to plants, animals, fish or birds;
- (c) unexplained or inventory shortage, clerical or accounting error;
- (d) damage to any electrical or electronic appliance (including wiring) caused by electric current or electrical surge but this exclusion does not apply to any damage which is caused by a fire which results from any such damage;
- (e) loss, destruction or damage to information on any computer systems' records:
  - (i) due to the presence of magnetic flux, or
  - (ii) while mounted in or on any machine for use or processing unless it is caused by a Defined Event insured by this Section, or
  - (iii) caused by any computer virus;
- (f) loss or damage due to defects in any computer systems' records;
- (g) consequential loss of any kind other than that specifically insured in this Section;
- (h) loss or damage which is caused by failure to maintain your property in a good state of repair and you knew or should have been reasonably aware of the need to rectify the problem which caused the loss or damage;

- (i) loss or damage which is caused by any person deliberately switching off or disconnecting the power supply;
- (j) loss or damage to goods being carried on or falling from any vehicles.

### 9.2 We do not insure you for loss or damage caused by the following:

- (a) wear, tear, gradual deterioration, vermin or insect;
- (b) any process of cleaning, dyeing, repairing, restoring or maintaining the insured Property;
- (c) atmospheric moisture, rust, corrosion, oxidation, temperature, action of light, mildew, mould or rot;
- (d) mechanical, electrical or electronic failure or breakdown;
- (e) faulty materials or workmanship or error in design or latent defect, but this exclusion applies only to the part of the machine or structured unit of work which is directly damaged by the faulty materials or workmanship or error in design or latent defect;
- (f) Flood, action of the sea, tidal wave, high water, seepage, erosion, or other earth movement or normal structural movement;
- (g) spontaneous fermentation, heating or any process involving the application of heat but this exclusion only applies to the property which is undergoing the spontaneous fermentation, heating or application of heat.

### 9.3 We do not insure you for loss or damage which is capable of being insured under any other Section of this Policy (with the exception of the General Property Section) whether that Section is selected or not.

### 9.4 We do not insure you for any additional cost of complying with the requirements of any statutory authority with which you had been required to comply before the loss or damage occurred.

## General Property

### 1. What we insure

Under this Section we insure the items described in the Policy Schedule for loss or damage:

- in accordance with the Cover;
- occurring anywhere in Australia;
- during the Period of Insurance.

### 2. Definitions which apply to this section

“Market Value” means the retail value of property of a similar type, age and condition to the damaged or destroyed items:

- adjusted for any special features, and
- having regard to used prices guides and any other relevant information.

### 3. Cover

We will insure the items described in the Policy Schedule under this Section for loss or damage caused by:

- (a) fire, lightning, explosion, malicious damage or vandalism;
- (b) theft following forcible and violent entry which causes visible damage to a locked vehicle or building;
- (c) theft of equipment securely attached to a vehicle through use of locks or padlocks, which results in visible damage to the securing devices;
- (d) collision or overturning of the conveying vehicle;
- (e) flood.

### 4. Basis of settlement

Unless otherwise specified in the Policy Schedule, claims will be settled on the basis of reinstatement and replacement and extra costs, as follows.

#### 4.1 Reinstatement and replacement

‘Reinstatement and replacement’ shall mean:

- (a) where property (excluding stock or customers’ goods) is destroyed, the replacement thereof by similar property; or
- (b) where property (excluding stock or customers’ goods) is damaged, the repair of the damage and the restoration of the damaged portion of the property.

In either case to a condition substantially equal to but not better or more extensive than its condition when new.

The basis of settlement of any claim shall be the cost of reinstatement of the property destroyed or damaged at the time of such destruction or damage as follows;

- (i) The work of replacing or repairing as the case may be, must be commenced and carried out with reasonable despatch, failing which we shall pay the Indemnity Value for the loss or damage.

- (ii) When any property to which this clause applies is damaged or destroyed in part only, our liability shall not exceed the sum specified in the Policy Schedule.

- (iii) No payment beyond the amount which would have been payable under this Section shall be made until a sum equal to the cost of reinstatement shall have been actually incurred.

#### 4.2 Market Value

Where stock or customers’ goods are destroyed or damaged, we will, at our option:

- (a) pay the market value at the time of the loss or damage;
- (b) replace or repair the stock with property or materials of the same or similar standard and specification of the stock or customers’ goods at the time of loss or damage;
- (c) pay the cost of repair or replacement.

### 5. The maximum amount we will pay

We will not pay more than the sum insured for any item you have chosen to insure as shown in the Policy Schedule for that item.

The maximum amount we will pay for any one item which is not specifically described, identified and individually valued but is shown in the Policy Schedule under a general description or category is \$2,000 for any one individual item.

### 6. Excess

You must pay any Excess which is shown in the Policy Schedule for this Section for each claim made under this Section.

### 7. Exclusions which apply to this section

7.1 We will not pay for loss or damage directly or indirectly caused by:

- (a) mechanical, electronic or electrical breakdown or derangement unless it occurs as a consequence of any other loss or damage to the insured item;
- (b) cracking, scratching or breakage of glass or fragile items or surfaces unless it occurs as a consequence of any other loss or damage to the insured item;
- (c) rust, oxidation, mildew, mould, moths, vermin, insects, change of colour, or any process of heating, drying, cleaning, dyeing or alteration;
- (d) the action of light or atmospheric conditions or gradually developing conditions, vibration, wear, tear and/or depreciation;
- (e) dishonesty by you or others to whom items insured in this Section are delivered, entrusted, loaned or rented;
- (f) action of the sea, tidal wave or high water.

7.2 We will not pay for:

- (a) any alteration, improvements or overhaul of any item, even if it occurs during repair or replacement following loss or damage to the item insured by this Section;
- (b) any consequential loss or damage;
- (c) theft of property left in the open air;
- (d) theft from a building or vehicle unless:
  - (i) the building or vehicle was securely locked, and
  - (ii) the theft follows forcible and violent entry which is evidenced by visible damage to the building, vehicle or securing devices;
- (e) loss or damage to Money;
- (f) loss or damage to documents, manuscripts, patterns, models, moulds, plans, designs, unless shown in the Policy Schedule;
- (g) loss, destruction or damage caused by or arising whilst the conveying vehicle is engaged in racing, pace making, reliability trials or speed testing or is conveying any load in excess of that for which it was constructed.

## Broadform Liability

### 1. Definitions

Any word or expression which this section of the Policy defines as having a particular meaning will have the meaning everywhere it appears in this Section.

- 1.1 'Aircraft' – any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.
- 1.2 'Business' – the business described in the Policy Schedule including the provision and management of canteens, social, sports and welfare organisations for the benefit of Your employees, first aid, fire and ambulance services and the maintenance of Your premises.
- 1.3 'You/your' in this Section of the Policy –
  - (a) the named insured specified in the Policy Schedule
  - (b) all your subsidiary companies (now or subsequently constituted) provided their places of incorporation are within Australia or any Territory of Australia
  - (c) every director, executive officer, employee, partner or shareholder of yours or in a company designated in paragraphs (a) or (b) but only whilst acting within the scope of their duties in such capacity
  - (d) every principal of yours, in respect of that principal's liability caused by the performance of work for that principal, but subject always to the extent of coverage and the Limit of Liability provided by this Policy.
  - (e) every office bearer or member of social and sporting clubs, canteen and welfare organisations and first aid, fire and ambulance services formed with your consent (but not an Insured designated in paragraph (d) or (f)) in respect of claims arising from their duties connected with the activities of any such club, organisation or service. This Insurance shall not apply to personal injury to or property damage of any participants of any game, match or the like
  - (f) each partner, joint venturer, co-venturer or joint lessee of yours but only:
    - (i) with respect to liability incurred as the partnership, joint venture, co-venture, joint lease, and
    - (ii) provided the partnership, joint venture, co-venture, joint lease has been notified to us within 60 days of formation and has been endorsed on the Policy Schedule
  - (g) any director or senior executive of yours in respect of private work undertaken by your employees for such director or senior executive.

You/Your does not include the interest of any other person other than as described in (a) to (g) above.
- 1.4 'Your Products' – any goods, products and property after they have ceased to be in the possession or under your control, which are or is deemed to have been manufactured, grown, extracted, produced, processed, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed by you (including any container thereof other than a vehicle).
- 1.5 'Limit of liability' – the applicable Limit of liability specified in the Policy Schedule.

- 1.6 'Medical persons' – legally qualified medical practitioners, legally qualified nurses, dentists and first aid attendants.
- 1.7 'Occurrence' – an event which results in personal injury or property damage, neither expected nor intended from your standpoint. All personal injury or property damage, arising out of continuous or repeated exposure to substantially the same general conditions shall be construed as arising out of one occurrence.
- 1.8 'Personal injury'
- bodily injury (and this expression includes death and illness), disability, shock, fright, mental anguish, mental injury
  - false arrest, wrongful detention, false imprisonment or malicious prosecution
  - wrongful entry or eviction
  - a publication or utterance of a libel or slander or other defamatory or disparaging material
  - assault and battery not committed by you or at your direction unless reasonably committed for the purpose of preventing or eliminating danger to person or property.
- 1.9 'Pollutant' – any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled reconditioned or reclaimed.
- 1.10 'Property damage'
- physical damage to, loss or destruction of tangible property including any resulting loss of use of that property, or
  - loss of use of tangible property which has not been physically damaged, lost or destroyed provided such loss of use is caused by an occurrence.
- 1.11 'Vehicle' – any type of machine on wheels or self laid tracks made or intended to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine.
- 1.12 'Watercraft' – any vessel, craft or thing made or intended to float on or in or travel on or through or under water.
- 1.13 'Employment practices' - any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination directly or indirectly related to employment or prospective employment of any person or persons by you.

## 2. Coverage

### 2.1 Liability

We will pay to you or on your behalf all sums you become legally liable to pay by way of compensation in respect of personal injury or property damage happening during the period of insurance and caused by an occurrence in connection with your business.

### 2.2 Defence of claims

With respect to the indemnity provided by this Policy we will:

- defend in your name and on your behalf any claim or legal action against you seeking damages on account of personal injury or property damage, even

if the action is groundless, false or fraudulent, we will investigate, negotiate and settle any claim or legal action as we see fit

- pay all expenses incurred by us, all costs taxed against you in any such suit and all interest accruing after entry of judgment until we have paid tendered or deposited in court such part of the judgment as does not exceed the limit of our liability
- reimburse you for all reasonable expenses, other than loss of earnings, incurred in connection with the defence of a claim or legal action with our consent
- pay reasonable expenses incurred by you for first aid to others at the time of personal injury caused by an occurrence (other than medical expenses prohibited by Section 126 of the Health Insurance Act 1973).

Provided that:

- we will not be obliged to pay any claim or judgment or to defend any claim or legal action after the Limit of Liability has been exhausted by payment of judgments or settlements
- if a payment exceeding the Limit of Liability has to be made to dispose of a claim, our liability to pay any costs, expenses and interest under clause 2.2 will be limited to that proportion of those costs, expenses and interest as the Limit of Liability bears to the amount paid to dispose of the claim.

The amount thus incurred, except payments in settlement of claims, suits and all costs awarded against you, are payable by us in addition to the Limit of Liability.

### 2.3 Limit of Liability

- Our maximum liability in respect of any claim or any series of claims for personal injury or property damage caused by or arising out of one occurrence shall not exceed the Limit of Liability.
- our total aggregate liability during any one period of insurance for all claims arising out of your products shall not exceed the Limit of Liability.

## 3. Exclusions

This Policy section does not cover liability in respect of:

### 3.1 Employment liability

Liability imposed

- by any workers' compensation law
- by the provision of any industrial award, agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award, agreement or determination or contract of employment or workplace agreement, or
- for and in respect of Employment practices

Provided that if you are:

- required by law to insure or otherwise fund, whether through self insurance, statutory fund or other statutory scheme, all or part of any common law liability (whether limited or not) for such personal injury, or

- (e) not required to so insure or otherwise fund such liability by reason only that the personal injury is to a person who is not a worker or employee for the purposes of the relevant worker's compensation law or the personal injury is not an injury which is subject to such law

then this Policy will respond to the extent that your liability would not be covered under such fund, scheme, policy of insurance or self insurance arrangement had you complied with your obligations pursuant to such law.

### 3.2 Property in custody or control

property damage to:

- (a) property owned by or leased or rented to you, or
- (b) property in your physical or legal control.

but this exclusion does not apply to liability for property damage to:

- (c) premises (including landlord's fixtures and fittings) which are leased or rented to you
- (d) premises (or their contents) not owned, leased or rented by you but temporarily occupied by you for work therein
- (e) vehicles (not belonging to or used by or on your behalf) in your physical or legal control where the property damage occurs while the vehicles are in a car park owned or operated by you, unless you own or operate the car park for reward
- (f) the property of an employee of yours or of one of your subsidiary companies as designated in paragraphs 1.3(a) or 1.3(b)
- (g) property (excluding any vehicle which is registered or which is required under any legislation to be registered) in your physical or legal control for the purpose of repair, service, maintenance or alteration or which is on temporary hire or loan to you, subject to a maximum indemnity for any one occurrence of \$250,000 or the amount stated in the Policy Schedule.

### 3.3 Product defect

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

### 3.4 Loss of use

loss of use of tangible property which has not been physically injured, or lost or destroyed resulting from:

- (a) a delay in or lack of performance by or on your behalf of any agreement:
- (b) the failure of your products to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by you, but this exclusion does not apply to the loss of use of other tangible property resulting from the sudden and accidental physical damage to, loss or destruction of your products after they have been put to use by any person or organisation other than those designated in paragraphs 1.3(a) or 1.3(b).

### 3.5 Product recall

claims arising out of or resulting from the withdrawal, inspection, repair, replacement or loss or use of your products or of any property of which they form a part, if such products or property are withdrawn from the market or from use because of any known or suspected defect or deficiency in them.

### 3.6 Aircraft, aircraft products and watercraft

claims arising out of

- (a) the ownership, maintenance, operation or use by you of:
  - (i) any aircraft, or
  - (ii) any watercraft exceeding 8 metres in length,
- (b) your products that are aircraft component parts used for maintaining an aircraft in flight or moving upon the ground or used in the construction of an aircraft hull or machinery which to your knowledge is incorporated in an aircraft.

### 3.7 Vehicles

personal injury or property damage arising out of the ownership, possession, operation, maintenance or use by you of any vehicle:

- (a) which is registered or which is required under any legislation to be registered, or
- (b) in respect of which compulsory liability insurance or statutory indemnity is required by virtue of any legislation (whether or not that insurance is effected).

Exclusions 3.7(a) and 3.7(b) do not apply to:

- (c) personal injury where:
  - (i) that compulsory liability insurance or statutory indemnity does not provide indemnity and
  - (ii) the reason or reasons why that compulsory liability insurance or statutory indemnity does not provide indemnity do not involve a breach by you of legislation relating to vehicles.
- (d) property damage arising out of and during the loading or unloading of goods to or from any vehicle.
- (e) property damage caused by or arising from the operation or use of any vehicle which is designed primarily for lifting, lowering, loading, unloading, digging or drilling whilst being operated or used by you or on your behalf within the confines of your premises.
- (f) property damage caused by the use of any tool or plant forming part of or attached to or used in connection with any vehicle (excluding whilst the vehicle is travelling, transporting or carting goods) at any work site.

### 3.8 Contractual liability

any obligation assumed by you under any agreement except to the extent that:

- (a) the liability would have been implied by law

- (b) the liability arises from a provision in a contract for lease of real or personal property other than a provision which obliges you to effect insurance or provide indemnity in respect of the subject matter of that contract
- (c) the liability is assumed by you under a warranty of fitness or quality as regards to your products
- (d) the obligation is assumed under those agreements specified in the Policy Schedule.

### 3.9 Professional liability

the rendering of or failure to render professional advice or service by you or any related error or omission, but this exclusion does not apply to:

- (a) the rendering of or the failure to render professional medical advice by medical persons employed by you to provide first aid and other medical services on your premises, or
- (b) personal injury or property damage arising therefrom providing such professional advice or service is given for no fee.

### 3.10 Defamation

the publication or utterance of a defamatory matter:

- (a) made prior to the commencement of the period of insurance, or
- (b) made by You or at your direction with knowledge of its falsity, or
- (c) related to advertising, broadcasting, or telecasting activities conducted by or on your behalf.

### 3.11 Pollution

- (a) personal injury or property damage caused by or arising out of the discharge, dispersal, release or escape of pollutants into or upon land, the atmosphere, or any water course or body of water, but this exclusion does not apply if the discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended and takes place in its entirety at a specific time and place
- (b) any costs and expenses incurred in the prevention, removing, nullifying or clean-up of such contamination or pollution but this exclusion does not apply to clean-up, removal or nullifying expenses only, which are consequent upon a sudden, identifiable, unexpected, unintended happening taking place in its entirety at a specific time and place which results in personal injury and/or property damage.

Our liability under clauses 3.11(a) and 3.11(b) in respect of any one discharge, dispersal, release, escape and for all discharges, dispersals, releases and escape of pollutants during any one period of insurance shall not exceed the Limit of Liability.

### 3.12 Territorial limits

- (a) claims made and actions instituted within the United States of America (USA) or Canada or any other territory coming within the jurisdiction of the courts of the USA or Canada
- (b) claims and actions to which the laws of the USA or Canada apply

provided that:

- (c) this exclusion does not apply to claims and actions arising from the presence outside Australia of any person who is normally resident in Australia and who is not undertaking manual work or supervision of work of any kind whilst in the USA or Canada
- (d) the Limit of Liability in respect of coverage provided under paragraph 3.12(c) is inclusive of all costs, expenses and interest as set out in clause 2.2 of this Policy section.

### 3.13 Exports to the USA or Canada

claims in respect of personal injury and/or property damage caused by or arising out of your products knowingly exported by you, or your agents or servants, to the USA or Canada.

### 3.14 Asbestos

any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by asbestos in whatever form or quantity.

### 3.15 Faulty workmanship

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

### 3.16 Fines, Penalties

Fines, penalties or liquidated damages.

### 3.17 Punitive damages

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

### 3.18 Assault and battery

personal injury or property damage caused by or arising from assault and battery committed by you or at your direction unless reasonably necessary for the protection of persons or property.

### 3.19 Defect in design

any defective or deficient design or error in specification or formula provided by you for a fee.

### 3.20 Inefficacy of computers, computer software and computer consulting

- (a) property damage to computer data, or any consequential loss resulting from such property damage, resulting from your use of any computer hardware and/or software
- (b) any claims based upon or arising from any act, error, or omission in the provision of computer services by you or on your behalf.

### 3.21 Treatment or dispensing

Except as provided for under Exclusion 3.9 above,

- (a) the treatment of humans or animals for any physical or mental deficiency, injury, illness or disease, or
- (b) the dispensing of drugs, medicines, pharmaceuticals, supplies or artificial aids.

### 3.22 Child molestation

The molestation of or interference with a minor or minors by

- (a) you or any person comprising you
- (b) any of your employees, or

- (c) any person performing any voluntary work or service for you or on your behalf.

Further, we shall not have any duty to defend any action, suit or proceedings brought against you (or any other person or body corporate who might otherwise but for the provisions of this clause be entitled to indemnity under this policy) which either directly or vicariously seeks compensation in respect of such molestation or interference as above or any personal injury resultant therefrom.

### 3.23 Participants

personal injury or property damage of any person caused by or arising out of the participation of such person or his/her property in any game, match, race, practice, trial or other sporting activity (including but not limited to swimming, gymnastics, health and fitness activities).

### 3.24 Welding activities

claims caused by or arising out of grinding, arc or flame cutting, flame heating, arc or gas welding or similar operation, unless such activity is conducted in strict compliance with the Australian Standard 1674-1990 (Fire Precautions in cutting, heating and welding operations) issued by the Standards Association of Australia.

### 3.25 Personal Injury or property damage arising, directly or indirectly, out of, or in any way involving your 'internet operations'

This exclusion does not apply to personal injury or property damage arising out of any material which is already in print by the manufacturer in support of its product, including but not limited to product use and safety instructions or warnings, and which is also reproduced on its site.

'Internet operations' means the following:

- (a) use of electronic mail systems by you or your employees, including part-time and temporary staff, contractors and others within your organisation
- (b) access through your network to the world wide web or a public internet site by your employees, including part-time and temporary staff, contractors and others within your organisation
- (c) access to your intranet (meaning internal company information and computing resources) which is made available through the world wide web for your customers or others outside your organisation, and
- (d) the operation and maintenance of your web site.

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

### 3.26 Property damage to computer data or programs and their storage media arising directly or indirectly out of or caused by, through or in connection with:

- (a) the use of any computer hardware or software
- (b) the provision of computer or telecommunication services by you or on your behalf
- (c) the use of computer hardware or software belonging to any third party, whether authorised or unauthorised including damage caused by any computer virus.

## 4. Supplementary Conditions applicable to this section

### 4.1 Jurisdiction

all disputes arising out of or under this Policy will be subject to determination by any court of competent jurisdiction within Australia according to the law applicable to the jurisdiction.

### 4.2 Joint insureds

where you comprise more than one party each of the parties will be considered as a separate and distinct unit and the words you and your shall be considered as applying to each party in the same manner as if a separate policy had been issued to each of them provided that nothing in this clause will result in an increase of our Limit of Liability in respect of any occurrence or period of insurance.

### 4.3 Notices

you must as soon as possible give to us notice in writing of:

- (a) every occurrence, claim, writ, summons, proceeding, impending prosecution, and inquest together with all relevant information which may result in a claim under this policy, whether or not you believe any claim amount might fall below the applicable excess
- (b) every change that comes to your knowledge which materially varies any of the facts or circumstances existing at the commencement of this Policy.

Any notice given in writing by us to the first named insured specified in the Policy Schedule will be treated as notice to each of the parties you comprise.

Service of notices by us will be effective immediately on receipt by you of a letter or electronic communication sent from us or in the case of notices by post, three business days after having been posted by us.

### 4.4 Subrogation

in the event of a payment under this Policy to or on behalf of you we will, subject to the Insurance Contracts Act 1984, be subrogated to all your rights of recovery against all persons and organisations and you must execute and deliver instruments and papers and do everything that is necessary to assist us in the exercise of those rights.

### 4.5 Discharge of liabilities

we may at any time pay to you in respect of all claims against you arising from an occurrence the balance of the Limit of Liability or any smaller sum for which the claim or claims can be settled and upon that payment we will relinquish conduct or control of and be under no further liability under this Policy section in connection with those claims except for costs, charges and expenses:

- (a) recoverable from you for all or part of the period prior to the date of such payment
- (b) incurred by us
- (c) incurred by you with our written consent of prior to the date of such payment.

### 4.6 Reasonable care

You must:

- (a) exercise reasonable care that only competent employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition

- (b) take all reasonable precautions to prevent personal injury and property damage, and prevent the manufacture, sale or supply of defective products, and comply with and ensure that your employees, servants and agents comply with all statutory obligations, by-laws or regulations imposed by all relevant public authorities:

- (i) for safety of persons or property
- (ii) for the disposal of waste products
- (iii) for the handling, storage or use of flammable liquids or substances, gases or toxic chemicals

- (c) at your own expense take reasonable action to trace recall or modify any of your products containing any defect or deficiency of which you have knowledge or have reason to suspect, including (but not limited to) any of your products subject to governmental or statutory ban.

#### 4.7 Inspection of property

- (a) we will be permitted but not obligated to inspect your property and operations at any time.
- (b) neither our right to inspect nor our failure to inspect, nor the making of any inspection nor any report of an inspection may be used by you or others in any action or proceeding involving us.
- (c) we may examine and audit your books and records at any time during the period of insurance and within three years thereafter but that examination and audit will be restricted to matters which in our opinion are relevant to the policy.

#### 4.8 Adjustment of premium

- (a) if the first or renewal premium for the policy has wholly or partly been calculated on estimates furnished by you, then within 30 days after the expiry of each period of insurance you must provide to us such matters, particulars and information relevant to the policy as we may reasonably require. The premium for the period will then be adjusted and any difference paid by or allowed to you as the case may be, provided that the adjusted premium will not be less than any minimum premium specified in the Policy Schedule.
- (b) you must keep a record of all matters, particulars and information requested by us and must on reasonable notice allow us or our nominee to inspect and make copies of those records.

## 5. Optional extensions, where indicated on the Policy Schedule as applying

### 5.1 Motor trade, excluding testing and delivery

- (1) Exclusion 3.2(b) (Property in custody or control) of the Broadform Liability Section of this Policy does not apply to liability for property damage to:

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

- (2) Exclusion 3.7 (Vehicles) of the Broadform Liability section of this Policy does not apply to:

3.7.(g) property damage arising from any vehicle (not owned by or leased to you) whilst within the confines of your premises.

### 5.2 Motor trade, including Testing and Delivery

- (1) Exclusion 3.2(b) (Property in custody or control) of the Broadform Liability Section of this Policy does not apply to liability for property damage to:

3.2(h) vehicles for repairs, servicing, maintenance or storage whilst within the confines of your premises or whilst left stationary in the immediate vicinity of your premises in any public or private road or thoroughfare subject to a maximum indemnity of \$100,000 any one occurrence and an excess of \$500.

3.2(i) property damage to any registered vehicle not owned or leased by you but in your physical or legal control for the purpose of repairs, servicing or garaging whilst such vehicle is on any public roadway or thoroughfare whilst being tested &/or collected &/or delivered subject to a maximum indemnity of \$100,000 any one occurrence and an excess of \$500.

- (2) Exclusion 3.7 (Vehicles) of the Broadform Liability section of this Policy does not apply to:

3.7(g) property damage arising from any vehicle (not owned by or leased to you) whilst within the confines of your premises.

3.7(h) property damage to any other property not being your own or used by you or on your behalf caused by the vehicle as described and used in 3.2 (i). The maximum amount we will pay for property damage under this clause is \$100,000 any one occurrence.

### Exclusions applicable to Optional Extensions 5.1 and 5.2

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

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

**5.3 Motor trade – inspection reports and certificates (personal injury or property damage)**

Exclusion 3.9 (Professional Liability) of the Broadform Liability Section of this Policy does not apply to:

- (a) your certification of roadworthiness or design compliance in respect of any motor vehicle, which is carried out by you or on your behalf under statutory authority or license and in such manner or form as required under the provisions of any Act or Regulation relating to vehicle,
- (b) motor vehicle condition reports provided by you after inspection, whether such are commissioned for the purposes of sale or purchase or in connection with any servicing or maintenance carried out by you.

**5.4 Motor Trade – inspection reports and certificates (financial losses only)**

For the purposes of this Optional extension only, definition 1.7 (Occurrence) and any reference to that defined term is deleted and replaced as follows.

‘Wrongful act’ – any actual or alleged breach of duty, neglect, error, omission, misstatement, misleading statement or other act committed or allegedly committed by you. ‘Wrongful act’ does not include any event which results in personal injury or property damage.

Exclusions;

- 3.4 (Loss of use),
- 3.8 (Contractual Liability), and
- 3.9 (Professional Liability),

do not apply to:

- (a) your certification of roadworthiness or design compliance in respect of any motor vehicle, which is carried out by you or on your behalf under statutory authority or license and in such manner or form as required under the provisions of any Act or Regulation relating to vehicle,
- (b) motor vehicle condition reports provided by you after inspection, whether such are commissioned for the purposes of sale or purchase or in connection with any servicing or maintenance carried out by you.

The maximum we will pay under this Optional extension is:

- \$100,000 in the aggregate for all claims in any one period of insurance.

**5.5 Motor Trade – Faulty workmanship**

Exclusion 3.15 (Faulty workmanship) does not apply to the cost of performing, completing, correcting or improving any work that is undertaken by you provided that the work:

- (a) was undertaken on a motor vehicle, and
- (b) was carried out during the period of this insurance, or any earlier period during which this Policy, or any Policy that this Policy replaced had been held with us, and
- (c) has caused property damage to the motor vehicle.

The maximum we will pay under this Optional extension is:

- (i) \$15,000 for any one occurrence, net of any mark-up for parts, transport, labour and profit, and
- (ii) \$25,000 for all claims in any one period of insurance.

**Additional definition applicable to Optional Extensions 5.3, 5.4 and 5.5**

‘Motor vehicle’ means any mechanically or electrically powered machine (including but not limited to automobiles, trucks and motorcycles) that does not run on rails and is legally allowed to transport persons or goods on public roads and highways. ‘Motor vehicle’ includes any trailer or caravan intended to be towed by such a machine, but not any;

- (i) aircraft, or
- (ii) watercraft.

**5.6 Consumer Protection Cover for Queensland Electricians**

This Optional extension is only to apply in respect of Electrical Work performed in Queensland.

**Definitions applying to this optional extension only**

Word or Term	Meaning
Broadform Products Liability	the policy of insurance covering an occurrence which caused personal injury to a third party, or any loss or damage to the property of a third party other than the work itself, directly or indirectly arising from the activities as an electrical contractor directly or indirectly arising from the products or activities
The Certificate of Test	the certificate required under Section 169 of the Electricity Act and Regulations 2002 (Qld.).
Completed Electrical Work	(a) electrical work for which the electrical contractor has issued a certificate of test, or (b) work the electrical contractor has connected to supply.
Consumer Protection	Any consequential financial loss reasonably incurred by the building owner as a result of any defects or non completion of the electrical work (as described in this Optional extension) including but not limited to: (a) any loss of any deposit or progress payments or any part of progress payments; (b) the cost of alternative accommodation, removal and storage costs that are reasonably and necessarily incurred; and (c) non completion of electrical work due to: (i) the death or legal incapacity of the electrical contractor (ii) the disappearance of the electrical contractor (iii) the electrical contractor becoming insolvent under administration

Word or Term	Meaning
Consumer Protection (continued)	<p>(iv) the cancellation or suspension of the electrical contractor's licence under the Electricity Act and Regulations 2002 (Qld.)</p> <p>(v) the early termination of the contract by the building owner as a result of the electrical contractor's wrongful failure or refusal to complete the electrical work.</p>
Contract	a written agreement to carry out electrical work and includes a domestic building contract or other building contract that includes electrical work.
Defects in Domestic Electrical Work	<p>(a) a failure to carry out electrical work consistent with current electricity legislation, industry practices and standards and in accordance with any plans and specifications set out in the contract.</p> <p>(b) a failure to use materials in the electrical work that are good and suitable for the purpose for which they are used.</p> <p>(c) the use of materials in the electrical work that are not new unless the contract expressly permits the use of materials that are not new.</p> <p>(d) a failure to carry out the electrical work in accordance with and in compliance with all laws and legal requirements or any applicable Australian or other relevant standard or code of practice including without limiting the generality of this paragraph, the Electricity Act 2002 (Qld.) with any amendments and regulations made under that Act.</p> <p>(e) a failure to carry out electrical work with due care or skill and in the case of domestic electrical work a failure to complete the electrical work:</p> <p>(i) by the date or within the period specified by the contract</p> <p>(ii) within a reasonable time if no date or period is specified</p> <p>(f) if the contract states the particular purpose for which the electrical work is required or the result which the building owner wishes the work to achieve so as to show that the building owner relies on the electrical contractor's skill and judgement, a failure to ensure that the electrical work and any materials used in carrying out the electrical work:</p> <p>(i) are fit for the purpose</p> <p>(ii) are of such a nature and quality that they will achieve that result; or</p> <p>(g) a failure to maintain a standard or quality of electrical work specified in the contract;</p> <p>(h) a reference to any material in sub-clause (c) (d) or (g) does not include any material that is supplied by the building owner or the owner's agent.</p>

Word or Term	Meaning
Disappearance	cannot be found after due search and enquiry.
Domestic Dwelling	<p>any residential premises but other than:</p> <p>(a) any residence that is not intended for permanent habitation, or</p> <p>(b) a rooming house</p> <p>(c) a motel, residential club, residential hotel, or residential part of licensed premises</p> <p>(d) a nursing home, hospital, or accommodation associated with a hospital; or</p> <p>(e) the common areas under the control of the Body Corporate in residential villas, townhouses, duplex, triplex, quadruplex or home units which make up the body corporate</p> <p>(f) any watercraft</p>
Domestic Electrical Work	work for a domestic dwelling proprietor or for individual proprietors of single domestic dwellings forming part of residential villas, townhouses, duplex, triplex, quadruplex or home units.
Electrical Work	defined in the Electricity Act and Regulations 2002 (Qld.).
Insolvent under Administration	<p>a person who is bankrupt in respect of a bankruptcy from which the person has not been discharged and includes a person:</p> <p>(a) who has executed a deed of arrangement under Part X of the Bankruptcy Act (Cwth), (or the corresponding provisions of the law of another jurisdiction) where the terms of the deed have not been fully complied with; and</p> <p>(b) whose creditors have accepted a composition under Part X of the Bankruptcy Act (Cwth), (or the corresponding provisions of the law of another Jurisdiction) where a final payment has not been made under that composition.</p>
Limit of Liability	the limit of liability that is shown in the Certificate.
Trade Practices Liability	any liability that arises as a result of conduct by the electrical contractor that contravenes the Trade Practices Act 1974 (Cwth) and the Fair Trading Act 1989 (Qld) other than any fine or penalty imposed by such contravention.

### Cover

In our Broadform Liability section you will find cover for Public Liability and Products Liability. In this Optional Extension you will find cover for:

1. Defects in Electrical Works
2. any Trade Practices Liability
3. Liability arising from the testing of Your own work and the work of others
4. Resultant Personal Injury, Property Damage or loss arising from incorrect advice or design
5. Non-completion of Electrical Work
6. Consumer Protection

### Limit of Liability

Our liability under this Optional Extension is limited to:

1. in respect of Trade Practices Liability the maximum amount we will pay is the cost of rectifying the relevant electrical work.
2. for all other liability referred to in covers 1, 3, 4, 5 and 6 the maximum amount we will pay is
  - (a) \$50,000 per any one claim or service of claim in relation to a certificate of test or if the certificate of test relates to more than one home
  - (b) \$50,000 in respect of each domestic installation.
3. for the reasonable legal costs and expenses associated with successful enforcement of a claim against You or Us.

### Exclusions applicable to this optional extension

1. We do not cover You for any loss damage or liability:
  - (a) resulting from a Product Defect provided that:
    - (i) We bear the onus of establishing that the claim (or part of a claim) is based on a Product Defect; and
    - (ii) We agree that nothing in this exclusion removes the cover given to You by this Optional Extension in relation to You supplying or using any appliance, material, substance or other thing that You were aware was defective, or that You should reasonably be aware was defective
  - (b) resulting from:
    - (i) fair wear and tear or depreciation of electrical work or;
    - (ii) a failure by the building owner to reasonably maintain the Electrical Work
2. for consequential financial loss resulting from non-domestic Electrical Work
3. directly or indirectly caused by, contributed to, or arising from exposure to asbestos
4. We do not cover you in respect of all legal costs of any person making a Claim against You that are not directly or indirectly related to:
  - (a) the enforcement of this Policy; or
  - (b) a liability in respect of which you are covered under this Policy

5. We do not cover You for claims for liquidated damage for delay or damages for delay that may arise under contract provided that this exclusion does not apply to increases in rectification costs caused by a delay.

### Conditions applicable to this optional extension

1. Period that insurance must cover
  - (a) for the liabilities referred to in covers 1, 2 and 4 of this Optional Extension, You are only covered in respect of Electrical Work of which a Certificate of Test is required from the time You agree to carry out that work until:
    - (i) seven (7) years after You last issued the Compliance Certificate in relation to that work; or
    - (ii) if You did not issue a Compliance Certificate in relation to the work, seven (7) years after You stopped carrying out that work.
  - (b) You are covered in respect of Electrical Work for which a Compliance Certificate is required for Completed Work Liability that arises from personal injury to a third party or loss or damage to the property of a third party (other than property that is part of the Electrical Work itself) that occurs during the Period of Insurance caused by an occurrence that happens in connection with the carrying out of the Electrical Work (regardless of when the Electrical Work was carried out).
  - (c) The cover provided in covers 1, 2 and 4 of this Optional Extension continues to apply throughout the relevant period specified in condition 1(a) of this Optional Extension even if You cease to be a Licensed or registered electrician before the end of that period and even if You cease to maintain this Policy.
2. Insurer to comply with court orders, etc.

We agree to comply with any order made against You by a court, the disputes or any other competent judicial body, in respect of any liability for which You are indemnified under this Policy (including any excess that You may be obliged to pay to Us).
3. Limitation for common property
  - (a) this clause applies if a claim is paid by us in relation to the common property of a building or complex or multiple homes and the property in which the building or complex stands, and on which Electrical Work is carried out, is subject to the Subdivision Act 1988.
  - (b) We will reduce the amount We pay under this Policy in respect of any one home in the building or complex by an amount calculated by dividing the amount of the claim paid by Us by the number of homes in the building or complex.
4. Limitation concerning non-completion of work

If You fail to complete Electrical Work for any reason then this Policy does not cover You for claims for the whole or a specified part of any payment made under a contract that exceeds the value of the work completed at the time of payment.

5. Deemed acceptance of claims
- this clause only applies in relation to Domestic Electrical Work
  - this clause does not apply in relation to Completed Electrical Work Liability
  - We agree to accept liability for a claim in We do not notify the person making the claim within 90 days from when We receive the claim in writing that We accept or dispute the claim, unless We obtain an extension of time from the person in writing or from the Disputes Tribunal
6. Ministerial Order to prevail in the case of conflict with this Policy
- We agree that if any term of this Policy conflicts, or is inconsistent with the Electrical Contractors Insurance Requirements which outlines the requirements for electrical contractors insurance required under Section 43 of the Electricity Act and Regulations 2002 (Qld) then this Policy is to be read and to be enforceable as if it complied with that document.
7. Claims not to be refused on the grounds that Policy obtained by fraud, etc.
- this clause only applies in relation to Domestic Electrical Work
  - We agree that We will not refuse to pay a claim (other than a claim in respect of Completed Electrical Work Liability) under this Policy on the ground that this Policy was obtained by misrepresentation, fraud or nondisclosure by You or anyone acting on Your behalf
  - You agree that if We make a payment under this Policy to, or for the benefit of, a building Owner under the circumstances contemplated by this clause, by doing so We are not restricting Our right to recover that payment from You.
8. Insurer must give effect to Certificates
- this clause only applies in relation to Domestic Electrical Work
  - if We give You a Certificate stating that You are covered by insurance, We agree that We will not refuse to pay a claim on that insurance (other than a claim in respect of Completed Electrical Work Liability) under this Policy on the ground that You have not paid the premium for the Insurance
  - You agree that if We make a payment under this Policy to, or for the Benefit of, a Building Owner under the circumstances contemplated by this clause, by doing so We are not restricting Our right to recover that payment from You.
9. Deemed notice of Defects
- We agree that if a person gives notice of Defects in writing to You or Us, that person is to be taken for the purposes of this Policy to have given notice of all Defects of which the Defect notified are directly or indirectly related, whether or not the claim in respect of the Defects that were actually notified has been settled.
10. Claimant may enforce this Policy directly in certain cases
- We and You both agree:
- that a person who is entitled to claim against You in respect of any liability for which You are indemnified under this Policy may enforce this Policy directly against Us for the person's own benefit if:
    - any event listed in cover 4 of this Optional Extension occurs; or
    - You refuse to make a claim against Us; or
    - there is an irretrievable breakdown of communication between You and Us; and
  - that for the purpose of such enforcement the person has the same rights and entitlements as You would have had under any legislation applicable to You; and
  - that We will pay to the person the full amount of any liability for which You are indemnified under this Policy despite any failure by You to pay any excess that You are required to pay.
11. Section 54 of the Insurance Contracts Act 1984 to apply
- We acknowledge that Section 54 of the Insurance Contracts Act 1984 (Cwth) applies to this Policy
  - despite condition 11(a), We agree that We will not rely on Section 54 to reduce Our liability under this Policy or to reduce any amount that is otherwise payable in respect of a claim by reason only of a delay in a Claim being notified to Us if:
    - the person who makes the claim notifies You, either orally or in writing; or
    - that person or You notifies Us in writing within 180 days of the date when the person first became aware, or might reasonably be expected to have become aware, of some fact or circumstance that might give rise to the claim.
12. Notification concerning claims settled
- We and You both agree that We will notify the Electrical Licensing Board in writing in the manner required by the Electrical Licensing Board of the settling of payment of any claim under this Policy.
13. Conflicting Provisions
- nothing in this Optional Extension should be read as limiting indemnity under this Optional Extension with respect of any Defect as a result of any error in design, specification formula or pattern or the provision of advice that is incidental to any Electrical Work undertaken by the electrician
  - to the extent that condition 13(a) is in conflict with any other provision in this Optional Extension, condition 13(a) will prevail.
14. Excess
- You are liable to pay Us in respect of each claim paid by Us under this Policy the amount paid by us or the amount specified in the Policy Schedule as the excess. Provided You are not liable to pay an excess more than once in relation to any claim comprising more than one defect or two or more claims that relate to the same defect.

15. You must co-operate with Us
- (a) You agree in relation to a claim or prospective claim:
    - (i) to make reasonable efforts to assist and inform Us or Our agent; and
    - (ii) to attend the relevant building site for the purpose of inspecting, rectifying or completing Electrical Work (unless the Building Owner refuses You access to the site)
  - (b) We may reduce the amount of a claim by a Building Owner by an amount that reasonably represents the cost resulting from an unreasonable refusal by the Building Owner to give You access to a building site if We have asked You to attend the site.
16. Provision concerning cancellation
- We agree that the cancellation of this Policy:
- (a) will only take effect 30 days after We give both the Electrical Licensing Board and You notice in writing of the cancellation; and
  - (b) has no effect on any of Our obligations under this Policy with respect to the liabilities referred to in covers 1, 2 and 4 of this Optional Extension in relation to Electrical Work that was carried out while this Policy was in force; and
  - (c) has no effect on any of Our obligations under this Policy with respect to the liabilities referred to in covers 3 and 4 of this Optional Extension in relation to any personal injury to a third party or loss or damage to the property of a third party (other than property that is part of the Electrical Work itself) that occurred while this Policy was in force.

### 5.7 Victorian Plumbers Liability

This Optional extension is only to apply in respect of Plumbing Work performed in Victoria.

#### Definitions applicable to this Optional extension only

Any word or expression which this Optional extension defines as having a particular meaning will have the meaning everywhere it appears in this Optional extension.

Word or Term	Meaning
Building Owner	<p>the person for whom Plumbing Work has been, is being, or is about to be, carried out and includes:</p> <ol style="list-style-type: none"> <li>(a) any occupier of the land, building or Home where the Plumbing Work is carried out; and</li> <li>(b) any person who is the owner for the time being of that land, building or Home; and</li> <li>(c) if the Plumbing Work is carried out on land in a plan of subdivision containing common property, the body corporate for that land or a building on that land; and</li> <li>(d) any assignee of the Building Owner's rights under a Contract; and</li> <li>(e) any person who has contracted with another person to provide the Plumbing Work.</li> </ol>

Word or Term	Meaning
Completed Work Liability	<p>any liability that arises as a result of any personal injury to a third party, or loss or damage to the property of a third party (other than property that is part of the plumbing work itself), directly or indirectly related to or arising from the Plumbing Work:</p> <ol style="list-style-type: none"> <li>(a) after the issue of the Compliance Certificate for the Plumbing Work; or</li> <li>(b) if You do not issue a Compliance Certificate for the Plumbing Work, Plumbing Work which You carried out but only after You stopped carrying out that work.</li> </ol>
Compliance Certificate	a certificate referred to in Section 221ZH of the Building Act 1993 (Vic).
Contract	a contract to carry out Plumbing Work and includes a domestic building contract or other building contract that includes Plumbing Work.
Defect	<p>in relation to Plumbing Work includes:</p> <ol style="list-style-type: none"> <li>(a) a failure to carry out the Plumbing Work in a proper and workmanlike manner and in accordance with any plans and specifications set out in the Contract;</li> <li>(b) a failure to use materials in the Plumbing Work that are good and suitable for the purpose for which they are used;</li> <li>(c) the use of materials in the Plumbing Work that are not new (unless the Contract permits use of materials that are not new);</li> <li>(d) a failure to carry out the Plumbing Work in accordance with, and in compliance with, all laws and legal requirements including, without limiting the generality of this clause, the Building Act 1993 (Vic) and any regulations made under that Act;</li> <li>(e) a failure to carry out the Plumbing Work with reasonable care and skill and, in the case of Domestic Plumbing Work, a failure to complete the work:           <ol style="list-style-type: none"> <li>(i) by the date (or within the period) specified by the Contract; or</li> <li>(ii) within a reasonable time, if no date (or period) is specified;</li> </ol> </li> <li>(f) if the Contract states the particular purpose for which the Plumbing Work is required, or the result which the Building Owner wishes the Plumbing Work to achieve, so as to show that the Building Owner relies on Your skill and judgement, a failure to ensure that the Plumbing Work and any material used in carrying out the Plumbing Work:           <ol style="list-style-type: none"> <li>(i) are reasonably fit for that purpose; or</li> <li>(ii) are of such a nature and quality that they might reasonably be expected to achieve that result;</li> </ol> </li> </ol>

Word or Term	Meaning
Defect (continued)	(g) a failure to maintain a standard or quality of Plumbing Work specified in the Contract.  A reference to any material in sub-clause (b) or (f) does not include any material that is supplied by the Building Owner (or the Building Owner's agent).
Defects Liability	Liability to pay for the costs of rectifying any Defect in Your Plumbing Work carried out in Victoria.
Disappearance	cannot be found after due search and inquiry
Domestic Plumbing Work	Plumbing Work performed or intended to be performed on or in relation to: (a) a Home; or (b) any building or structure on land on which a Home is or is intended to be situated.
Home	any residential premises and includes any part of a commercial or industrial premises that is used as a residential premises and also includes any house boat that is less than 8 metres in length, but does not include: (a) any residence that is not intended for permanent habitation; or (b) a rooming house within the meaning of the Residential Tenancies Act 1997 (Vic); or (c) a motel, a residential club, a residential hotel or a residential part of licensed premises under the Liquor Control Reform Act 1998 (Vic); or (d) a nursing home, a hospital or accommodation associated with a hospital; or (e) any residence that the regulations made under the Domestic Buildings Contracts Act 1995 (Vic) state is not a home for the purposes of the definition of "home" in that Act.
Insolvent Under Administration	a person who: (a) under the Bankruptcy Act 1966 (Cwth) or the law of an external Territory, is a bankrupt in respect of a bankruptcy from which the person has not been discharged; or (b) under the law of an external Territory or the law of a foreign country, has the status of an undischarged bankrupt; and includes: (c) a person any of whose property is subject to control under: (i) section 50 or Division 2 of Part X of the Bankruptcy Act 1966 (Cwth); or (ii) a corresponding provision of the law of an external Territory or the law of a foreign country; or (d) a person who has executed a personal insolvency agreement under: (i) Part X of the Bankruptcy Act 1966 (Cwth); or

Word or Term	Meaning
Insolvent Under Administration (continued)	(ii) the corresponding provisions of the law of an external Territory or the law of a foreign country; where the terms of the agreement have not been fully complied with.
The Ministerial Order	the Licensed Plumbers General Insurance Order 2002 made under Section 221ZQ and 221ZT of the Building Act 1993 (Vic).
Plumbing Work	has the same meaning as in Section 221C of the Building Act 1993 (Vic).
Non-Domestic Plumbing Work	Plumbing Work that is not Domestic Plumbing Work
Product defect	a defect in any appliance, material, substance or other thing that was supplied or used by You in connection with Plumbing Work
Trade Practices Liability	any liability for the cost of rectifying any Defect in Plumbing Work carried out in Victoria that arises as a result of conduct by You in connection with the Plumbing Work that contravenes Section 52, 53, 55A or 74 of the Trades Practices Act 1974 (Cwth) or Section 9, 11 or 12 of the Fair Trading Act 1999 (Vic).

**Coverage**

We will cover You under this Optional extension for:

1. Defects liability
2. Trade Practices Liability
3. In respect of Domestic Plumbing Work carried out in Victoria any liability arising from:
  - (a) any consequential financial loss reasonably incurred by the Building Owner as a result of any Defects or non-completion of the Plumbing Work (as described in clause 3(b)), including but not limited to:
    - (i) the loss of any deposit or progress payment (or any part of any deposit or progress payment); and
    - (ii) the cost of alternative accommodation, removal and storage costs that are reasonably and necessarily incurred; and
  - (b) non-completion of the Plumbing Work due to:
    - (i) Your death or legal incapacity
    - (ii) Your disappearance
    - (iii) You becoming an Insolvent Under Administration
    - (iv) the cancellation or suspension of Your licence as a licensed plumber under the Building Act 1993 (Vic); or
    - (v) the early termination of the Contract by the Building Owner as a result of Your wrongful failure or refusal to complete the Plumbing Work.

The cover provided under clause 3(b) also applies to any Contract for both Domestic Plumbing Work and Non-Domestic in which the Non-Domestic Plumbing component does not exceed 20% of the total Contract value.

### Limit of Liability

We will pay up to:

- \$50,000 for any one claim or series of claims in relation to Domestic Plumbing Work for which a Compliance Certificate is required, (or if a Compliance Certificate relates to more than one Home, an amount not exceeding \$50,000 for each Home).
- \$100,000 for any one claim or series of claims in relation to a Compliance Certificate for Non-Domestic Plumbing Work.
- the reasonable cost of rectifying plumbing work under the Trade Practices Liability cover.

The most we will pay under this Optional extension in any one Period of Insurance is \$5,000,000.

### Defence of Claims

In addition to the Limit of Liability we also pay the reasonable legal costs and expenses associated with the successful enforcement of a claim against You or Us.

However, we will not pay the legal costs of any person making a claim against You that are not directly or indirectly related to:

1. the enforcement of this Optional extension; or
2. a liability in respect of which You are covered under this Optional extension.

Provided that:

- (i) We will not be obliged to pay any claim or judgment or to defend any claim or legal action after the Limit of Liability has been exhausted by payment of judgments or settlements;
- (ii) if a payment exceeding the Limit of Liability has to be made to dispose of a claim, Our liability to pay any legal costs and expenses under this clause will be limited to that proportion of those legal costs and expenses as the Limit of Liability bears to the amount paid to dispose of the claim.

### Exclusions applicable to this Optional extension

We do not cover You for:

1. any Defects Liability resulting from a Product Defect provided that:
  - (a) We bear the onus of establishing that the claim (or part of the claim) is based on a Product Defect; and
  - (b) We agree that nothing in this exclusion removes the cover given to You by this Optional extension in relation to You supplying or using an appliance, material, substance or other thing that You were unaware was defective or that You should not reasonably have been aware was defective.
2. any loss, injury or damage resulting from:
  - (a) fair wear, tear or depreciation of Plumbing Work; or
  - (b) a failure buy the Building Owner to reasonably maintain Plumbing Work.
3. any consequential financial loss in relation to Non-Domestic Plumbing Work.
4. claims for liquidated damages for delay, or damages for delay, that may arise under a Contract provided that this exclusion does not apply to any increase in rectification costs caused by the delay.

### Conditions applicable to this Optional extension

#### 1. Period of Cover

For Defects Liability, Trade Practices Liability and liabilities referred to in Coverage clause 3 of this Optional extension, You are only covered in respect of Plumbing Work for which a Compliance Certificate is required from the time You agree to carry out that work until:

- (a) 6 years after You last issued the Compliance Certificate in relation to that work; or
- (b) if You did not issue a Compliance Certificate in relation to the work, 6 years after You stopped carrying out that work.

The cover provided for Defects Liability, Trade Practices Liability and liabilities referred to in Coverage clause 3 of this Optional extension continues to apply throughout the relevant period specified in this clause even if You cease to be a licensed plumber before the end of that period and even if You cease to maintain this Optional extension.

#### 2. We will comply with court orders

We agree to comply with any order made against You by a court, the Victorian Civil and Administrative Appeals Tribunal or any other competent judicial body, in respect of any liability for which You are indemnified under this Optional extension, (including any excess that You may be obliged to pay to Us).

#### 3. Deemed acceptance of claims

This clause only applies in relation to Domestic Plumbing Work.

We agree to accept liability for a claim if We do not notify the person making the claim within 90 days from when we receive the claim in writing that We accept or dispute the claim, unless We obtain an extension of time from the person in writing or from the Victorian Civil and Administrative Appeals tribunal.

#### 4. Ministerial Order to prevail in the case of conflict

We agree that if any term of this Optional extension conflicts, or is inconsistent, with the Ministerial Order, then this Optional extension is to be read and to be enforceable as if it complied with that Order.

#### 5. Claims not to be refused on the grounds that the Policy obtained by fraud, etc.

This clause only applies in relation to Domestic Plumbing Work.

We agree that We will not refuse to pay a claim under this Optional extension on the ground that this Optional extension was obtained by misrepresentation, fraud or non-disclosure by You or anyone acting on Your behalf.

You agree that if We make a payment under this Optional extension to, or for the benefit of, any other person under the circumstances contemplated by this clause, by doing so We are not restricting Our right to recover that payment from You.

6. We give effect to Certificates
- This clause only applies in relation to Domestic Building Work
- If we give You a Certificate stating that You are covered by insurance under this Optional extension, We agree that We will not refuse to pay a claim on that insurance on the ground that You have not paid the premium for the insurance.
- You agree that if We make a payment under this Optional extension to, or for the benefit of, any other person under the circumstances contemplated by this clause, by doing so We are not restricting Our right to recover that payment from You.
7. Deemed notice of Defects
- We agree that if a person gives notice of a defect in writing to You or us, that person is to be taken for the purposes of this Optional extension to have given notice of every Defect of which the Defect notified is directly or indirectly related, whether or not the claim in respect of the Defect that was actually notified has been settled.
8. Claimant may enforce this Optional extension direction in certain cases
- We and You both agree that:
- (a) a person who is entitled to claim against You in respect of any liability for which You are indemnified under this Optional extension may enforce this Optional extension directly against Us for the person's own benefit if:
    - (i) any event listed in Cover 3(b) of this Optional extension occurs; or
    - (ii) You refuse to make a claim against Us; or
    - (iii) there is an irretrievable breakdown of communication between You and Us;
  - (b) for the purpose of such enforcement the person has the same rights and entitlements as You would have had under any legislation applicable to You;
  - (c) We will pay to the person the full amount of any liability for which You are indemnified under this Optional extension despite any failure by You to pay any deductible that You are required to pay.
9. Section 54 of the Insurance Contracts Act
- (a) We acknowledge that Section 54 of the Insurance Contracts Act 1984 (Cwth) applies to this policy.
  - (b) despite sub-clause 9(a), we agree that We will not rely on Section 54 to reduce Our Liability under this Optional extension or to reduce any amount that is otherwise payable in respect of a claim by reason only of a delay in a claim being notified to Us if:
    - (i) the person who makes the claim notifies You either orally or in writing; or
    - (ii) that person or You notifies Us in writing;
 

within 180 days of the date when the person first became aware, or might reasonably be expected to have become aware, of some fact or circumstance that might give rise to a claim.
- (c) nothing in clause 9(b) restricts the operation of clause 1 of the Conditions applicable to this Optional extension.
10. Provision concerning cancellation
- This clause only applies in relation to Domestic Building Work.
- We agree that the cancellation of this policy:
- (a) will only take effect 30 days after we give both the Plumbing Industry Commission and you notice in writing of the cancellation; and
  - (b) has no effect on any of our obligations under the policy with respect to the liabilities referred to under Coverage of this Optional Extension in relation to Plumbing Work that was carried out while the Optional Extension was in force.
11. Notification of claims settled
- We and You both agree that We will notify the Plumbing Industry Commission in writing in the manner required by the Minister of the settling or payment of any claim under this Optional extension.
12. Limitation for common property
- This clause applies if Plumbing Work is carried out on land in a plan of subdivision containing common property and a claim is paid by Us in relation to the common property.
- We will reduce the amount We will pay under this Optional extension in respect of any one Home on land in the plan of subdivision by an amount calculated by dividing the amount of the claim paid by Us in relation to the common property by the number of Homes on land in the plan of the subdivision.
13. Limitation concerning non-completion of work
- If you fail to complete Plumbing Work for any reason listed in Cover clause 3, then this Optional extension does not cover You for claims for the whole or a specified part of any payment made under a Contract that exceeds the value of the work completed at the time of payment.
14. You must co-operate with Us
- (a) You agree in relation to a claim or prospective claim:
    - (i) to make reasonable efforts to assist and inform Us or Our Agent; and
    - (ii) to attend the relevant building site for the purpose of inspecting, rectifying or completing Plumbing Work (unless the Building Owner refuses You access to the site).
  - (b) We may reduce the amount of a claim by a Building Owner by an amount that reasonably represents the cost resulting from an unreasonable refusal by the Building Owner to give You access to a building site if We asked You to attend the site under clause 9(a)(ii).

**5.8 Electrical Contractor Occupational Licensing for Tasmania**

This Optional extension only applies in respect of Electrical Work performed in Tasmania.

**Definitions applying to this optional extension only**

Word or Term	Meaning
Administrator	the Administrator appointed under section 10 of the Occupational Licensing Act 2005.
Building Owner	the person for whom prescribed work has been, is being, or is about to be, carried out and includes: <ul style="list-style-type: none"> <li>(a) any occupier of the land, building or home where the prescribed work is carried out; and</li> <li>(b) any person who is the owner for the time being of that land, building or home; and</li> <li>(c) if the prescribed work is carried out on land in a plan of subdivision containing common property, the body corporate for that land or a building on that land; and</li> <li>(d) any assignee of the building owner's rights under a contract; and</li> <li>(e) any person who has contracted with another person to provide that prescribed work.</li> </ul>
Certificate of Compliance	the approved form referred to in Regulation 17(2) of the Occupational Licensing (Electrical Work) Regulations 2008.
Contract	a contract, whether in full or in part, to carry out prescribed work and includes a domestic building contract or other building contract that includes prescribed work;
Defects	1. 'defects' in prescribed work include: <ul style="list-style-type: none"> <li>(a) any work that is defective work in the terms of the Occupational Licensing Act 2005;</li> <li>(b) a failure to carry out the work in a proper and workmanlike manner and in accordance with any plans and specifications set out in the contract;</li> <li>(c) a failure to use materials in the work that are good and suitable for the purpose for which they are used;</li> <li>(d) the use of materials in the work that are not new (unless the contract permits use of materials that are not new);</li> <li>(e) a failure to carry out the work in accordance with, and in compliance with, all laws and legal requirements including, without limiting the generality of this paragraph, the Occupational Licensing Act 2005 and any regulations made under that Act;</li> </ul>

Word or Term	Meaning
Defects (continued)	<ul style="list-style-type: none"> <li>(f) a failure to carry out the work with reasonable care and skill and, in the case of prescribed work, a failure to complete the work:                             <ul style="list-style-type: none"> <li>(i) by the date (or within the period) specified by the contract; or</li> <li>(ii) within a reasonable time, if no date (or period) is specified.</li> </ul> </li> <li>(g) if the contract states the particular purpose for which the work is required, or the result which the building owner wishes the work to achieve, so as to show that the building owner relies on the practitioner's skill and judgement, a failure to ensure that the work and any material used in carrying out the work:                             <ul style="list-style-type: none"> <li>(i) are reasonably fit for that purpose; or</li> <li>(ii) are of such a nature and quality that they might reasonably be expected to achieve that result;</li> </ul> </li> <li>(h) a failure to maintain a standard or quality of prescribed work specified in the contract.</li> </ul> 2. A reference to any material in sub-clause (1)(c) or (g) does not include any material that is supplied by the building owner (or the owner's agent).
Disappearance	cannot be found after due search and inquiry.
Domestic Prescribed Work	prescribed work performed or intended to be performed on or in relation to: <ul style="list-style-type: none"> <li>(a) a home; or</li> <li>(b) any building or structure on land on which a home is or is intended to be situated.</li> </ul>
Home	any residential premises and includes any part of a commercial or industrial premises but does not include: <ul style="list-style-type: none"> <li>(a) any residence whose primary purpose is not for permanent habitation; or</li> <li>(b) a building in which there is one or more rooms available for occupancy on payment of rent in which the total number of people who may occupy those rooms is not less than four; or</li> <li>(c) a motel, club, or hotel used in whole or in part as a residence for temporary habitation; or</li> <li>(d) a nursing home, a hospital or accommodation associated with a nursing home hospital.</li> </ul>
Licence Holder	a person holding a licence under the Occupational Licensing Act 2005.
Non-Domestic Prescribed Work	any prescribed work that is not domestic prescribed work.

Word or Term	Meaning
The Notice	the General Insurance Notice 2008
Prescribed Work	any work that by virtue of the determination of the Administrator may only be lawfully performed by the holder of a licence.
Policy	contract of insurance
Trade Practices Liability	any liability that arises as a result of conduct by the licence holder in connection with the prescribed work that contravenes sections 52, 53, 55A or 74 of the Trade Practices Act 1974 of the Commonwealth or sections 14, 16 or 21 of the Fair Trading Act 1990 (Tasmania).

### Cover

This Optional Extension in conjunction with this section of this policy provides cover in accordance with the Occupational Licensing General Insurance Notice 2008 and includes:

- (a) any liability to pay for the cost of rectifying any Prescribed Work required because of Defects in the Prescribed Work;
- (b) any Trade Practices Liability;

### We will also cover

- (c) any liability arising from any consequential financial loss reasonably incurred by the Building Owner as a result of any Defects or non-completion of the domestic prescribed work (as described in paragraph (d)), including but not limited to:
  - (i) the loss of any deposit or progress payment (or any part of any deposit or progress payment); and
  - (ii) the cost of alternative accommodation, removal and storage costs that are reasonably and necessarily incurred; and
- (d) any liability arising from non-completion of the domestic prescribed work due to:
  - (i) his or her death or legal incapacity; or
  - (ii) his or her disappearance; or
  - (iii) his or her becoming an insolvent under administration as that expression is defined in the Corporations Act; or
  - (iv) the cancellation, suspension or non-renewal of his or her licence under the Occupational Licensing Act 2005; or
  - (v) the early termination of the contract by the building owner as a result of the licence holder's wrongful failure or refusal to complete the prescribed work.
- (e) non-completion of the domestic prescribed work (as described in (d) above) in the case of any contract for both domestic and non-domestic prescribed work in which the non-domestic prescribed work component does not exceed 20% of the total contract value.
- (f) any act or omission of any person engaged under a contract of services or a contract for services by the licence holder to carry out prescribed work
- (g) any act or omission of any person engaged under a contract of services or a contract for services by You to carry out prescribed work.

### Limit of Liability

Our liability under this Optional Extension is limited to:

- (a) in respect of Trade Practices Liability the maximum amount We will pay is the cost of rectifying the relevant electrical work.
- (b) in respect of domestic prescribed work an amount of \$50,000 for any one claim or series of claims in relation to a certificate of compliance (or if the certificate of compliance relates to more than one home, at least \$50,000 for each home); and
- (c) in respect of non-domestic prescribed work an amount of \$100,000 for any one claim or series of claims in relation to a certificate of compliance; and
- (d) for the reasonable legal costs and expenses associated with the successful enforcement of a claim against You or Us.

### Exclusions applicable to this optional extension

#### 6 year limitation on claims

We will not accept any claims including claims for prescribed work first notified to us after the expiration of six years from:

- (a) the date of a certificate of compliance; or
- (b) if You did not issue a certificate of compliance in relation to the work that is insured, six years after You stopped carrying out that work.

#### Non-completion of work

If You fail to complete prescribed work for any reason listed in Cover (a), then this policy does not cover You for claims for the whole or a specified part of any payment made under a contract that exceeds the value of the work completed at the time of payment.

#### Product liability

- (a) In this clause "product defect" means a defect in any appliance, material, substance or other thing that was supplied or used by You in connection with prescribed work.
- (b) This policy does not cover You for any loss or damage giving rise to a claim under Cover part (a) resulting from a product defect.
- (c) However, We agree that if We intend to rely on the fact this policy does not cover You for product defects in relation to any claim (or part of a claim), We bear the onus of establishing that the claim (or part of the claim) is based on a product defect.
- (d) We agree that nothing in this clause removes the cover given to You by this policy in relation to You supplying or using any appliances, material, substance or other thing that You were aware was defective, or that You should reasonably have been aware was defective.

#### Wear and tear

This policy does not cover You for any injury, loss or damage resulting from:

- (a) fair wear, tear or depreciation of prescribed work; or
- (b) a failure by the building owner to reasonably maintain prescribed work.

### Consequential loss for non-domestic prescribed work

In relation to non-domestic prescribed work, this policy does not cover You for consequential financial loss.

### Exposure to asbestos

This policy does not cover You for any injury, loss or damage directly or indirectly caused by, contributed to, or arising from, exposure to asbestos.

### Legal costs

This policy does not cover You in respect of the legal costs of any person making a claim against You that are not directly or indirectly related to:

- (a) the enforcement of the policy; or
- (b) a liability in respect of which You are covered under this policy.

### Liquidated damages for delay

- (a) This policy does not cover You for claims for liquidated damages for delay, or damages for delay, that may arise under a contract.
- (b) However, We agree that nothing in this clause removes the cover given to You by this policy in relation to any increase in rectification costs caused by a delay.

### Conditions applicable to this optional extension

#### The Notice to prevail in the case of conflict with policy

We agree that if any term of this policy conflicts, or is inconsistent, with the Notice, then this policy is to be read and to be enforceable as if it complied with that Notice.

#### Insurer to comply with court notices etc.

We agree to comply with any notice made against You by a court of competent jurisdiction.

#### Deemed acceptance of claims

- (a) This clause only applies to domestic prescribed work.
- (b) We agree to accept liability for a claim if We do not notify the person making the claim within 90 days from when We receive the claim in writing that We accept or dispute the claim, unless We obtain an extension of time from the person in writing.

#### Claims not to be refused on the grounds that the policy obtained by fraud etc.

- (a) This clause only applies in relation to domestic prescribed work.
- (b) We agree that We will not refuse to pay a claim under this Optional Extension on the ground that this policy was obtained by misrepresentation, fraud or non-disclosure by You or anyone acting on Your behalf.
- (c) You agree that if We make a payment under this policy to, or for the benefit of, a building owner under the circumstances contemplated by this clause, by doing so We are not restricting our right to recover that payment from You.

### Insurer must give effect to certificates

- (a) This clause only applies in relation to domestic prescribed work.
- (b) If We give You a certificate stating that You are covered by insurance, We agree that We will not refuse to pay a claim on that insurance under this Optional Extension on the ground that You have not paid the premium for the insurance.
- (c) You agree that if We make a payment under this policy to, or for the benefit of, a building owner under the circumstances contemplated by this clause, by doing so We are not restricting our right to recover that payment from You.

### Deemed notice of defects

We agree that if a person gives notice of a defect in writing to You or Us, that person is to be taken for the purposes of this policy to have given notice of every defect of which the defect notified is directly or indirectly related, whether or not the claim in respect of the defect that was actually notified has been settled.

### Claimant may enforce policy direction in certain cases

We and You both agree:

- (a) that a person who is entitled to claim against You in respect of any liability for which You are indemnified under this policy may enforce this policy directly against Us for the person's own benefit if:
  - (i) any event under Cover (c) or (d) occurs; or
  - (ii) You refuse to make a claim against Us; or
  - (iii) there is an irretrievable breakdown of communication between You and Us; and
- (b) that for the purpose of that enforcement the person has the same rights and entitlements as You would have had under any legislation applicable to You; and
- (c) that We will pay to the person the full amount of any liability for which You are indemnified under this policy despite any failure by You to pay any excess that You are required to pay.

### Section 54 of the Insurance Contracts Act 1984 to apply

- (a) We acknowledge that section 54 of the Insurance Contracts Act 1984 of the Commonwealth applies to this policy.
- (b) Despite sub-clause (a), We agree that We will not rely on Section 54 to reduce our liability under this policy or to reduce any amount that is otherwise payable in respect of a claim by reason only of a delay in a claim being notified to Us if:
  - (i) the person who makes the claim notifies You either orally, or in writing; or
  - (ii) that person or You notifies Us in writing, within 180 days of the date when the person first became aware, or might reasonably be expected to have become aware, of some fact or circumstance that might give rise to the claim.

**Notification concerning claims settled**

We and You both agree that We will notify the Administrator in writing in the manner required by the Administrator of the settling or payment of any claim under the Act.

**You must co-operate with Us**

- (a) You agree, in relation to a claim or prospective claim, to:
  - (i) make reasonable efforts to assist and inform Us or our agent; and
  - (ii) to attend the relevant site for the purpose of inspecting, rectifying or completing prescribed work (unless the building owner refuses You access to the site).
- (b) We may reduce the amount of a claim by a building owner by an amount that reasonably represents the cost resulting from an unreasonable refusal by the owner to give You access to a building site if We have asked You to attend the site under part (a)(ii).

**Provision concerning cancellation**

We agree that the cancellation of this policy:

- (a) will only take effect 30 days after We give both the Administrator and You notice in writing of the cancellation; and
- (b) has no effect on any of our obligations under the policy with respect to the liabilities referred to in Cover (a)'defects', (b)'trade practices liability', (c)'consequential financial loss' and (d)'non-completion' in relation to prescribed work that was carried out while the policy was in force; and
- (c) has no effect on any of our obligations under the policy with respect to the liabilities referred to in this section of this Policy in relation to any personal injury to a third party or loss or damage to the property of a third party (other than property that is part of the prescribed work itself) that occurred while the policy was in force.

**Period that insurance must cover**

You must have insurance that indemnifies You in respect of prescribed work for which a certificate of compliance is required:

- (a) for the liabilities referred to in Cover; (a)'defects', (b)'trade practices liability', (c)'consequential financial loss', and (d)'non-completion', from the time You agree to carry out that work until:
  - (i) 6 years after You last issued a certificate of compliance in relation to that work; or
  - (ii) if You do not issue a certificate of compliance in relation to the work, 6 years after the date You stopped carrying out the work;

The indemnity provided by the insurance for the liabilities referred to in Cover (c), (d) and (e) will continue to apply throughout the relevant period specified in sub-clause (a), even if You cease to be a licence holder before the end of that period and even if You cease to maintain the policy under which the insurance is provided.

**Contrary provisions**

Any provision that limits the indemnity provided under the policy with respect to any defect as a result of:

- (a) any loss or damage to that part of the property on which the licence holder is working and which arises out of that prescribed work;
- (b) any error in design, specification, formula or pattern or the provision of advice that is incidental to any prescribed work undertaken by the licence holder;
- (c) the cost of inspecting, repairing or replacing component parts of prescribed work, and
- (d) any provision that excludes personal injury, loss or damage arising directly or indirectly out of, or in connection with or caused by, the erection, demolition, alteration or addition to buildings by or on behalf of the licence holder, does not apply.

**Common property**

If:

- (a) prescribed work is carried out on land in a plan of subdivision containing common property; and
- (b) a claim is paid by Us in relation to the common property,

We will reduce the amount We will pay under this policy in respect of any one home on land in the plan of subdivision by an amount calculated by dividing the amount of the claim paid by Us in relation to the common property by the number of homes on land in the plan of subdivision.

## Tax audit

### Definitions which apply to this Section

Word or Term	Meaning
Accountant's fees	fees, charges, expenses and disbursements rendered by any accountant, assessor, consultant, investigator or by any mediator appointed by any alternative dispute resolution centre which are reasonably and properly incurred in relation to any statutory tax audit
Business	the business of the insured as described in the Policy Schedule, including personal taxation returns of the insured and spouse
Culpability component	a determination by a relevant statutory authority signifying circumstances consequent to which the Insured incurs a culpability component signifying, or which has been imposed on the basis of, reckless or deliberate tax evasion or similar offence by the insured
Occurrence	any occurrence which may give rise to a statutory tax audit
Statutory tax audit	<p>an official examination and verification of accounts and records from a relevant statutory body, pursuant to the:</p> <ol style="list-style-type: none"> <li>1. Income Tax Assessment Act (Australia) 1936</li> <li>2. The Fringe Benefits Tax Assessment Act (Australia) 1986 and Fringe Benefits Tax Acts 1986</li> <li>3. Section 10 of the Crimes Act (Australia) 1914</li> <li>4. Payroll Tax Act (Relevant State Act)</li> <li>5. Sales Tax Assessment Act 1992 (Relevant State Act)</li> <li>6. Taxation Administration Act 1953; or</li> <li>7. Superannuation Guarantee Charge Act 1992</li> <li>8. A New Tax System (Goods and Services Tax) Act 1999.</li> </ol> <p>or any other legislation intended to replace such legislation, related to statutory tax audits which incur accounting costs arising in the course of and in the normal conduct of its business.</p>

### What you are insured against

Subject to the terms, conditions, limitations and exclusions of this Policy, we agree to indemnify you up to the sum insured in respect of your liability to pay the fees of an accountant engaged by you in connection with an audit of your Business conducted pursuant to a Statutory tax audit, where:

- notification of the audit occurred during the period of insurance, and
- notification of the audit is given to us during the period of insurance.

### Limit of liability

Our aggregate limit of liability in any one period of insurance for all claims arising out of the one occurrence will not exceed the sum insured specified in the Policy Schedule.

### Our consent

We shall be under no liability to make any payment in relation to Accountant's fees incurred unless our prior written consent has been obtained in accordance with the terms and conditions of this policy.

We shall be entitled at any time to withdraw the indemnity granted under this policy if it appears to us that you no longer have reasonable grounds for defending the tax audit whereupon we will not be liable in respect of any Accountant's fees incurred thereafter.

Our agreement to make any payment in relation to statutory tax audit and Accountant's fees and our approval of your accountant, do not constitute any acknowledgement that all Accountant's fees charged by your accountant are reasonable and are to be reimbursed in accordance with the terms of this policy.

### Substantiation of claim

Subject to the terms, conditions, limitations and exclusions of this policy, we agree to indemnify you up to a maximum of \$1,000 any one claim for substantiation of a claim and for which documentary evidence only is required.

### What you are not insured against

We will not pay Accountant's fees:

- unless we are satisfied that the applicable Culpability Component has not been or is not likely to be imposed in excess of 50% assessable related to the culpability scale imposed pursuant to the relevant culpability scale applicable to those Acts set out in the definition of Statutory tax audit above of the appropriate State
- incurred in the defence of any statutory tax audit arising out of any directorship or the holding of any other position or office with any corporation
- arising out of an audit commenced outside the Period of Insurance
- in respect of work undertaken by you or income derived by you outside Australia
- arising out of any delay in the submission of an income tax return
- in circumstances where you, in respect of a final assessment of taxable income and/or income tax payable, incurs a Culpability Component signifying, or which has been imposed on the basis of, recklessness or deliberate tax evasion or similar offence by you
- arising out of the failure of a third party to submit an income tax return
- in respect of an audit where the returns for the period in question were not prepared by or approved by an Independent Accountant or Registered Tax Agent prior to lodgement with the Australian Taxation Office.

Notwithstanding anything to the contrary in this policy, we will not pay Accountant's fees incurred in the defence of any statutory tax audit in circumstances where you:

- (i) are or become bankrupt or commit an act of bankruptcy
- (ii) make or enter into a scheme of arrangement or compromise with creditors
- (iii) being a corporation, are in liquidation or comes under the control of a receiver or receiver and manager or an agent for a mortgagee in possession.

### Conditions which apply to this Section

The following conditions apply to this Section of the Policy.

There are also General conditions which apply to all Sections of this Policy.

#### Your obligations

You must at all times exercise care and take all necessary precautions to avoid incurring any liability which might give rise to a claim under this Policy and must not recklessly pursue a course of action which will inevitably result in a claim under this Policy.

#### Notification of occurrences and claims

- (a) If, during the period of insurance, you become aware of any occurrence which may give rise to a claim under this policy you must give us immediate notice in writing. Any subsequent tax audit arising out of such occurrence shall be deemed to have been commenced during the period of insurance.
- (b) You must, upon receipt of any notice, whether written or oral, of any intention to make a claim or demand or issue a writ or summons against you or upon becoming aware of any allegation which may give rise to any such claim, demand, writ or summons or upon the discovery of any occurrence, immediately notify us in writing as soon as practicable during the period of insurance and shall provide full information in respect thereof. Notwithstanding anything to the contrary in this Policy, the accountant shall be appointed by and on your behalf and you shall be primarily liable for the payment of Accountant's fees incurred by that accountant.
- (c) You must authorise and instruct the accountant:
  - (i) to disclose to us all such information and documentation as we may require from time to time
  - (ii) to keep us fully and continually informed of all material developments in the tax audit and of the completion of the statutory tax audit
  - (iii) to advise us immediately of any offers or compromise proposals or recommendations to make offers or compromise proposals and
  - (iv) to advise us if, in the accountant's opinion, there is no longer any reasonable prospect of success or if the prospects for success materially alter.
- (d) You must not unreasonably refuse to follow the advice of the accountant as to the conduct of the statutory tax audit including advice relating to the making or accepting of any offer to settle or the discontinuance of the statutory tax audit.

- (e) You must afford the accountant full co-operation in the pursuit or defence of the statutory tax audit.

#### Taxation of costs

- (a) You must forward copies of all accounts for Accountant's fees, and any correspondence relating to them to us upon receipt and must not pay or otherwise compromise or settle such account without giving us at least 14 days prior notice.
- (b) If instructed by us, you must direct any accountant or other person retained on your behalf in the conduct of the statutory tax audit to have any account or charge referred to any relevant authority to be taxed, assessed or audited.

#### Recovery of costs

- (a) You must pay to us any and all costs, up to the amount of the Accountant's fees incurred by us, which are recovered by you in connection with the statutory tax audit and you will take at our expense every measure to recover such Accountant's fees from any third party.
- (b) We shall not exercise any rights of subrogation that may accrue as a consequence of any payment made under this Policy against any director, partner or subcontractor of yours, unless such payment has been brought about or contributed to by the dishonest, fraudulent or criminal act of such director, partner or subcontractor.
- (c) We may limit or exclude our liability in relation to any Accountant's fees if you, without our prior written consent which consent may be withheld in our absolute discretion, enter into any agreement or other arrangement of understanding which has the effect of limiting or denying our rights of subrogation in relation to such Accountant's fees.

#### Failure to comply with conditions

If you fail to comply with any of the terms or conditions of this Policy, we may reduce our liability in relation to any Accountant's fees by an amount that fairly represents the extent to which our interests have been prejudiced as a result of that failure or omission. If the act or omission giving rise to such failure could reasonably be regarded as being capable of or causing or contributing to a loss in respect of which cover is provided under this Policy, we may refuse to indemnify you in respect of the claim.

#### Recovery

In the event that any statutory tax audit results in you receiving an award of damages, you will pay a pro rata proportion of those damages to us calculated on the basis of our contribution to Accountant's fees, up to but not exceeding the amount expended by us on such Accountant's fees.

#### Excess

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

## Transit

### Introduction

This section only forms part of your policy when Transit Section is shown in the Policy Schedule and is limited to the period of insurance indicated.

### Cover

We will cover you up to the limit specified in the Policy Schedule for loss or damage to goods belonging to you or for which you are legally responsible, whilst in the normal course of transit by road, anywhere in Australia, on a vehicle owned or operated by you, caused by:

- (a) collision, overturning or jack-knifing of the conveying vehicle;
- (b) fire, flood, lightning or explosion;
- (c) theft resulting from forcible and violent entry evidenced by visible damage to the securely locked portion of a vehicle containing your goods;
- (d) malicious damage;
- (e) impact to the goods with any external object except when that object is on or part of the conveying vehicle.

### Limitations of Cover

#### Excess

You are liable for the excess for each and every claim.

### Basis of Settlement

When property covered by this section is lost or damaged, the following Basis of Settlement will apply to each item of property:

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

### Additional benefits

#### 1. Removal of debris

This cover section covers all reasonable costs and expenses incurred in unloading, removing and/or disposing of damaged goods and cleanup of an accident site incurred as a direct result of an insured event.

#### 2. Packaging

This cover section covers accidental loss or damage to packaging while carried in transit caused by an insured event.

'Packaging' means packing materials, shipping containers, crates, pallets, or similar receptacles belonging to you or for which you are responsible.

The maximum we will pay under Additional benefits 1. and 2. in the aggregate in any one period of insurance is 20% of the sum insured or \$5,000, whichever is the lesser.

### Exclusions

We will not pay for loss or damage to the following property:

- (a) money;
- (b) jewellery, watches, furs, antiques, paintings, works of art, precious metals or precious stones or articles composed of any of them;
- (c) explosives, petroleum products in bulk or gas in bulk;
- (d) livestock;
- (e) cigarettes, tobacco, wines, spirits or other alcoholic beverages unless specified in the Policy Schedule; or
- (f) personal property of directors, partners and employees of your business.

We will also not pay for loss or damage caused by, arising from or due to:

- (g) dislodgement of goods as a result of contact by the conveying vehicle with roadway curbing, road humps, traffic islands and similar protuberances or uneven road surfaces;
- (h) theft by or in collusion with any of your employees;
- (i) electrical or mechanical derangement unless damage is visible to the exterior of the machine; or
- (j) delay, loss of market, consequential loss of any kind, depreciation or deterioration.

## Statutory Liability

### Definitions which apply to this Section

Word or Term	Meaning
Claim	a written or other notice by a regulatory authority in connection with any claim, official investigation or inquiry, or penalty proceedings.
Defence costs	reasonable costs, charges, and expenses (other than regular or overtime wages, salaries or fees of any insured person) incurred by us or by you with our prior written consent (and such consent will not be unreasonably withheld) in defending, investigating or monitoring any claim, or proceedings and appeals from them, together with costs of the proceedings and appeal. Where you are not indemnified under this section, only those costs, charges and expenses incurred solely and exclusively for the benefit, and on behalf, of an insured person will constitute defence costs. Defence costs in this section are part of, and not in addition to, the aggregate limit of liability applicable to this section and payment by us of defence costs reduces the aggregate limit of liability by the amount of any such payment.
Employee	any person employed by you under a contract of service or apprenticeship during the period of insurance, but does not include any person employed under such contract who is excluded from the definition of 'worker' under any workers' compensation legislation.
Environmental legislation	any Commonwealth, State or Territory statute, regulation, by-law or local law prohibiting, controlling or regulating the discharge, release, escape or disposal of pollutants into or upon land, the atmosphere or any watercourse or body of water.
Insured person	includes only: (a) the named insured specified in the Policy Schedule, and (b) every past, present or future director, partner, proprietor, officer, executive or employee of the named insured while such persons are acting for or on behalf of the named insured and/or within the scope of their duties in such capacities.
Investigation costs & expenses	reasonable legal costs and other expenses incurred by you or on your behalf with our consent, or by us, resulting from any legally compellable attendance by you at any official investigation or inquiry. But 'investigation costs & expenses' does not include any fine, penalty or order for the payment of monetary compensation.

Word or Term	Meaning
Joint venture	any enterprise undertaken jointly by you with a third party or parties.
Official investigation or inquiry	an official investigation, examination or inquiry in relation to the conduct of your business where such official investigation or inquiry may lead to a recommendation in respect of civil or criminal liability, or civil or criminal proceedings, and which would be the subject of a claim or defence costs covered by this section, including an investigation, examination or inquiry by way of royal commission or coronial inquiry or conducted by a regulatory authority. However, 'official investigation or inquiry' does not include any investigation, examination or inquiry conducted by a parliament, or any committee of a parliament, or any disciplinary committee of any association or professional body of which you are a member.
Penalty	any monetary sum payable by you to any regulatory authority pursuant to a wrongful breach by you but excluding: (a) any amounts payable as compensation (b) any compliance, remedial, reparation or restitution costs (c) any damages, including but not limited to any exemplary or punitive damages (d) any consequential economic loss (e) any amounts uninsurable under the law pursuant to which this Policy is construed (f) any legal costs and associated expenses of the regulatory authority.
Regulatory authority	a person or entity appointed, constituted or acting under a delegation pursuant to any Act for the purposes of enforcement of such Act or another Act.
Senior Counsel	entitled to use the letters 'QC' or 'SC' in any one or more superior court in Australia or New Zealand.
Territorial limits	anywhere in the Commonwealth of Australia and its protectorates and Territories.
Wrongful breach	any conduct by you which results in a contravention of: (a) any occupational, health, or safety legislation enacted by the Commonwealth of Australia or any State or Territory of Australia, (b) any environmental legislation.

### Basis of cover - Claims made

The section provided operates on a "claims made and notified" basis. This means that we cover you for claims made against you and notified to us during the period of insurance.

We do not provide cover in relation to:

- (a) acts, errors or omissions actually or allegedly committed prior to the retroactive date applicable to this Section
- (b) claims made, threatened or intimated against you prior to the commencement of the period of insurance
- (c) facts or circumstances of which you first became aware prior to the period of insurance, and which you knew or ought reasonably to have known had the potential to give rise to a claim under this Section.

### What you are insured against

We will cover you in accordance with the terms of this Section, for coverage items:

- A. Official investigations and inquiries – costs & expenses,
- B. Fines and penalties,
- C. Pollution liability defence costs.

### Limit of liability

The maximum amount payable by us under this section of the Policy inclusive of Investigation costs and expenses and Defence costs for any one claim and in the aggregate during the Period of insurance, irrespective of the number of:

- Claims and/or
- Locations, premises, situations and/or
- persons/entities insured

shall be the amount set out in the Policy Schedule.

### A. Official investigations and inquiries – costs & expenses

We agree to pay investigation costs & expenses in relation to any official investigation or inquiry commenced during the period of insurance and which is notified to us during the period of insurance.

In relation to any cover afforded under this Section:

- (a) we will be entitled, at our discretion, to appoint legal representation to represent you in the official investigation or inquiry; and
- (b) in the event that a claim for payment of investigation costs & expenses is subsequently withdrawn or denied, we will cease to advance investigation costs & expenses and you or any person named as an insured (for your respective rights and interests) will refund any investigation costs & expenses advanced by us, unless we agree in writing to waive recovery of the investigation costs & expenses.

### B. Fines and Penalties

We will indemnify you against any penalty and defence costs resulting from a claim by a regulatory authority for a wrongful breach which would otherwise be excluded by reason of exclusion 'Fines and penalties' where the claim is first made on you and notified in writing to us in the period of insurance. Provided always that we will not be liable to indemnify you in respect of any penalty or defence costs in respect of any such claim

arising directly or indirectly from or which is based upon, attributable to, or in consequence of any:

- (a) dishonest, wilful, intentional or deliberate wrongful breach; or
- (b) wilful, intentional or deliberate failure to comply with any lawful notice, direction, enforcement action or proceeding under any Act; or
- (c) your gross negligence or recklessness; or
- (d) requirement to pay taxes, rates, duties, levies, charges, fees or any other revenue or impost.

### C. Pollution liability defence costs

We will indemnify you for defence costs in respect of any claim brought or maintained by a regulatory authority, which would otherwise be excluded by reason of exclusion 'Pollutants' where the claim alleges a breach of environmental legislation.

Provided that we will not be liable to indemnify you for defence costs relating to any claim brought by a regulatory authority on behalf of, in the name of or as a representative of any other person(s), corporation or other entity.

### Additional benefits

#### Retroactive date

We will only provide indemnity in relation to conduct and wrongful acts committed or alleged to have been committed after the earliest commencement date of uninterrupted Statutory liability insurance cover that you have held with us.

#### Extended reporting period – claims or facts and circumstances

Where you become aware of a claim, fact or circumstance during the Period of Insurance and with reasonable cause cannot provide notice to us before expiry of the period of cover, you may provide this notice in an extended period of insurance of 45 days immediately following the period of insurance. Such notice is deemed to have been provided during the period of insurance.

#### Continuous Cover

If you knew or ought reasonably to have known prior to the commencement date of the period of insurance of any claim, fact or circumstance ("circumstance") that might give rise to a claim and had not notified us of such circumstance prior to expiration of the 'Extended reporting period – claims or facts and circumstances' attaching to the relevant period of insurance during which that knowledge was or should have been acquired, exclusions (b) and (c) of clause 'Basis of cover – Claims made' will not apply to the notification of a circumstance.

Provided always that:

- (a) your failure to notify was not fraudulent, and
- (b) we have continued as the insurer of your Statutory liability policy in uninterrupted succession between the date when the circumstance should have been notified and the date the claim was actually notified, and
- (c) any such indemnity shall be subject to the terms, conditions, limits of indemnity and excess applicable to the period of insurance during which the circumstance should have been notified.

## What you are not insured against

There are also General exclusions which apply to all Sections of this Policy.

This Section does not cover loss arising from any claim against you:

### Aircraft, watercraft and vehicles

any claim arising out of a wrongful breach relating to the regulation of air, marine or motor traffic.

### Asbestos

any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by asbestos in whatever form or quantity.

### Bodily injury

directly or indirectly based upon, attributable to or in consequence of bodily injury. However, this exclusion will not apply to:

- (a) penalties and defence costs resulting from a claim by a regulatory authority, or
- (b) investigation costs & expenses,

as a result of an alleged contravention of any Commonwealth, State or Territory occupational or workplace health and safety legislation, provided always that cover will not extend to defence costs incurred in relation to any civil proceeding or claim seeking damages or compensation in connection with such alleged contravention.

### Fines and penalties

punitive, aggravated, exemplary damages or fines or penalties imposed by law other than provided under coverage item B. Fines and penalties.

### Fraud and dishonesty

any claims made against you which are directly or indirectly based upon, attributable to or in consequence of any:

- (a) your actual or alleged dishonest, fraudulent, criminal or malicious act or omission or those of your consultants, sub-contractors or agents, or
- (b) your actual or alleged act or omission or those of your consultants, sub-contractors or agents with a reckless disregard for the consequences of the acts or omissions, or
- (c) wilful violation or wilful breach of any statute or regulation, or any wilful breach of any contract.

### Joint venture

arising from or attributable to any joint venture partners of your business.

### Pollutants

other than as provided under coverage item C. Pollution liability defence costs, directly or indirectly based upon, attributable to or in consequence of:

- (a) the actual, alleged or threatened discharge, release, escape, containment or disposal of pollutants into or upon land, the atmosphere, or any watercourse or body of water, or

- (b) any enforcement action or proceeding in connection with the containment, clean up, removal, or treatment of such pollutants, or
- (c) asbestos or asbestos products in any form or quantity.

### Prior or pending

arising directly or indirectly from or in consequence of a claim:

- (a) made, threatened or intimated against you prior to the period of insurance, or
- (b) directly or indirectly based upon, attributable to or in consequence of any fact or circumstance:
  - (i) of which written notice has been given, or ought reasonably to have been given, under any previous policy, or
  - (ii) of which you first became aware prior to the period of insurance, and which you knew or ought reasonably to have known had potential to give rise to a claim.

### Property damage

directly or indirectly based upon, attributable to or in consequence of physical loss of, damage to or destruction of any tangible property, including loss of use of the tangible property or any consequential loss.

### Territorial limits

any claim made against you:

- (a) pursuant to the law of any country, state or territory outside the territorial limits, or
- (b) committed or allegedly committed outside the territorial limits applicable to this section.

### Unrelated proceedings

any defence costs in respect of that part of any proceedings which do not directly relate to the coverage items insured by this Policy section.

## Conditions applicable to this section

There are also General conditions which apply to all Sections of this Policy.

### Allocation

- (a) if both loss covered by this Policy and loss not covered by this Policy are incurred, either because:
  - (i) a claim against you includes both covered and uncovered matters, or
  - (ii) a claim is made against you and there are others who are party to the proceedings or demand to which the claim relates but who are not insured under the Policy,

then we will use our best efforts to agree with you upon a fair and proper allocation of such amount between covered loss and uncovered loss, having regard to the relative legal and financial exposures attributable to covered and uncovered matters and parties. We are only liable under this Policy for amounts attributable to covered matters and parties, and our liability for loss, including defence costs, otherwise payable by us will be reduced to reflect such fair and proper allocation.

- (b) if we cannot agree with you on an allocation of defence costs then we will advance defence costs which we believe to be covered under this Policy until a different allocation is negotiated, arbitrated or judicially or otherwise determined.
- (c) we will, if requested by you, submit the dispute to a senior counsel to be mutually agreed or, in default of agreement, to be appointed by the President of the Bar Association in the relevant State or Territory, on the basis that the senior counsel will determine the allocation of loss according to his view of the fair and proper allocation, but having regard to the relative legal and financial exposures attributable to covered and uncovered matters and parties, and the overriding intention in (a) above.
- (d) any negotiated, arbitrated or judicially or otherwise determined allocation of defence costs on account of a claim will be applied retrospectively to all defence costs on account of such claim.

**Jurisdiction**

All disputes arising out of or under this section will be subject to determination by any court of competent jurisdiction within Australia according to the law applicable to the jurisdiction.

**Your right to contest**

If we recommend a settlement in respect of any claim and you do not agree that the claim should be settled, then you may elect to contest the claim. Our liability in connection with that claim will not exceed the amount for which we believe the claim could have been settled, plus the defence costs incurred with our written consent up to the date of your election.

**Senior Counsel**

We will not require you to contest any claim unless a senior counsel (to be mutually agreed upon by you and us) advises that the claim should be contested.

In formulating their advice, senior counsel will take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the plaintiff, the likely defence costs and your prospects of successfully defending the claim.

The cost of the senior counsel’s opinion will be regarded as part of the defence costs.

**Excess**

You will have to pay an excess for each and every claim under this section of the Policy. The amount of excess is shown on your Policy Schedule and applies to all amounts for which we will be liable, including defence costs.

All causally connected or interrelated claims shall jointly constitute a single claim under this Policy section.

**Employment Practices**

**Definitions which apply to this Section**

Word or Term	Meaning
Bodily injury	physical injury, sickness, disease, or death of any person but does not include mental injury, mental anguish, nervous shock, or emotional distress not associated with bodily injury.
Back pay	back pay arising from an order of reinstatement or re-employment but shall be limited to the amount you are legally obliged to pay a claimant for the period between the time of termination of employment and the time such claimant is reinstated or re-employed.
Claim	a written demand for compensation or non-pecuniary relief, a criminal charge, a written or other notice or demand by a regulatory authority in connection with any investigation or penalty proceedings, arbitration, mediation or other dispute resolution process.
Defence costs	reasonable costs, charges, and expenses (other than regular or overtime wages, salaries or fees of any insured person) incurred by us or by you with our prior written consent (and such consent will not be unreasonably withheld) in defending, investigating or monitoring any claim, or proceedings and appeals from them, together with costs of the proceedings and appeal. Where you are not indemnified under this Section, only those costs, charges and expenses incurred solely and exclusively for the benefit, and on behalf, of an insured person will constitute defence costs.  Defence costs in this Section are part of, and not in addition to, the aggregate limit of liability applicable to this Section and payment by us of defence costs reduces the aggregate limit of liability by the amount of any such payment.
Employee	any person employed by you under a contract of service or apprenticeship during the period of insurance, but does not include any person employed under such contract who is excluded from the definition of ‘worker’ under any workers’ compensation legislation.
Insured person	includes only: (a) the named insured specified in the Policy Schedule, and (b) every past, present or future director, partner, proprietor, officer, executive or employee of the named insured while such persons are acting for or on behalf of the named insured and/or within the scope of their duties in such capacities.

Word or Term	Meaning
Loss	the total amount which you become legally obligated to pay in respect of a claim made against you and will include damages, judgements, settlements, legal costs and expenses awarded against you to any claimant and defence costs.
Penalty	any monetary sum payable by you to any regulatory authority pursuant to a wrongful breach by you but excluding: <ol style="list-style-type: none"> <li>any amounts payable as compensation</li> <li>any compliance, remedial, reparation or restitution costs</li> <li>any damages, including but not limited to any exemplary or punitive damages</li> <li>any consequential economic loss</li> <li>any amounts uninsurable under the law pursuant to which this Policy is construed</li> <li>any legal costs and associated expenses of the regulatory authority.</li> </ol>
Senior Counsel	entitled to use the letters 'QC' or 'SC' in any one or more superior court in Australia or New Zealand.
Wrongful act	means any of the following actual or alleged conduct by an insured person in the course of their duties to you, or by you: <ol style="list-style-type: none"> <li>discharge or termination, either actual or constructive, of an employment relationship</li> <li>breach of any oral or written, express or implied, employment contract or quasi-employment contract</li> <li>misleading representation or advertising relating to employment.</li> <li>failure to employ or promote</li> <li>unfair deprivation of a career opportunity</li> <li>unfair discipline</li> <li>failure to grant tenure</li> <li>negligent employee evaluation</li> <li>workplace harassment of any kind (whether sexual or otherwise), including the alleged creation or permission of a harassing workplace environment</li> <li>employment-related:                             <ol style="list-style-type: none"> <li>denial of natural justice</li> <li>invasion of privacy</li> <li>defamation</li> <li>infliction of emotional distress</li> <li>discrimination on any legally prohibited basis.</li> </ol> </li> </ol>

**Basis of cover - Claims made**

This Section operates on a “claims made and notified” basis. This means that we cover you for claims made against you and notified to us during the period of insurance.

We do not provide cover in relation to:

- acts, errors or omissions actually or allegedly committed prior to the retroactive date applicable to this Section
- claims made, threatened or intimated against you prior to the commencement of the period of insurance
- facts or circumstances of which you first became aware prior to the period of insurance, and which you knew or ought reasonably to have known had the potential to give rise to a claim under this Section.

**What you are insured against**

We will cover you in accordance with the terms of this Section, for Employment practices subject also to the General exclusions and General conditions.

We agree to pay all loss arising from a claim against you alleging a wrongful act where the claim is first made and notified to us during the period of insurance.

**Limit of liability**

The maximum amount payable by us under this section of the Policy inclusive of Defence costs for any one claim and in the aggregate during the Period of insurance, irrespective of the number of:

- Claims and/or
- Locations, premises, situations and/or
- Insured persons,

shall be the amount set out in the Policy Schedule.

**Additional benefits**

**Retroactive date**

We will only provide indemnity in relation to conduct and wrongful acts committed or alleged to have been committed after the earliest commencement date of uninterrupted Employment Practices insurance cover that you have held with us.

**Extended reporting period – claims or facts and circumstances**

Where you become aware of a claim, fact or circumstance during the period of insurance and with reasonable cause cannot provide notice to us before expiry of the period of cover, you may provide this notice in an extended period of insurance of 45 days immediately following the period of insurance. Such notice is deemed to have been provided during the period of insurance.

**Continuous Cover**

If you knew or ought reasonably to have known prior to the commencement date of the period of insurance of any claim, fact or circumstance (“circumstance”) that might give rise to a claim and had not notified us of such circumstance prior to expiration of the ‘Extended reporting period – claims or facts and circumstances’ attaching to the relevant period of insurance during which that knowledge was or should have been acquired, exclusions (b) and (c) of clause ‘Basis of cover – Claims made’ will not apply to the notification of a circumstance.

Provided always that:

- (a) your failure to notify was not fraudulent, and
- (b) we have continued as the insurer of your Employment Practices Policy in uninterrupted succession between the date when the circumstance should have been notified and the date the claim was actually notified, and
- (c) any such indemnity shall be subject to the terms, conditions, limits of indemnity and excess applicable to the period of insurance during which the circumstance should have been notified.

### What you are not insured against

There are also General exclusions which apply to all Sections of this Policy.

We do not cover loss arising from any claim against you directly or indirectly based upon, attributable to or in consequence of any:

#### Benefits

your actual or alleged obligation:

- (a) pursuant to any workers' compensation, disability benefits, redundancy or unemployment benefits or compensation, unemployment insurance, superannuation, retirement benefits, social security benefits, or similar law
- (b) for or in respect of employment entitlements such as but not limited to employee share or equity plans, bonuses or incentives of any kind, leave or similar entitlements, severance or redundancy, superannuation contributions and similar alleged entitlements or amounts.

#### Bodily injury

directly or indirectly based upon, attributable to or in consequence of bodily injury.

#### Building modifications

costs incurred by you to modify any building or property in order to make such building or property more accessible or accommodating to any disabled person.

#### Continuity of employment benefits

employment-related benefits (other than back pay) to which the claimant would have been entitled as an employee had you provided the claimant with a continuance, reinstatement or commencement of employment. This exclusion does not apply to defence costs.

#### Criminal proceedings

criminal, administrative or other disciplinary proceeding against you.

#### Fraud and dishonesty

any claims made against you which are directly or indirectly based upon, attributable to or in consequence of any:

- (a) your actual or alleged dishonest, fraudulent, criminal or malicious act or omission or those of your consultants, sub-contractors or agents, or
- (b) your actual or alleged act or omission or those of your consultants, sub-contractors or agents with a reckless disregard for the consequences of the acts or omissions, or

- (c) wilful violation or wilful breach of any statute or regulation, or any wilful breach of any contract.

#### Non-Pecuniary Relief

cost of compliance with any order for, grant of, or agreement to provide injunctive or non pecuniary relief. This exclusion does not apply to defence costs.

#### Prior or pending

arising directly or indirectly from or in consequence of a claim:

- (a) made, threatened or intimated against you prior to the period of insurance, or
- (b) directly or indirectly based upon, attributable to or in consequence of any fact or circumstance:
  - (i) of which written notice has been given, or ought reasonably to have been given, under any previous policy, or
  - (ii) of which you first became aware prior to the period of insurance, and which you knew or ought reasonably to have known had potential to give rise to a claim.

#### Property damage

directly or indirectly based upon, attributable to or in consequence of physical loss of, damage to or destruction of any tangible property, including loss of use of the tangible property or any consequential loss.

#### Territorial limits

any claim made against you:

- (a) pursuant to the law of any country, state or territory outside the territorial limits, or
- (b) committed or allegedly committed outside the territorial limits applicable to this section.

#### Unfair contract

actual or alleged unfair contract of employment, including but not limited to any claim or proceeding brought under Section 106 of the Industrial Relations Act (NSW) 1996 or Section 276 of the Industrial Relations Act (Queensland) 1999 or similar legislation in any other state, territory, or jurisdiction.

#### Unrelated proceedings

any defence costs in respect of that part of any proceedings which do not directly relate to the coverage items insured by this Policy section.

## Conditions applicable Employment Practices

There are also General conditions which apply to all Sections of this Policy.

#### Allocation

- (a) if both loss covered by this Policy and loss not covered by this Policy are incurred, either because:
  - (i) a claim against you includes both covered and uncovered matters, or
  - (ii) a claim is made against you and there are others who are party to the proceedings or demand to which the claim relates but who are not insured under the Policy,

then we will use our best efforts to agree with you upon a fair and proper allocation of such amount between covered loss and uncovered loss, having regard to the relative legal and financial exposures attributable to covered and uncovered matters and parties. We are only liable under this Policy for amounts attributable to covered matters and parties, and our liability for loss, including defence costs, otherwise payable by us will be reduced to reflect such fair and proper allocation.

- (b) if we cannot agree with you on an allocation of defence costs then we will advance defence costs which we believe to be covered under this Policy until a different allocation is negotiated, arbitrated or judicially or otherwise determined.
- (c) we will, if requested by you, submit the dispute to a senior counsel to be mutually agreed or, in default of agreement, to be appointed by the President of the Bar Association in the relevant State or Territory, on the basis that the senior counsel will determine the allocation of loss according to his view of the fair and proper allocation, but having regard to the relative legal and financial exposures attributable to covered and uncovered matters and parties, and the overriding intention in (a) above.
- (d) any negotiated, arbitrated or judicially or otherwise determined allocation of defence costs on account of a claim will be applied retrospectively to all defence costs on account of such claim.

#### **Jurisdiction**

All disputes arising out of or under this section will be subject to determination by any court of competent jurisdiction within Australia according to the law applicable to the jurisdiction.

#### **Your right to contest**

If we recommend a settlement in respect of any claim and you do not agree that the claim should be settled, then you may elect to contest the claim. Our liability in connection with that claim will not exceed the amount for which we believe the claim could have been settled, plus the defence costs incurred with our written consent up to the date of your election.

#### **Senior Counsel**

We will not require you to contest any claim unless a senior counsel (to be mutually agreed upon by you and us) advises that the claim should be contested.

In formulating their advice, senior counsel will take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the plaintiff, the likely defence costs and your prospects of successfully defending the claim.

The cost of the senior counsel's opinion will be regarded as part of the defence costs.

#### **Excess**

You will have to pay an excess for each and every claim under this section of the Policy. The amount of excess is shown on your Policy Schedule and applies to all amounts for which we will be liable, including defence costs.

All causally connected or interrelated claims shall jointly constitute a single claim under this Policy section.

## **General Exclusions**

This Policy excludes loss, damage, destruction, death, injury, illness, liability, cost or expense of any nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

### **1. War**

War, invasion, acts of foreign enemies, hostilities or war-like operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, or

### **2. Any act(s) of Terrorism**

For the purpose of this exclusion, an 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:

- involves violence against one or more persons, or
- involves damage to property, or
- endangers life other than that of the person committing the action, or
- creates a risk to health or safety of the public or a section of the public, or
- is designed to interfere with or to disrupt an electronic system.

### **3. Radioactivity**

Radioactivity or the use, existence or escape of any nuclear fuel, nuclear material, or nuclear waste or action of nuclear fission or fusion.

This Policy also excludes any loss, destruction, damage, death, injury, illness, liability, cost or expense of any nature directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with any action taken in controlling, preventing, suppressing, retaliating against, or responding to or in any way relating to 1, 2 or 3 above.

### **4. Unoccupancy**

Loss, damage or liability during any period in excess of sixty (60) consecutive days during which the business premises are left unoccupied, unless with our written consent.

To have been occupied, the business premises must have been used for business purposes for at least two (2) consecutive days.

**5. Intentional damage**

Damage or liability intentionally caused or incurred by:

1. You, or
2. a member of your family, or
3. a person acting with your express or implied consent or that of a member of your family.

**6. Electronic data exclusion**

This Policy does not cover electronic data.

However where cover is otherwise provided by this policy we will indemnify you for losses to Electronic Data arising out of fire, lightning, thunderbolt, explosion, implosion, earthquake, subterranean fire, volcanic eruption, impact, aircraft and/or other aerial device and/or articles dropped therefrom, sonic boom, theft which is a consequence of theft of any computer and/or computer hardware and/or firmware and/or microchip and/or integrated circuit and/or similar device containing such Electronic Data, breakage of glass, the acts of persons taking part in riots or civil commotions or of strikers or of locked out workers or of persons taking part in labour disturbances which do not assume the proportions of or amount to an uprising, storm and/or tempest and/or rainwater and/or wind and/or hail, water and/or other liquids and/or substances discharged and/or overflowing and/or leaking from any apparatus and/or appliance and/or pipes.

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

**7. Business in liquidation or ceases to trade**

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

**8. Admitted insurance**

Claims made or actions instituted within any Country, State or Territory (outside Australia) that require insurance to be issued or secured with an Insurer or Organisation licensed in that Country, State or Territory to grant such insurance.

## General Conditions applicable to all sections

### Your obligations

You are to:

1. take all reasonable precautions to avoid or minimise loss, damage, disablement or liability
2. maintain all business premises, fittings, appliances and equipment in sound condition
3. comply with all statutory obligations, by-laws and regulations imposed by any public authority, for the safety of persons or property, and
4. obtain certificates of inspection for all equipment required by any statute or regulation to be so certified.

### Contribution

If at the time of any loss, damage, liability or injury there is any other existing insurance, whether effected by you or by any other person or persons covering the same property, we will not be liable to pay or contribute more than our rateable proportion of such loss, damage or liability.

### Misrepresentation and non-disclosure

If:

1. you failed to disclose any matter which you were under a duty to disclose to us, or
2. you made a misrepresentation to us before the contract of insurance was entered into, and
3. as a consequence we would not have entered into the contract for the same premium and on the same terms and conditions expressed in this Policy, then
  - (a) our liability in respect of any claim shall be reduced to an amount to place 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
  - (b) if the non-disclosure or misrepresentation was fraudulent, we may avoid this Policy.

### Alteration

Unless our written consent is obtained, we will not cover loss, damage or liability caused or contributed to by any alteration after the commencement of this Policy:

1. in the trade or manufacture carried on, or whereby the nature of the occupation or other circumstances affecting the building insured or containing the property insured is changed in such a way as to increase the risk of damage or the likelihood of liability losses
2. whereby your interest ceases by will or operation of law
3. whereby the business is wound up or carried on by an insolvency practitioner or permanently discontinued.

If you alter the risk in any of these ways we may cancel your Policy.

## Cancellation

1. You may cancel this Policy at any time in which case we will retain the pro-rata rate for the time the Policy has been in force.
2. We may cancel this Policy by giving you written notice to that effect where you have:
  - (a) failed to comply with the duty of utmost good faith
  - (b) failed to comply with the duty of disclosure at the time when the Policy was entered into
  - (c) made a misrepresentation to us during the negotiations for the Policy before we entered into the policy
  - (d) failed to comply with a provision of the policy
  - (e) failed to pay the premium or failed to pay any instalments for longer than one month
  - (f) made a fraudulent claim under this Policy or any other policy of insurance (whether with us or some other insurer) that provided insurance cover during any part of the period during which this Policy of insurance provides insurance cover
  - (g) failed to notify us of any specific act or omission where such notification is required under the terms of this Policy.
3. We may cancel this Policy pursuant to any right at law but subject to the provisions of the Insurance Contracts Act 1984.
4. When we cancel the policy it will have effect from whichever of the following times is the earliest:
  - (a) the time when another policy of insurance replacing this Policy is entered into, or
  - (b) 4 o'clock in the afternoon of the third business day after the day on which notice was given to you.
5. When we cancel the Policy we will repay on demand a rateable proportion of the premium for the unexpired period of insurance from the date of cancellation.

## Changes in Policy

No change in this Policy will be valid unless agreed in writing by us nor shall the requirements of any section be deemed to be waived unless we agree in writing.

## Transfer of interest

No interest in this Policy can be transferred without our written consent.

## Automatic reinstatement

1. After we have admitted liability for loss or damage (other than for a total loss under the property section or claims in respect of products liability), we automatically reinstate the sum insured to the amount shown in the Policy Schedule at the time of loss.
2. If we request an additional premium, you must pay it to us or the cover will be reduced by the amount of the claim settlement.

## Claims

### What you must do if you want to claim under this Policy

You must follow these procedures if something happens which causes loss or damage or injury which may lead to a claim. If you do not, we may refuse your claim or reduce the amount we pay you.

### When loss or damage occurs you must:

- (a) take all reasonable steps to reduce the loss or damage and to prevent further damage
- (b) immediately make a full report to the police if:
  - (i) you know or suspect that property has been stolen,
  - (ii) someone has broken into your premises, or
  - (iii) someone has caused malicious damage to your property
- (c) not make any admission of liability, offer, promise or payment in connection with any event
- (d) promptly inform us by telephone or in person
- (e) preserve any damaged property and make it available for inspection by our representative or agent (including a loss adjuster)
- (f) not authorise the repair or replacement of anything without our agreement.

### If you want to make a claim you must:

- (a) fill in our claim form
- (b) return it to us within 30 days of the event that gave rise to the claim
- (c) give us all the information and documentation which we request. If we ask for it, you must provide us with a statutory declaration verifying the truth of your claim and any matters connected with it, and
- (d) immediately send us any court document or other communication you receive about the claim. Do not take any action yourself or ask anyone else to do so on your behalf.

### Proceedings and negotiations

1. We control all claims.
2. We require that you give us all information and assistance we may need:
  - (a) to settle or defend claims, or
  - (b) to recover from others any amount we have paid for a claim.
3. you must allow us to:
  - (a) make admissions, settle or defend claims on your behalf, and
  - (b) take legal action in your name against another person to recover any payment we have made on a claim. We may keep any amount we recover in priority to your right to recover any amount that you have lost which is not insured under this Policy, whether or not we have paid your claim in whole or in part.

### Discharge of our liabilities

At any time we can pay to you or on your behalf, for all claims made against you for any one occurrence:

- (a) the limit of liability of the section under which the claim is made, after deducting any amounts already paid, or
- (b) any lower sum for which the claim may be settled.

If we do so:

- (i) the conduct of any outstanding claim(s) will become your responsibility, and
- (ii) we will not be liable to pay any further amounts other than costs, charges, or expenses that we agreed to pay before we made the payment referred to above.

### Limits and excess

1. We will not pay more than the sum insured in respect of any claim:
  - (a) other than those benefits that are identified as payable in addition to the sum insured, or
  - (b) unless we agree in writing to pay legal costs or expenses in relation to a claim.
2. you must pay the amount of any excess shown in the Policy Schedule for each claim you make. Payment of your excess may be requested when you lodge your claim form or may be deducted from our payment to you.
3. If you suffer damage which leads to a claim under more than one section of this Policy:
  - (a) the highest applicable excess is payable, but
  - (b) only one excess is payable.

### Inspection and salvage

1. you must give us access to your property and the location or make them available to us for inspection if you make a claim.
2. you must allow us to take possession of any damaged property and deal with it in a reasonable manner. If we do not take possession of the damaged property, you cannot abandon your responsibilities for the property.

### Other insurances

At the time you make a claim, you must give us written notice of any other insurance covering the property or legal liability which may also apply to your claim.

### Contribution

When a loss paid under this Policy is also recoverable under another policy and we have paid more than our rateable share, we reserve the right to seek contribution from the other insurer or insurers.

### False claims

If you, or someone acting on your behalf makes a false claim, or causes loss or damage (deliberately) we may:

- (a) refuse to pay the claim,
- (b) cancel this Policy, or
- (c) take legal action against you.

### Insurance Contracts Act 1984

Nothing contained in this Policy is to be construed to reduce or waive either your or our privileges, rights or remedies available under the Insurance Contracts Act 1984.

### Due observance

If you fail to comply with any term, condition or provision of the policy, we may refuse to pay a claim, but in any event our rights will be subject to the provisions of Section 54 of the Insurance Contracts Act 1984.