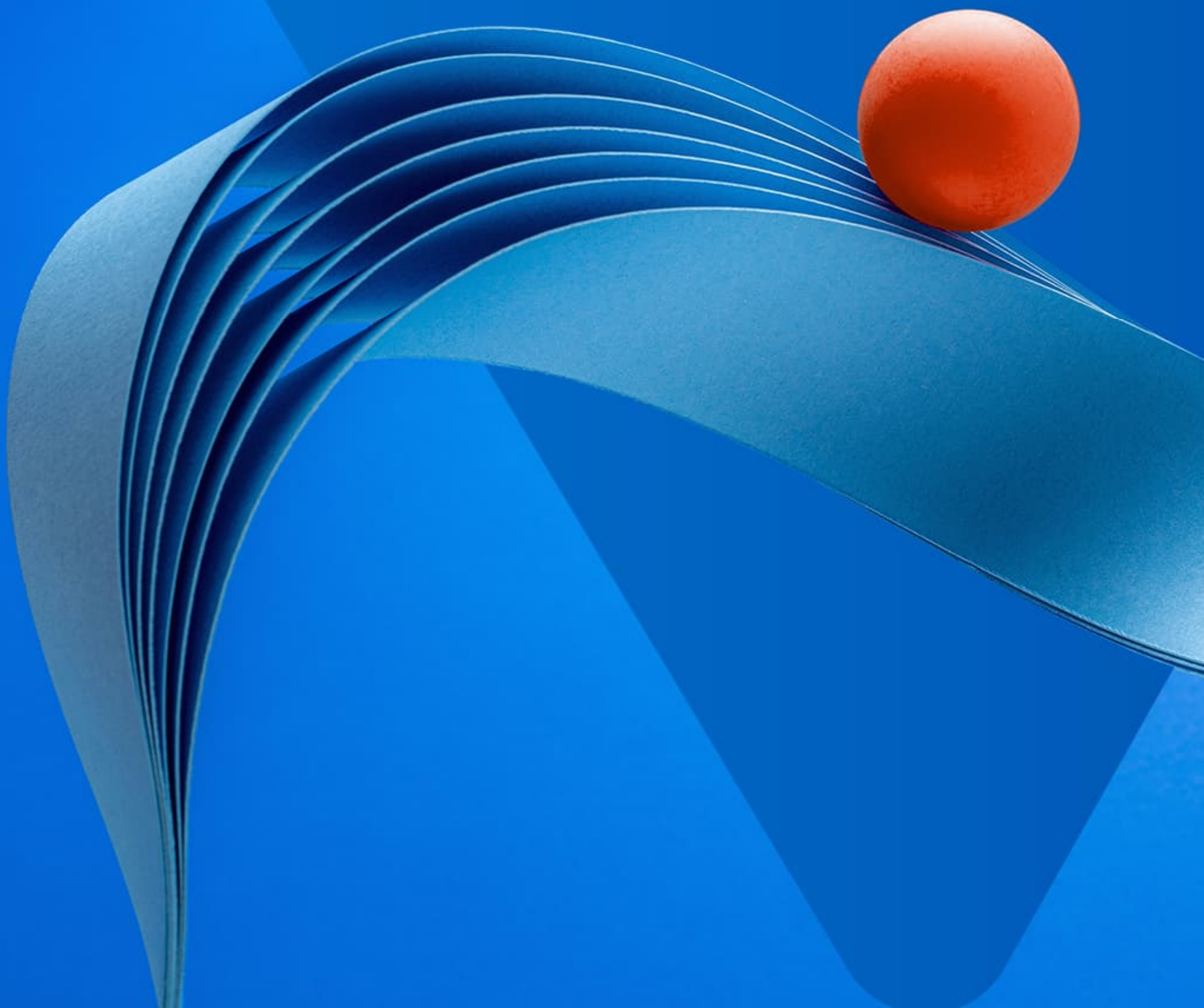
Demolition / Asbestos Liability Policy Wording



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Introduction

About Victor Insurance

Victor Insurance Pty Ltd (ABN 11 146 607 838) ("Victor Insurance") is an underwriting agency and act under a binding authority, on behalf of Certain Underwriters at Lloyd's, led by Brit Global Specialty, Syndicate No. BRIT 2987 and not as agent for the insured. Victor Insurance is an authorised representative (AR No. 403803) of Marsh Pty Ltd (ABN 86 004 651 512, AFSL 238983) (Marsh). Victor Insurance is a business of Marsh.

Victor Insurance can be contacted at:
Phone: (02) 8864 7688
Address: One International Towers, 100 Barangaroo Avenue, Sydney NSW 2000
Post: PO Box H176, Australia Square NSW 1215

Who is The Insurer

Certain Underwriters at Lloyd's, led by Brit Global Specialty, Syndicate No. BRIT 2987.

Privacy Notice

Victor Insurance Pty Ltd ("Victor Insurance") is committed to the protection of your privacy and is bound by the Australian Privacy Principles (APPs) for the handling of your information. Full details of how, when and from where we collect, hold, use and disclose personal information is available in our Privacy Policy by accessing our website (https://www.victorinsurance.com.au/privacy-policy) or by obtaining a copy from our Privacy Officer (One International Towers, 100 Barangaroo Ave, Sydney, NSW, 2000, or on telephone number (02) 8864 7688 or email: privacy.australia@marsh.com.au). If you have any questions or comments in relation to Privacy including how we deal with any privacy complaints or you wish to access your personal information or update it please contact our Privacy Officer.

When you give us personal or sensitive information about other individuals, we rely on you to have made or make them aware that you will or may provide that information to us, the purposes we may use it for, the types of third parties that we disclose it to and how they can access it. If it is sensitive information, we rely on you to have obtained their consent on these matters. If you have not done either of these things, you must tell us before you provide the relevant information.

Victor Insurance Complaints Notice

What to do if you have a Complaint

- If you are dissatisfied with Victor Insurance's service in any way, contact Victor Insurance and Victor Insurance will attempt to resolve the matter in accordance with Victor Insurance's own internal dispute resolution procedure, a copy of which is available upon request. In the first instance, you should address any concern or complaint to the representative servicing your account. Alternatively, you may contact Victor Insurance's Complaints Officer on (03) 9603 2338 or email complaints.australia@marsh.com.

- If your representative is unable to resolve your complaint, or if you are dissatisfied with the response, it will be escalated to Victor Insurance's Complaints Officer to investigate and take appropriate action. You will be advised within 30 days of Victor Insurance's decision. If the matter is complex and a longer period is required, you will be informed.
- If you are not satisfied with Victor Insurance's final decision, you may be able to refer your complaint to the Australian Financial Complaints Authority (AFCA). AFCA's role is to assist consumers and small business resolve disputes with financial service providers, including trustees, their broker, or their insurance company. Third party motor vehicle claimants who are uninsured can also access AFCA.

If you have any query about whether your complaint can be handled within AFCA's rules or you wish to contact them, their contact details are:

Phone: 1800 931 678 (free call);
Email: info@afca.org.au
Online: www.afca.org.au; and
Mail: Australian Financial Complaints Authority, GPO Box 3, Melbourne, Victoria, 3001

Important Information

Duty of Disclosure

Before you enter into an insurance contract, you have a duty of disclosure under the Insurance Contracts Act 1984. You have a duty to tell us anything that you know, or could reasonably be expected to know, may affect the insurer's decision to insure you and on what terms. You have this duty until the insurer agrees to insure you. You have the same duty before you renew, extend, vary or reinstate an insurance contract. If we ask you questions that are relevant to the insurer's decision to insure you and on what terms, you must tell us anything that you know and that a reasonable person in the circumstances would include in answering the questions.

Also, we may give you a copy of anything you have previously told us and ask you to tell us if it has changed. If we do this, you must tell us about any change or tell us that there is no change. If you do not tell us about a change to something you have previously told us, you will be taken to have told us that there is no change.

You do not need to tell us anything that reduces the risk insured, is common knowledge, the insurer knows or should know as an insurer or the insurer waives your duty to tell them about.

If you do not tell us something
If you do not tell us anything you are required to, the insurer may cancel your contract or reduce the amount it will pay you if you make a claim, or both. If your failure to tell us is fraudulent, the insurer may refuse to pay a claim and treat the contract as if it never existed.

General Insurance Code of Practice

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ("the Code"), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry.

Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code please visit www.codeofpractice.com.au.

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to www.insurancecode.org.au

Complaints and disputes

If you have any concerns or wish to make a complaint in relation to this policy, our services or your insurance claim, please let us know and we will attempt to resolve your concerns in accordance with our Internal Dispute Resolution procedure. Please contact Victor Insurance in the first instance:

Victor Insurance's Complaints Officer
Email: complaints.australia@marsh.com
Telephone: (03) 9603 2338

We will acknowledge receipt of your complaint and do our utmost to resolve the complaint to your satisfaction within 10 business days.

If we cannot resolve your complaint to your satisfaction, we will escalate your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are:

Lloyd's Australia Limited
Email: idraustralia@lloyds.com
Telephone: (02) 8298 0783
Post: PO Box R1745
Royal Exchange NSW 1225

A final decision will be provided to you within 30 calendar days of the date on which you first made the complaint unless certain exceptions apply.

You may refer your complaint to the Australian Financial Complaints Authority (AFCA), if your complaint is not resolved to your satisfaction within 30 calendar days of the date on which you first made the complaint or at any time. AFCA can be contacted as follows:

Telephone: 1800 931 678
Email: info@afca.org.au
Post: GPO Box 3 Melbourne VIC 3001
Website: www.afca.org.au

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

Service of Suit

The Underwriters accepting this Insurance agree that:

(i) if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;

(ii) any summons notice or process to be served upon the Underwriters may be served upon:

Lloyd's Underwriters' General Representative in Australia
Post: PO Box R1745
Royal Exchange NSW 1225
Email: serviceofsuitaus@lloyds.com
who has authority to accept service on the Underwriters' behalf;

(iii) if a suit is instituted against any of the Underwriters, all Underwriters participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under this Insurance notice should be given as soon as possible to:

Email: claims_support@gbtpa.com.au

Combined Liability Policy

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

Whereas the Insured named in the Schedule has paid or agreed to pay to the Insurer specified below the Premium now the Insurer agrees, subject to the terms of this Policy, to indemnify the Insured as specified herein.

Section 1 – General & Products Liability

1. Insuring Agreement

The Insurer will pay to or on behalf of the Insured all sums which the Insured shall become legally liable to pay by way of damages (which includes amounts owing or liability incurred in respect of or arising out of a claim for recovery or contribution made pursuant to legislation concerning the operation of any statutory compensation scheme) in accordance with the law of any country or assumed under contract or agreement in respect of Personal Injury or Property Damage or Advertising Liability first happening during the Period of Insurance as a result of an Occurrence within the Territorial Limits in connection with the Insured's Business or Product.

2. Limit of Liability

In respect of the coverage afforded by this section only, the Insurers liability to pay compensation shall not exceed the sum stated in the Schedule in respect of any one claim or series of claims arising from one Occurrence.

The total aggregate liability of the Insurers for any one Period of Insurance for all claims in respect of or in any way connected with the Insured's Products shall not exceed the Limit of Indemnity stated in the Schedule.

3. Supplementary Payments

With respect to the indemnity afforded by Section 1 the Insurer will:

a) defend at its own cost in the Insured's name and on the Insured's behalf any suit against the Insured alleging Personal Injury or Property Damage or Advertising Liability and seeking damages on account thereof even if such suit is groundless, false or fraudulent, but the Insurer shall not be obligated to pay any claim or judgment or to defend any suit after the applicable Limit of Liability has been exhausted by payment of judgments or settlements;

b) pay all expenses incurred by the Insured, all charges, costs or expenses recoverable from or awarded against the Insured in any such suit and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the Insurer has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the Insurer's liability hereon;

c) pay premiums on appeal bonds and/or security for costs required in any such suit and pay premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable Limit of Liability of this Policy, but the Insurer shall have no obligation to apply for or furnish any such bonds and/or security for costs;

d) pay all charges, costs or expenses (including actual loss of earnings) incurred by the Insured either at the Insurer's request or with the Insurer's consent or reasonably in the investigation, defence or settlement of any claim or suit;

e) pay all legal costs incurred by the Insured with the consent of the Insurer for representation of the Insured at:

   i. any coroner's inquest or enquiry or court of criminal justice;
   ii. any proceedings in any court in connection with liability insured by this Policy;
   iii. any royal commission or government enquiry;
   iv. all costs and expenses incidental to the appeal of any judgment referred to in i. to iii. above;

f) pay all legal costs incurred by the Insured with the consent of the Insurer arising out of the defence of any proceedings in any court arising out of any alleged breach of statutory duty resulting in Personal Injury or Property Damage or Advertising Liability which may be the subject of indemnity under this Policy;
g) pay expenses incurred by the Insured for first aid rendered to others arising out of an Occurrence (unless prohibited by law);
h) pay expenses incurred by the Insured (following an Occurrence for which indemnity is provided by this insurance) for:
   i. protection of damaged or undamaged property of any person including temporary repairs and/or shoring up and/or underpinning thereof; or
   ii. purchasing and/or hiring and/or erection and dismantling of hoarding, barrier's, fences and any other form of temporary protection, including such protection which the Insured must provide in compliance with the requirements of any government, local government or other statutory authority.

The amounts thus incurred are payable by the Insurer in addition to the applicable Limit of Liability of this Policy.

Wherever the Insurer's consent to the Insured incurring an expense or taking a step is required herein, the Insurer's consent must not be unreasonably withheld.

Provided however that, in the event of a claim and/or action instituted against the Insured within the United States of America or Canada, or a claim and action to which the laws of the United States of America or Canada apply and which arise from export of the Insured's Product to or business visits by any director, executive or salesperson to those countries, the Limit of Liability shall apply to such claim and/or action inclusive of all Supplementary Payments.

In jurisdictions where the Insurer may be prevented by law or otherwise from carrying out this provision, the Insurer shall pay any expense incurred with its written consent for others to carry out such actions and payments on its behalf.

4. Indemnity to Others

Subject to Insuring Agreement and to the terms of this Policy, this Policy will extend to pay to or on behalf of the following:

a) any director, executive officer or employee or partner of the Insured but only whilst acting within the scope of their duties in such capacity;
b) any principal in respect of that principal's vicarious liability for the negligent acts or omissions of the Insured pursuant to Definition 13 – Definitions Applicable to All Sections and arising out of the Insured's Business, but this insurance does not extend to the liability of any principal howsoever arising out of the negligence, breach of contract or breach of duty of such principal;

c) any officer, member, employee or voluntary helper of the Insured's canteen, social and sporting clubs, child care facilities, welfare organisations, first aid, fire fighting or ambulance services in respect of claims arising from duties connected thereto;
d) any partner, director or senior executive of the Insured in respect of private work undertaken by the Insured's employees for such partner, director or senior executive;
e) any joint venture or partnership in which the Insured is engaged in or is a party to but only to the extent of the Insured's liability in respect of such joint venture or partnership;
f) any voluntary worker and/or person on work experience but only whilst acting within the scope of their duties in such capacity for the Insured;
g) any person or firm arising out of the performance of a contract with the Insured constituting the provision of labour only.
h) the legal personal representative of any person entitled to indemnity under this Clause 4 in circumstances giving rise to indemnity under this insurance.

All such persons or entities shall, whilst not being a party to this contract, observe, fulfill and be subject to the terms of this Policy (insofar as they can apply) as though they were the Insured.

5. Definitions Applicable to Section 1

The following definitions apply to Section 1 of the Policy

Offshore Work

Means from the time of embarkation onto a conveyance at the point of final departure to any Offshore installation, including but not limited to any Offshore rig or platform, whilst on any Offshore installation or support or accommodation vessel for an Offshore installation, until disembarkation onto land upon return from such installation.

6. Exclusions Applicable to Section 1

Without limiting the Exclusions applicable to all Sections of the Policy, this Section 1 also does not cover any legal liability arising out of the following:

1. Advertising Liability

Advertising Liability resulting from:

a) failure of performance of contract, but this shall not relate to claims resulting from unauthorised appropriation of ideas based upon alleged breach of an implied contract; or
b) incorrect description of any article or commodity; or
c) mistake in advertised price.

2. Aircraft, Hovercraft and Watercraft

Liability arising out of the ownership, maintenance, operation or use by the Insured of:

a) any Aircraft or Hovercraft; or
b) any Watercraft or vessel exceeding ten (10) metres in length whilst afloat.

Provided that this Exclusion 2. part (b) shall not apply to:

i. Watercraft owned by others and used by the Insured for business entertainment;
ii. hand propelled or sailing craft in Australian territorial waters; or
iii. operations by independent contractors.

3. Aircraft / Watercraft Products

Personal Injury or Property Damage arising out of any Insured's Product which is incorporated into the structure, machinery or controls of any Aircraft, Aerial Device, Watercraft or Hovercraft.

4. Asbestos

Personal Injury or Property Damage directly or indirectly caused by or arising from the existence, mining, handling, processing, manufacture, sale, distribution, storage or use of asbestos, asbestos products and/or products containing asbestos.

5. Damage to Underground Services

This insurance does not cover liability directly or indirectly caused by, arising out of or in any way connected with Damage to underground services (such as but not limited to water, gas, sewerage or fuel pipes, electric or telephone cables) or any underground property or structure for the purpose of storing, conveying, transporting, transmitting or delivering of electricity, water, gas, fuel, telecommunications media, signals, radio or other waves unless prior to the commencement of any work the Insured has inquired with the relevant public authority or owner of such service, property or structure as to the exact location of such service, property or structure and has taken all precautions to avoid such service, property or structure.

6. Defamation

Liability arising out of the publication or utterance of a defamation:

a) made prior to the effective date of this Policy; or
b) made at the direction of the Insured with knowledge of the falsity thereof.

7. Employers' Liability

Liability for Personal Injury imposed:

a) by any Workers' Compensation Law;
b) 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;

Provided that if the Insured:

i. is 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 injury; or

ii. is not required to so insure or otherwise fund such liability by reason only that the injury is to a person who is not a worker or employee within the meaning of the relevant Workers Compensation Law or the injury is not an injury which is subject to such Law;

then this Policy will respond to the extent that the Insured's liability would not be covered under any such fund, scheme, policy of insurance or self-insurance arrangement had the Insured complied with its obligations pursuant to such Law;

c) any law relating to employment practices, including wrongful or unfair dismissal, discrimination or equal opportunity.

Provided further that this Exclusion 7 shall not apply to the liability of others assumed by the Insured under any contract or agreement.

8. Erection and/or Addition to Buildings

The erection and/or addition to buildings by or on behalf of the Insured except for contracts not exceeding in cost the sum of AUD $500,000 or 10% of the Limit of Indemnity whichever is the lesser.

9. Escape of Fire

The escape of fire started by the Insured or by any other person in contravention of any by-law or regulation imposed by any public authority.

10. Explosives

The use of explosives

11. Failure of De-Watering

The failure of de-watering to fulfil the purpose for which it was designed or to perform as specified, warranted or guaranteed.

12. Faulty Workmanship / Recall of Product

a) Property Damage to any property that must be repaired, reconditioned or replaced by reason of incorrect work performed by the Insured or on the Insured's behalf, or by reason of materials or equipment which are proved to be defective or inadequate in connection with such work, but this Exclusion 12 part a) does not apply to Personal Injury or Property Damage resulting from such work.

b) Damages claimed for any loss, cost or expense incurred by the Insured for the inspection, repair, replacement, loss of use or recall of the Insured's Product if such Insured's Product is withdrawn from the market or from use because of any known or suspected defect or deficiency therein.

13. Fines, Penalties, Punitive, Exemplary, Multiple Damages

Fines, penalties, punitive damages, aggravated, exemplary damages, multiplication of compensatory damages, liquidated damages and/or aggravated damages.

14. Loss of Use

Loss of use of tangible property which has not been physically injured or destroyed caused by:

a) a delay in or lack of performance by or on behalf of the Insured of any contract or agreement; or

b) the failure of the Insured's Product to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by the Insured.

Provided that this Exclusion 14 part b) does not apply to loss of use of other tangible property arising out of the sudden and accidental physical injury to or destruction of the Insured's Product after such Insured's Product has been put to use by any person or organisation other than an Insured.

15. Mould

Loss directly or indirectly caused by, arising out of or in any way connected with:

a) Any actual, alleged or threatened inhalation, discharge, dispersal, seepage, migration, absorption, release, exposure to, or escape of any mould, mildew or fungus in any form from any source, at any time;

b) The prevention of the actual, alleged or threatened inhalation, discharge, dispersal, seepage, migration, absorption, release, exposure to, or escape of any mould, mildew or fungus in any form from any source;

or

c) Any testing, monitoring, clean up, removal, containment, treatment, disposal, detoxifying or neutralizing or in any way responding to or assessing the effects of mould, mildew or fungus in any form from any source, at any time.

16. Offshore Work

Arising from or in connection with any work undertaken Offshore.

17. Owned Property / Property in Care, Custody or Control

Property Damage to:

a) property owned by the Insured or any property leased or rented to the Insured to the extent that the Insured has agreed under contract to provide insurance therefore;

b) property in the physical or legal control of the Insured, other than:

   i. premises (including landlord's fixtures and fittings) which are leased or rented to the Insured; or

ii. premises (including contents thereof) not owned, leased or rented by the Insured but temporarily occupied for work therein or thereon; or
iii. any Vehicle (not owned, leased or hired by the Insured) in the physical or legal control of the Insured where such Property Damage occurs whilst such Vehicle is in a car park owned or operated by the Insured, provided such car park is not owned or operated for reward; or
iv. the property (other than a Vehicle) of any director, executive officer or employee of the Insured or of any visitor to the Insured's premises; or
v. property (other than property described above) in the physical or legal control of the Insured up to a limit of $100,000 AUD any one Occurrence.

18. Product Defect

Property Damage to the Insured's Product if such damage is caused by any defect therein or the harmful nature or unsuitability thereof.

19. Professional Liability

Liability arising from the rendering of or failure to render professional advice or service by the Insured or any error or omission connected therewith.

Provided however that this Exclusion 19 does not apply to:

a) Personal Injury or Property Damage arising therefrom providing such professional advice or service is not given for a fee; or
b) the rendering of or failure to render professional medical advice by Medical Persons employed by the Insured to provide first aid and other medical services on the Insured's premises.

20. Railway Work

Any contract requiring the Insured to perform work immediately above, over or beside a railway line which is in use.

21. Silicosis or Exposure to Silica.

Silicosis or exposure to Silica, or any lung disease or ailment arising out of, caused by or aggravated by inhalation, consumption or absorption of Silica, Silica products, materials or products containing Silica, Silica fibres or Silica dust.

22. Shoring and Underpinning

Shoring and underpinning.

23. Tobacco

Injury sustained due to the inhalation or ingestion of, or exposure to:

a) Tobacco or tobacco smoke; or
b) Any ingredient or additive present in any articles, items or goods which contain or include tobacco.

24. Un-Licensed Insured

An Insured not licensed in accordance with all relevant government Acts, rules, regulations and industry requirements.

25. Use of A Ball and Chain

Any contract that requires the Insured to use a ball and chain.

26. Vehicles

a) Liability for Personal Injury arising out of the use or ownership by the Insured of any Vehicles in respect of which there is required to be in force a policy of compulsory liability insurance or statutory indemnity for bodily injury.

b) Property Damage arising out of the ownership, maintenance, operation or use by the Insured of any Vehicles being used in circumstances in respect of which there is required to be in force a policy of compulsory liability insurance or statutory indemnity, but this Exclusion 26 part b) does not apply to:

   i. 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;
   ii. Property Damage arising out of or in connection with the loading or unloading of or the delivery or collection of goods from any Vehicle;
   iii. the Insured’s liability arising out of the use by employees or other persons in the course of the Business of any Vehicle not owned, hired, leased or supplied by the Insured and not required to be insured by the Insured by virtue of any legislation governing its use, but excluding the Insured’s liability in respect of damage to any such Vehicle;
   iv. damage to any weighbridge, road or anything beneath caused by the weight of such Vehicle or of the load carried thereon;
   v. Property Damage caused by or arising from the operation or use of any Vehicle which is designed primarily for lifting, lowering, loading or unloading, whilst being operated or used within the confines of the Insured’s premises;
   vi. Property Damage caused by or arising from the operation or use of any Vehicle (not owned, leased or hired by the Insured) temporarily in the Insured’s custody or control for the purpose of parking in a car park owned or operated by the Insured.

27. Welding or Cutting

The use of any electric, oxy-acetylene or similar welding or cutting equipment and allied processes by or on behalf of the Insured unless such welding or cutting was done in full compliance with all of the provisions within Australian Standard 1674 “Safety in Welding and Allied Processes” (and any amendments thereto).

Section 2 – Asbestos Liability (Claims Made)

Where specified in the Schedule, the following additional coverage is included.

1. Insuring Agreement

Subject to the terms of this insurance, the Insurers will pay to or on behalf of the Insured all sums which the Insured shall become legally liable to pay by way of compensation as a result of a Claim(s) both first made against the Insured and notified to the Insurers via your insurance broker during the Period of Insurance for Personal Injury and/or Property Damage as a result of an Occurrence, happening after the Retroactive Date, in connection with the Insured's Business.

It is specifically agreed that foregoing paragraph shall be deemed to include Claim(s) first made against the Insured during the Period of Insurance if they are notified to the Insurers via your insurance broker within five (5) business days after the date that such Claim(s) are first made against the Insured.

2. Limit of Liability

In respect of the additional coverage afforded by this section only:

The Insurers liability to pay compensation shall not exceed the Limit of Liability specified in the Schedule. If both the coverage provided by Section 1 and the additional coverage afforded by Section 2 respond to one Occurrence, the total Limit of Liability of the Insurer for all Claims relating to that Occurrence under the coverage provided by Section 1 and the additional coverage afforded by this section shall not exceed the highest single Limit of Liability under either coverage.

Provided the Limit of Liability stated in Section 2 of the Schedule shall not be exceeded for any one Occurrence (as defined in Definition 20 under the Definitions Applicable to All Sections).

3. Supplementary Payments

With respect to the indemnity afforded by Section 2 of the Policy the Insurer will pay:

a) reasonable legal costs and/or expenses incurred with the Insurer's prior written consent in connection with any Claim(s) for which the Insured is indemnified by this insurance;
b) reasonable expenses incurred by the Insured (following a Claim(s) for which indemnity is provided by this section) for:

   i. the rendering of immediate first aid and/or medical and surgical relief to others as may be required at the time of any Occurrence or Injury;
   ii. the protection of damaged or undamaged property of any person including temporary repairs and/or shoring up and/or underpinning thereof; or
   iii. the purchasing and/or hiring and/or erection and dismantling of hoarding, barriers, fences and any other form of temporary protection, including such

protection which the Insured must provide in compliance with the requirements of any government, local government or other statutory authority.

Provided that the Limit of Liability stated in Section 2 of the Schedule shall apply inclusive of such costs and/or expenses.

Provided that the Insurers shall not be liable for legal costs and/or expenses for or in respect of representation at any formal legal inquiry involving an accident resulting in Personal Injury or at any coroner's inquiry or defending any proceedings in a court of summary jurisdiction.

Provided that the Insurers shall not pay any legal costs or expenses in respect of any Claim(s) after the Insurers have paid compensation up to the Limit of Liability stated in this section.

Wherever the Insurer's consent to the Insured incurring an expense or taking a step is required herein, the Insurer's consent must not be unreasonably withheld.

4. Definitions Applicable to Section 2

The following definitions apply to Section 2 of the Policy

1. Damage

Damage means loss of, physical injury to or destruction of tangible property at any time resulting therefrom.

2. Occurrence

Occurrence means an exposure to Asbestos happening only for the first time during a contract for asbestos removal which results in Injury and/or Damage neither expected nor intended from the standpoint of the Insured.

5. Exclusions Applicable to Section 2

Without limiting the Exclusions applicable to all Sections of the Policy, this Section 2 does not cover any legal liability arising out of the following:

1. Asbestos

a) Exclusion 4 Asbestos under Section 1 – General & Products Liability is deleted and replaced by the following:

i. mining, manufacture, processing, sale, distribution, installation or any other use of Asbestos.
ii. the ownership possession or occupancy of disposal sites used for the disposal of Asbestos.
iii. the dumping of Asbestos.

Regardless of the provisions of this Exclusion, the indemnity provided by this section includes the temporary storage of Asbestos provided that the Asbestos is temporarily stored in accordance with all Statutory Regulations and/or Industry Codes of Practice (where applicable) and the period of the temporary storage does not exceed thirty (30) days from the date of removal.

Further, it is noted and agreed that this Exclusion shall not be interpreted as excluding the physical removal of Asbestos. Any Claim arising out of an Occurrence prior to the Retroactive Date.

b) Any Asbestos removalist not licensed in accordance with all relevant Government Acts, Rules, Regulations and industry requirements.
c) Any contract for asbestos removal works entered into by the Insured (whether verbally and/or orally) which has a duration longer than a six (6) month period.
d) Any Claim made prior to or existing at the inception of this insurance.
e) Any Claim in respect of any fact or circumstance known to the Insured prior to or existing at the inception of this insurance and which the Insured knew or ought reasonably to have known might give rise to a Claim.
f) Any Claim or circumstances likely to give rise to a Claim stated in the underwriting submission or proposal form, being the basis of this contract.
g) Any Claim or circumstance notified, or which ought to have been notified under any prior policy.
h) Any diminution in the value of tangible property, loss of use of tangible property (regardless of whether the tangible property is physically lost, destroyed or damaged) or rectification costs.

2. Aircraft, Hovercraft and Watercraft

Liability arising out of the ownership, maintenance, operation or use by the Insured of:

a) any Aircraft or Hovercraft; or
b) any Watercraft or vessel exceeding ten (10) metres in length whilst afloat. Provided that this Exclusion 2 b) shall not apply to:
   i. Watercraft owned by others and used by the Insured for business entertainment;
   ii. hand propelled or sailing craft in Australian territorial waters; or
   iii. operations by independent contractors.

3. Aircraft / Watercraft Products

Personal Injury or Property Damage arising out of any Insured’s Product which is incorporated into the structure, machinery or controls of any Aircraft, Aerial Device, Watercraft or Hovercraft.

4. Employers’ Liability

Liability for Personal Injury imposed:

a) by any Workers’ Compensation Law;
b) 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;

Provided that if the Insured:

i. is 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 injury; or

ii. is not required to so insure or otherwise fund such liability by reason only that the injury is to a person who is not a worker or employee within the meaning of the relevant Workers Compensation Law or the injury is not an injury which is subject to such Law; then this Policy will respond to the extent that the Insured's liability would not be covered under any such fund, scheme, policy of insurance or self-insurance arrangement had the Insured complied with its obligations pursuant to such Law;

c) any law relating to employment practices, including wrongful or unfair dismissal, discrimination or equal opportunity.

Provided further that this Exclusion 4 shall not apply to the liability of others assumed by the Insured under any contract or agreement.

5. Erection and/or Addition to Buildings

The erection and/or addition to buildings by or on behalf of the Insured except for contracts not exceeding in cost the sum of AUD 500,000 or 10% of the Limit of Indemnity whichever is the lesser.

6. Escape of Fire

The escape of fire started by the Insured or by any other person in contravention of any by-law or regulation imposed by any public authority.

7. Explosives

The use of explosives.

8. Failure of De-Watering

The failure of de-watering to fulfil the purpose for which it was designed or to perform as specified, warranted or guaranteed.

9. Faulty Workmanship / Recall of Product

a) Property Damage to any property that must be repaired, reconditioned or replaced by reason of incorrect work performed by the Insured or on the Insured's behalf, or by reason of materials or equipment which are proved to be defective or inadequate in connection with such work, but this Exclusion 9 part a) does not apply to Personal Injury or Property Damage resulting from such work.

b) Damages claimed for any loss, cost or expense incurred by the Insured for the inspection, repair, replacement, loss of use or recall of the Insured's Product if such Insured's Product is withdrawn from the market or from use because of any known or suspected defect or deficiency therein.

10. Fines, Penalties, Punitive, Exemplary, Multiple Damages

Fines, penalties, punitive damages, aggravated, exemplary damages, multiplication of compensatory damages, liquidated damages and/or aggravated damages.

11. Loss of Use

Loss of use of tangible property which has not been physically injured or destroyed caused by:

a) a delay in or lack of performance by or on behalf of the Insured of any contract or agreement; or
b) the failure of the Insured's Product to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by the Insured.

Provided that this Exclusion 11 part b) does not apply to loss of use of other tangible property arising out of the sudden and accidental physical injury to or destruction of the Insured's Product after such Insured's Product has been put to use by any person or organisation other than an Insured.

12. Owned Property / Property in Care, Custody or Control

Property Damage to:

a) property owned by the Insured or any property leased or rented to the Insured to the extent that the Insured has agreed under contract to provide insurance therefore;
b) property in the physical or legal control of the Insured, other than:
    i. premises (including landlord's fixtures and fittings) which are leased or rented to the Insured; or
    ii. premises (including contents thereof) not owned, leased or rented by the Insured but temporarily occupied for work therein or thereon; or
    iii. any Vehicle (not owned, leased or hired by the Insured) in the physical or legal control of the Insured where such Property Damage occurs whilst such Vehicle is in a car park owned or operated by the Insured, provided such car park is not owned or operated for reward; or
    iv. the property (other than a Vehicle) of any director, executive officer or employee of the Insured or of any visitor to the Insured's premises; or
    v. property (other than property described above) in the physical or legal control of the Insured up to a limit of $100,000 any one Occurrence.

13. Product Defect

Property Damage to the Insured's Product if such damage is caused by any defect therein or the harmful nature or unsuitability thereof.

14. Professional Liability

Liability arising from the rendering of or failure to render professional advice or service by the Insured or any error or omission connected therewith.

Provided however that this Exclusion 14 does not apply to:

a) Personal Injury or Property Damage arising therefrom providing such professional advice or service is not given for a fee; or
b) the rendering of or failure to render professional medical advice by Medical Persons employed by the Insured to provide first aid and other medical services on the Insured’s premises.

15. Railway Work

Any contract requiring the Insured to perform work immediately above, over or beside a railway line which is in use.

16. Silicosis or Exposure to Silica.

Silicosis or exposure to Silica, or any lung disease or ailment arising out of, caused by or aggravated by inhalation, consumption or absorption of Silica, Silica products, materials or products containing Silica, Silica fibres or Silica dust.

17. Shoring and Underpinning

Shoring and underpinning.

18. Tobacco

Injury sustained due to the inhalation or ingestion of, or exposure to:

a) Tobacco or tobacco smoke; or
b) Any ingredient or additive present in any articles, items or goods which contain or include tobacco.

19. Un-Licensed Insured

An Insured not licensed in accordance with all relevant government Acts, rules, regulations and industry requirements.

20. Use of A Ball and Chain

Any contract that requires the Insured to use a ball and chain.

21. Vehicles

a) Liability for Personal Injury arising out of the use or ownership by the Insured of any Vehicles in respect of which there is required to be in force a policy of compulsory liability insurance or statutory indemnity for bodily injury.
b) Property Damage arising out of the ownership, maintenance, operation or use by the Insured of any Vehicles being used in circumstances in respect of which there is required to be in force a policy of compulsory liability insurance or statutory indemnity, but this Exclusion 21 part b) does not apply to:

i. 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;
ii. Property Damage arising out of or in connection with the loading or unloading of or the delivery or collection of goods from any Vehicle;
iii. the Insured's liability arising out of the use by employees or other persons in the course of the Business of any Vehicle not owned, hired, leased or supplied by the Insured and not required to be insured by the Insured by virtue of any legislation governing its use, but excluding the Insured's liability in respect of damage to any such Vehicle;
iv. damage to any weighbridge, road or anything beneath caused by the weight of such Vehicle or of the load carried thereon;
v. Property Damage caused by or arising from the operation or use of any Vehicle which is designed primarily for lifting, lowering, loading or unloading, whilst being operated or used within the confines of the Insured's premises;
vi. Property Damage caused by or arising from the operation or use of any Vehicle (not owned, leased or hired by the Insured) temporarily in the Insured's custody or control for the purpose of parking in a car park owned or operated by the Insured.

22. Welding or Cutting

The use of any electric, oxy-acetylene or similar welding or cutting equipment and allied processes by or on behalf of the Insured unless such welding or cutting was done in full compliance with all of the provisions within Australian Standard 1674 “Safety in Welding and Allied Processes” (and any amendments thereto).

Section 3 – Transportation of Asbestos

Where specified in the Schedule, the following additional coverage is included:

1. Insuring Agreement

The Insurer will pay to or on behalf of the Insured all sums which the Insured shall become legally liable to pay for Loss arising from Claims resulting from Pollution Conditions caused by Business operations performed by the Insured or any entity for which the Insured is legally liable.

This insurance applies only to a Claim for Loss if:

a) the Business operations that resulted in the Claim commenced on or after the Retroactive Date, if any, shown in the Schedule and before the end of the Period of Insurance; and
b) the Claim for Loss is first made against any Insured during the Period of Insurance, and the Insured reports such Claim to the Insurer in writing during the Period of Insurance.

2. Limit of Liability

Limit of Liability means the applicable limit of liability applicable to Section 3 of the Schedule and is the maximum the Insurer will pay regardless of the number of Insured's, Pollution Conditions, Claims or persons or organisations making Claims. The Limit of Liability will apply to the entire Period of Insurance and not separately to any portion (whether annual or otherwise) thereof. If the Period of Insurance is extended after the Policy comes into effect, the additional period will be deemed part of the last preceding period for the purposes of determining the applicable Limit of Liability.

3. Supplementary Payments

Within the Limit of Liability specified in Section 3 of the Schedule, the Insurer will pay Defence Expense in connection with any Claim for which the Insured is indemnified by this section. In the event the Insured is a party to a demand, legal proceeding, inquiry or hearing which is covered only in part by this section, the Insured and the Insurer will use their best efforts to agree upon a fair and proper allocation of Defence Expense or any other amount insured under this section which relates solely to what is covered under this section of the Policy.

The Insurer shall be entitled to take over the conduct in the name of the Insured of the defence or settlement of any Claim or to prosecute in the name of the Insured for its own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any Claim. The Insured shall give all such information and assistance as the Insurer shall require.

In the event that an agreement on reasonable prospects for success cannot be reached between the Insurer and the Insured, a Senior Counsel (to be mutually agreed upon by the Insurer and the Insured) shall, as an expert and not an arbitrator, make such allocation determination of legal costs and/or Defence Expense. Until the Senior Counsel has made a determination the Insurer may, in its absolute discretion, pay such legal costs and/or Defence Expense or any other amount insured under this Policy as it considers appropriate.

In the event that agreement on the appointment of a Senior Counsel cannot be reached, such Senior Counsel shall be appointed by the then President of the Law Society or the Law Institute in the relevant State or Territory. All the Insurer's duties under this section end when the applicable Limit of Liability is exhausted. This applies to Claims pending at the time and those filed thereafter. Defence Expenses are included in Loss, reduce the applicable limits of liability and are included within the Deductible stated in the Schedule.

4. Multiple Periods of Insurance and Multiple Claims

a) When the Insurer has issued claims made pollution liability coverage to the Insured in one or more Periods of Insurance and a Claim for Loss is first made against the Insured and reported to the Insurer in writing in accordance with the terms and conditions of this section during this Period of Insurance, then all Claims for all Loss arising out of the same, related or continuous Pollution Conditions shall be deemed to have been first made and reported or incurred during this Period of Insurance, provided that the Insured has maintained pollution liability coverage substantially the same as this coverage with the Insurer on a continuous uninterrupted basis since the first such Claim for Loss was made against the Insured, and reported to the Insurer. All such Claims for Loss will be subject to the terms, conditions and Limit of Liability under Section 3 of this Policy.

b) All Claims for Loss first made against an Insured and reported to the Insurer during the Period of Insurance and arising out of the same, continuous, repeated or related Pollution Conditions shall be deemed to be a single Claim and shall be deemed to have been made at the time the first of those Claims is made.

5. Deductible

The Insurer's obligation to make payments under this section for Loss is in excess of the Deductible amount shown in the Schedule.

The Insurer may advance payment of part or all of the Deductible and, upon notification of such payment made, the Named Insured shall promptly reimburse the Insurer within 30 days. The Named Insured stated in the Schedule is responsible for the payment of all Deductible amounts on behalf of all persons or organisations insured. Payment of Defence Expense or amounts within the Deductible will not create any obligations or be construed as a waiver or estoppel of the Insurer's rights under this Policy.

The Deductible amount applies to all Loss arising from the same, related, or continuous Pollution Conditions.

6. Definitions Applicable to Section 3

The following definitions apply to Section 3 of the Policy

1. Agreed Settlement

Agreed Settlement means a settlement and release of liability signed by the Insurer, the Insured and the claimant or the claimant's legal representative.

2. Cargo

Cargo means waste, products or materials carried or delivered on or within a Motor Vehicle.

3. Claim

Claim means a written or oral demand received by the Insured seeking a remedy or asserting liability or responsibility on the part of the Insured for Loss and includes any writ, statement of claim, summons, application or other originating legal or arbitral process, cross claim, counterclaim or third or similar party notice issued against or served upon the Insured. Any Claim must be made against the Insured during the Period of Insurance and the Insured must notify the Insurer in writing of such Claim during the Period of Insurance.

4. Clean-up Costs

Clean-up Costs means costs, charges and expenses including reasonable and necessary legal expense incurred with the Insurer's written consent to investigate, neutralise, remove, remediate, monitor or dispose of Pollutants to the extent required by Environmental Laws or costs, charges and expenses that have actually been incurred by any governmental entity duly acting under the authority of Environmental Laws, or that have actually been incurred by third parties.

5. Covered Motor Vehicle

Covered Motor Vehicle means any Motor Vehicle operated by the Insured or by any third party carrier acting on behalf of the Insured.

6. Covered Operations

Covered Operations means those operations stated in the Schedule.

7. Defence Expense

Defence Expense means fees charged by any lawyer designated by the Insurer and all other fees, costs and expenses resulting from the investigation, adjustment, defence and appeal of a Claim if incurred with the Insurer's prior written consent but without any obligation on the Insurer's part to appeal a Claim. Defence Expense shall not include the wages, overtime, or travel of the Insured's employees.

Wherever the Insurer's consent to the Insured incurring an expense or taking a step is required herein, the Insurer's consent must not be unreasonably withheld.

8. Environmental Laws

Environmental Laws means any legislatively or administratively enacted law, rule, regulation or order applicable within the jurisdiction in which Covered Operations are being or have been performed.

9. Insured Contract

Insured Contract means:

a) an obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
b) that part of any other written contract or agreement pertaining to the Insured's business (including an indemnification of a municipality in connection with work performed for a municipality) under which the Insured assumes the tort liability of another party to pay for Bodily Injury, Property Damage or Clean-up Costs to a third party or organisation. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

10. Job Site

Job Site means the location of where the construction, demolition and/or removal of Asbestos takes place including to and from the place where the Transported Cargo is finally delivered by the Insured.

11. Loss

Loss means:

a) monetary awards or settlements of compensatory damages arising out of Personal Injury or Property Damage, and where allowable by law punitive, exemplary, aggravated, liquidated or multiple damages for such Bodily Injury and Property Damage;
b) Clean-up Costs;
c) Defence Expense.

12. Mitigation Expense

Mitigation Expense means:

a) reasonable and necessary costs incurred to mitigate Pollution Conditions constituting an emergency situation whereby in the absence of such mitigation, Bodily Injury or Property Damage to third parties is imminent or
b) Clean-up Costs which are incurred pursuant to Environmental Laws.

13. Pollution Conditions

Pollution Conditions means the emission, discharge, dispersal, migration, release or escape of Pollutants, provided such are not naturally occurring. The entirety of any such emission, discharge, release or escape or any series of interrelated, associated, repeated, or continuous emissions, discharges, releases or escapes shall be deemed to be one Pollution Condition.

14. Responsible Insured

Responsible Insured means:

a) An officer, director or partner of any Insured; or
b) The manager or supervisor of any Insured responsible for environmental affairs, control or compliance.

15. The Insured’s Work

The Insured’s Work means work or operations performed by the Insured, or any entity for whom the Insured is legally liable; and materials, parts or equipment furnished in connection with such work or operations. The Insured’s work includes warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of the Insured’s work; and the providing of or failure to provide warnings or instructions.

16. Transported Cargo

Transported Cargo means Cargo after it is moved from the place where it is accepted by the Insured for movement into or onto a Covered Motor Vehicle, until the Cargo is moved from the Covered Motor Vehicle to the place where it is finally delivered by the Insured. Transported Cargo also includes Cargo during the loading or unloading to or from a Covered Motor Vehicle, provided that the loading or unloading is performed by the Insured. Transported Cargo does not include Cargo at rest for a period longer than 72 hours after it has been accepted by or on behalf of the Insured for movement into or onto a Covered Motor Vehicle but before it reaches the place of final delivery.

7. Exclusions Applicable to Section 3

Without limiting the Exclusions applicable to all Sections of the Policy, this Section 3 does not cover any legal liability arising out of the following:

1. Contractual Liability

Loss arising from the Insured’s assumption of liability in a contract or agreement. This exclusion does not apply to liability for Loss:

a) assumed in a contract or agreement that is an Insured Contract, provided the Bodily Injury, Cleanup Costs or Property Damage occurs subsequent to the execution and before the termination of the contract or agreement; or
b) that the Insured would have in the absence of the contract or agreement.

2. Civil and Criminal Fines and Penalties

Loss arising from civil fines, civil penalties, criminal fines and criminal penalties.

3. Damage to The Insured’s Product and The Insured’s Work

Property Damage to the Insured’s Product or to the Insured’s Work or any part of the Insured’s Product or the Insured’s Work.

This exclusion does not apply to Property Damage which first occurs after the Covered Operations have been completed.

4. Employers’ Liability

Loss arising from Bodily Injury to:

a) An employee of an Insured arising out of and/or in the course of employment by the Insured or while performing duties related to the conduct of the Insured’s business; or
b) Any person whose right to assert a Claim against the Insured arises by reason of any employment, blood, marital or other relationship with the employee.

This exclusion applies whether the Insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the Bodily Injury.

5. Insured vs. Insured

Loss arising from any Claim made by or on behalf of an Insured, including any trustee in bankruptcy, receiver or any other successor-in-interest to the Insured, against any other Insured.

This exclusion shall not apply with respect to:

a) claims against the Insured made by any Insured who is a client for whom the Insured or any entity for which the Insured is legally liable is performing or has performed Covered Operations; or
b) claims that arise out of an indemnification given by one Insured to another Insured in an Insured Contract.

6. Intentional and Illegal Acts

Loss arising from any dishonest, criminal, fraudulent, malicious, intentional or illegal act or omission of any Responsible Insured.

7. Known Circumstances and Non-Disclosure

Loss arising from any Pollution Conditions caused by Covered Operations which occurred prior to the Period of Insurance if any Responsible Insured knew or could have reasonably foreseen that such Pollution Conditions would give rise to a Claim.

8. Mould

Loss directly or indirectly caused by, arising out of or in any way connected with:

a) any actual, alleged or threatened inhalation, discharge, dispersal, seepage, migration, absorption, release, exposure to, or escape of any mould, mildew or fungus in any form from any source, at any time;

b) the prevention of the actual, alleged or threatened inhalation, discharge, dispersal, seepage, migration, absorption, release, exposure to, or escape of any mould, mildew or fungus in any form from any source;

   or

c) any testing, monitoring, clean up, removal, containment, treatment, disposal, detoxifying or neutralizing or in any way responding to or assessing the effects of mould, mildew or fungus in any form from any source, at any time.

9. Non-Compliance

Loss arising from any Responsible Insured's intentional, willful or deliberate non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order or instruction of any governmental agency or body.

10. Owned Property

Loss arising from Property Damage or Clean-up Costs to real or personal property owned, leased, loaned or rented by or to the Insured. However, this exclusion does not apply to:

a) Property Damage or Clean-up Costs to real or personal property of others in the Insured's care, custody or control for the purpose of having Covered Operations performed on such property; or

b) any person or organisation qualifying as a client of the Insured under the definition of Insured.

11. Products Liability

Loss arising from the Insured's Product.

12. Professional Services

Loss arising from the performance of or failure to perform professional services or providing or failing to provide professional advice, whether or not that service or advice is ordinary to the Insured's business, regardless of whether a Claim is made by a client or any other person or organisation.

This exclusion does not apply to improper or inadequate supervision of any entity for which the Insured is legally liable when performing Covered Operations at a Job Site.

13. Property Damage to Cargo

Loss arising from Property Damage to Cargo.

14. Property Damage to Conveyances

Loss arising from Property Damage to any Motor Vehicle resulting from Pollution Conditions caused by Transported Cargo.

15. Radioactive Matter

Loss arising from the actual, alleged or threatened exposure of person or property to any radioactive matter, whether naturally occurring or otherwise.

16. Related or Affiliated Entities

Loss arising from any Insured's involvement in Covered Operations performed by or on behalf of any business enterprise that wholly or partly owns the Insured or which to any extent controls, operates, or manages the Insured, or that is wholly or partly owned by an Insured, or in which an Insured is an officer, partner or employee, or which is to any extent controlled, operated, or managed by the Insured.

17. Transported Materials

Loss arising from any waste or any products or materials transported, shipped, or delivered via Motor Vehicle, aircraft, mobile equipment, watercraft, rolling stock or any other transportation mode, to a location beyond the boundaries of a Job Site at which the Insured or any entity for which the Insured is legally liable is performing or has performed Covered Operations.

18. Vehicles

Loss arising from the ownership, maintenance, use, loading and unloading, operation, or entrustment to others of any Motor Vehicle, aircraft, mobile equipment, watercraft, rolling stock or any other transportation mode. Use includes loading and unloading.

This exclusion does not apply to Loss arising from the ownership, maintenance, use, operation, or entrustment to others of any Motor Vehicle, aircraft, mobile equipment, watercraft, rolling stock or any other transportation mode used in the performance of Covered Operations within the boundaries of a Job Site.

This exclusion also does not apply to Loss caused by Pollution Conditions arising from Transported Cargo which is carried by a Covered Motor Vehicle used in the performance of Covered Operations.

19. Wrongful Delivery

Loss arising from the delivery of any Cargo into a wrong receptacle or to a wrong address; or the erroneous delivery of one Cargo for another.

8. Conditions Applicable to Section 3

The following Conditions apply to Section 3 of this Policy

1. Duties in The Event of Pollution Conditions or Claim

a) The Insured must notify the Insurer in writing as soon as practicable of any Pollution Conditions. To the extent possible, such written notification must include:
   i. How, when and where the Pollution Conditions took place;
   ii. The names and addresses of any injured persons and of any witnesses; and
   iii. The nature and location of any injury or damage arising out of the Pollution Conditions.

   All Pollution Conditions reported to the Insurer in accordance with this provision shall be subject to the Automatic Extended Reporting Period provisions of this Policy.

b) If a Claim is received by any Insured, the Insured must:
   i. immediately record the specifics of the Claim and the date received; and
   ii. ensure that the Insurer receives written notice of the Claim as soon as practicable, but in no event later than the end of this Period of Insurance.

c) The Insured must:
   i. immediately send to the Insurer copies of any demand, notice, summons or legal paper received in connection with the Claim;
   ii. authorise the Insurer in writing to obtain records and other information;
   iii. co-operate with the Insurer in the investigation, settlement or defence of the Claim; and
   iv. assist the Insurer in the enforcement of any right against any person or organisation which may be liable to the Insured because of Bodily Injury, Property Damage, or Clean-up Costs to which this Policy may also apply.

d) Written notice of Pollution Conditions or a Claim must be emailed to claims_support@gbta.com.au with a copy to binders@victorinsurance.com.au

e) The Insured shall have the duty to incur Mitigation Expense and to clean up Pollution Conditions to the extent required by Environmental Laws by retaining competent professionals or contractors mutually acceptable to the Insurer and the Named Insured. The Insurer shall have the right but not the duty to review and approve all such actions. The Named Insured shall notify the Insurer of actions and measures taken pursuant to this paragraph.

2. Duties of The Named Insured

The Named Insured shown in the Policy Schedule shall act for all Insured's for the following purposes:

a) to pay all premiums and Deductibles when due and be the payee for any return premiums which the Insurer pays;
b) to give written notice of any Pollution Conditions or Claim in accordance with this Policy;
c) to give and receive notice of cancellation or non-renewal;
d) to request changes made to this Policy and to receive and accept any endorsements to this Policy; and
e) to report changes in scope or nature of Covered Operations to the Insurer.

3. Legal Action Against The Insurer

No person or organisation has a right under this Policy:

a) to join the Insurer as a party or otherwise bring the Insurer into a Claim asking for damages from an Insured; or
b) to bring an action under this Policy, unless all of the terms of the Policy have been fully complied with.

Any person or organisation may bring an action to recover on an Agreed Settlement or on a final judgment against an Insured obtained after an actual trial in a civil, arbitration or alternative resolution proceeding but the Insurer will not be liable for damages that are not payable under the terms of this Policy or that are in excess of the applicable Limits.

c) That this Policy embodies all agreements existing between the Insured and the Insurer relating to this insurance.

4. Rights of The Insurer in The Event of Pollution Conditions

The Insurer shall have the right but not the duty to clean-up or mitigate Pollution Conditions upon receiving written notice as provided in item 8, Conditions Applicable to Section 3, clause 1 of this Policy. Any sums expended by the Insurer under the preceding paragraph will be deemed incurred or expended by the Insured, shall be subject to the applicable Deductible and shall reduce the Limit of Liability.

5. Transfer of Duties When A Limit of Insurance is Used Up

a) When a Limit has been exhausted in payment of Loss:
   i. the Insurer will notify the Named Insured and any other Insured against whom a Claim is pending in writing as soon as practicable that:
      a. such Limit has been exhausted; and
      b. the Insurer’s defence of Claim subject to that Limit has also ended, regardless of whether such Claim is still pending.

   ii. the Named Insured and any other Insured against whom a Claim is pending will, as soon as practicable, arrange for the transfer of control of the defence from the Insurer of all such Claims against any Insured.

iii. the Insurer will assist and all Insured’s must cooperate in the transfer of control of the defence of all Claims which are subject to that Limit and which are reported to the Insurer before that Limit is exhausted.

iv. the Insurer will take steps which the Insurer deems appropriate to avoid a default in or to continue the defence of such Claims until the transfer is completed, provided the appropriate Insured is co-operating in completing such transfer. The Named Insured and any other Insured against whom a Claim is pending will reimburse the Insurer for any Defence Expense the Insurer incurs (for which Defence Expense each Named Insured and each other Insured against whom a Claim is pending are jointly and severally liable) to take such steps on and after the date on which the applicable Limit is exhausted.

v. the Insurer will take no action whatsoever with respect to any Claim reported to the Insurer after the applicable Limit has been exhausted.

b) The duty to reimburse the Insurer will begin on the date the applicable Limit is exhausted. The exhaustion of any Limit by the payment of Loss will not be affected by the Insurer’s failure to comply with any of the provisions of this condition.

Section 4 – Errors & Omissions (Claims Made)

Where specified in the Schedule, the following additional coverage is included:

1. Insuring Agreement

The Insurer will pay to or on behalf of the Insured all sums which the Insured shall become legally liable to pay as compensation as a result of a Claim or Claim(s) first made against the Insured and reported to the Insurer during the Period of Insurance arising out of any negligence, whether by act, error or omission (which expression shall include any non-deliberate breach of Section 52 of the Trade Practices Act 1994 or mirroring provisions of any State Fair Trading Act or similar statute) committed or alleged to have been committed by or on behalf of the Insured in connection with the Insured's Products or services.

2. Supplementary Payments

The Insurer agrees to pay all legal costs and expenses incurred with the Insurer's prior written consent in connection with any Claim for which indemnity is available under this section provided that such legal costs and expenses are included within the Limit of Liability applicable to this section.

Wherever the Insurer's consent to the Insured incurring an expense or taking a step is required herein, the Insurer's consent must not be unreasonably withheld.

3. Conditions Applicable to Section 4

a) The Insured shall, as a condition precedent to their right to be indemnified under this Section, give to the Insurers as soon as practicable notice in writing during the Period of Insurance:
   i. of any Claim(s) made against them;
   ii. of the receipt of notice from any person of an intention to make a Claim against them.

b) The Insured shall give to the Insurers as soon as practicable notice in writing during the Period of Insurance of any circumstance of which they shall become aware during the Period of Insurance likely to give rise to a Claim against them.

   If, during the Period of Insurance, the Insured shall become aware of any circumstance which might subsequently give rise to a Claim under this Section and elect, during the Period of Insurance, to give written notice to the Insurers of such circumstances, than any such Claim which might subsequently arise out of such circumstances will be deemed to have been made during the Period of Insurance.

4. Exclusions Applicable to Section 4

Without limiting the Exclusions applicable to all Sections of the Policy, this Section 4 does not cover any legal liability arising out of the following:

a) arising out of any negligence, whether by acts, errors or omissions which occurred or allegedly occurred prior to the Retroactive Date.
b) arising out of any facts or circumstances which the Insured was aware of prior to the commencement of the Period of Insurance or which a reasonable person in the Insured's position would have considered may give rise to a Claim.
c) arising out of or attributable to any failure or omission on the part of the Insured to effect or maintain insurance.
d) which is more specifically insured against in any other section of this Policy.
e) arising out of the repair, reconditioning, replacement, making good or recall of any product or faulty or inadequate workmanship performed by or on behalf of the Insured.
f) assumed under contract or agreement unless such liability would have attached in the absence of such contract or agreement.
g) arising from an Occurrence which is inevitable having regard to:
    i. the circumstances and nature of the work undertaken, or
    ii. the Insured's Products or services supplied.
h) arising from or in connection with advice, design, consultancy, specification, formulae or supervision given or undertaken by the Insured:
    i. not in relation to the Insured's Products or services, or
    ii. for a fee.
i) arising out of conspiracy, conversion, deceit, inducement, breach of contract or injurious falsehood.
j) for punitive, exemplary, aggravated, multiple or liquidated damages, fines or penalties.
k) arising in the United States of America and/or Canada or in respect of any Claims which would be subject to the jurisdiction of the Courts of the United States of America and/or Canada.
l) incurred by or caused by a Director or Officer of the Insured whilst acting within the scope of their duties in such capacity.
m) any Claim by Controlling Interest / Associated Companies
    i. any parent or subsidiary company of the Insured or any company having the same parent company as the Insured, or
    ii. any other company in which the Insured has a majority shareholding in excess of 50%, or
    iii. any other company in common ownership with the Insured unless such Claim emanates from an independent third party.
n) the Insolvency, bankruptcy or liquidation of the Insured.

Nothing contained in this agreement shall in any way serve to increase the Limit of Liability stated in the Schedule.

Section 5 – Statutory Liability (Claims Made)

Where specified in the Schedule, the following additional coverage is included:

1. Insuring Agreement

The Insurer will pay to or on behalf of the Insured any Loss arising from any Claim in respect of a Wrongful Breach that occurs after the Retroactive Date.

2. Limit of Liability

The Insurer's liability under this section in respect of all Losses arising out of all Claims covered by this Section shall not exceed the Limit of Liability specified in Section 5 of the Policy Schedule any one Claim and in the aggregate during the Period of Insurance.

All Losses arising out of any one Wrongful Breach or interrelated Wrongful Breaches are deemed to be one Loss.

The Deductible is the first amount of each and every Claim, which is to be borne by the Insured.

3. Supplementary Payments

The Insurer agrees to pay all legal costs and expenses, excluding wages, salaries or other remuneration of the Insured, incurred with the Insurer's prior written consent in connection with any Claim for which indemnity is available under this Section, provided that such legal costs and expenses are included within the Limit of Indemnity specified in Section 5 of the Schedule.

Provided that the Insurer shall not be obliged to provide such consent unless the Insurer is satisfied that the Insured has Reasonable Grounds for Defence.

Provided that the Insurer shall not be liable for legal costs and/or expenses where indemnity is not provided by this section.

4. Definitions Applicable to Section 5

The following definitions apply to Section 5 of the Policy

1. Act

Act means any Act of the Parliament of Australia and any Act of the Parliaments of the States or Territories of Australia, including any subordinate or delegated legislation made under those Acts; and any amendment, consolidation or re-enactment of any of the above Acts or legislation.

2. Consumer Protection Act

Consumer Protection Act means any of the following:

a) Fair Trading Act 1985 (VIC)
b) Fair Trading Act 1987 (NSW)

c) Fair Trading Act 1987 (SA)
d) Fair Trading Act 1987 (WA)
e) Fair Trading Act 1989 (QLD)
f) Fair Trading Act 1990 (TAS)
g) Fair Trading Act 1992 (ACT)
h) Consumer Affairs and Fair Trading Act 1996 (NT) Trade Practices Act 1974 (Cth)

And any amendment, consolidation or re-enactment of any of those Acts.

3. Employee

Employee means any person employed by the organisation described in the Schedule

4. Insured

Insured means:

a) the organisation named as the Insured in the Schedule, including any Officer, Employee or work experience student whilst acting in the performance of their duties or employment;
b) any subsidiary company of the Insured named in the Schedule which is:
   i. incorporated within Australia including subsidiaries;
   ii. controlled by the Insured and over which the Insured assumes active management;
c) outside Directorship held by an Officer;

   Provided that:
   i. coverage shall not be extended to the outside organisation in which such Outside Directorship is held, or to any other director, executive officer, company secretary or employee of such organisation; and
   ii. coverage shall not apply to any part of any Loss covered by any indemnity given by such outside organisation or any contract of insurance taken out by or on behalf of that outside organisation or its directors, executive officers, company secretary or employees.

5. Loss

Loss means any Penalty and Defence Costs.

6. Officer

Officer means any past, present or future director, executive officer (as defined by the Corporations Act) or company secretary of the Insured.

7. Outside Directorship

Outside Directorship means an executive position held by an Officer of the Insured in connection with the Business at the specific request of the Insured in any corporation, joint venture, partnership, trust or other enterprise which is not included in the Definition of the Insured. In this definition, a reference to Insured shall mean the Insured as defined in Definition 4 a) & b) in Section 5.

8. Penalty

Penalty means any monetary sum payable by the Insured to any Regulatory Authority pursuant to any Act for a Wrongful Breach by the Insured but excluding:

a) any amounts payable as compensation;
b) any compliance, remedial, reparation or restitution costs;
c) any damages, including any exemplary or punitive damages;
d) any consequential economic loss;
e) any legal costs and associated expenses.

Notwithstanding clause 8 e), the Insurer will pay any reasonable legal costs and associated expenses payable by the Insured to any Regulatory Authority upon the imposition of a Penalty covered by this Policy. Provided that where the proceedings that lead to the imposition of the Penalty also include proceedings in respect of any of the matters set out in sub-clauses 8 a) to 8 d), the Insurer will not be liable for that proportion of the legal costs and associated expenses that may be reasonably attributed to the proceedings in respect of those matters set out in sub-clauses 8 a) to 8 d).

9. Reasonable Grounds for Defence

Reasonable Grounds for Defence means:

a) the Insured has reasonable prospects of success in avoiding the quantum of any Penalty alleged in the Claim; or
b) the Insured has reasonable prospects of success in reducing the quantum of any Penalty alleged in the Claim,

and that having regard to the likely legal costs incurred in defending the Claim it is reasonable for the Claim to be defended. Provided that in either scenario 9 a) or 9 b) above the Claim is not capable of being avoided or mitigated by a settlement into which a reasonable person in the position of the Insured, properly advised, would enter.

In the event that an agreement on reasonable prospects for success cannot be reached between the Insurer and the Insured, a Senior Counsel (to be mutually agreed upon by the Insurer and the Insured) shall, as an expert and not an arbitrator, make such determination. Until the Senior Counsel has made a determination the Insurer may, in its absolute discretion, pay such legal costs and/or expenses or any other amount insured under this Policy as it considers appropriate.

In the event that agreement on the appointment of a Senior Counsel cannot be reached, such Senior Counsel shall be appointed by the then President of the Law Society or the Law Institute in the relevant State or Territory.

10. Regulatory Authority

Regulatory Authority means 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, including a person or entity authorized to collect monies payable to the Consolidated Revenue Fund, Consolidated Fund or any other such fund.

11. Wrongful Breach

Wrongful Breach means any act, error or omission which occurs in connection with the Business, within the Territorial Limits and after the Retroactive Date, whereby:

a) the Insured contravenes an Act or is involved in the contravention of an Act;
b) the Insured commits an offence pursuant to an Act; or
c) such conduct is prohibited under an Act or is the subject of the imposition of a Penalty under an Act.

5. Exclusions Applicable to Section 5

Without limiting the Exclusions applicable to all Sections of the Policy, this Section 5 does not provide indemnity in respect of any Claim,

1. based upon, attributable to or in consequence of:

   a) any willful, intentional or deliberate Wrongful Breach;
   b) a willful, intentional or deliberate failure to comply with any lawful notice, direction, enforcement action or proceeding under any Act;
   c) any Wrongful Breach caused by gross negligence or recklessness by the Insured;
   d) a dishonest, fraudulent or malicious act or omission of the Insured, provided that cover is provided to any Insured who is innocent of and has no prior knowledge of such conduct. Such Insured shall as soon as practicable after becoming aware of such conduct, advise the Insurer in writing of all relevant facts.
   e) the Insured gaining any personal profit or advantage or receiving any remuneration to which he/ she was not legally entitled;
   f) any Wrongful Breach in connection with any strike, lockout, picket line, stand down or industrial dispute. This exclusion does not apply to Officers and Employees for Claims arising in the proper performance of their duties as Officers and Employees;
   g) a Wrongful Breach of any Consumer Protection Act. This exclusion does not apply to Officers and Employees for Claims arising in the proper performance of their duties as Officers and Employees;
   h) any Wrongful Breach pursuant to Sections 182, 183, 601FE or 601JD of the Corporations Act; and any amendment, consolidation or re-enactment of any of those Sections;
   i) a Wrongful Breach in connection with a requirement to pay taxes, rates, duties, levies, charges, fees or any other revenue or impost;
   j) a Wrongful Breach relating to the regulation of vehicular, air or marine traffic;

2. made, threatened or in any way intimated against the Insured prior to the Period of Insurance;

3. arising from any matter disclosed to any insurer, including the Insurer, prior to the Period of Insurance as either a Claim or fact which may give rise to a Claim against the Insured;

4. arising from any facts of which the Insured was aware prior to the commencement of the Period of Insurance and which the Insured knew, or ought reasonably to have known, to be facts which may give rise to a Claim;

5. arising from any Wrongful Breach where the Insured knew, or ought reasonably to have known, prior to the Period of Insurance that there had been such a Wrongful Breach;

6. for any Loss or part of any Loss which is attributable to the period after the Insured knew, or ought reasonably to have known, that its conduct was a Wrongful Breach;

7. deliberately or intentionally solicited by the Insured. This exclusion does not apply to Officers and Employees where such Claims arise in the discharge of their duties as Officers and Employees;

8. any Defence Costs incurred or paid before the consent of the Insurer has been given in accordance with the provisions of this Policy;

9. for any Loss or part of any Loss arising from or which is attributable to the Insured's participation in any joint venture. Provided that this exclusion shall not apply to Outside Directorship as defined in Definition 7 – Section 5 – Statutory Liability (Claims Made).

10. for any Penalty:

    a) imposed pursuant to any law of any country, state or territory outside the Territorial Limits;
    b) imposed within the Territorial Limits but arising out of any act or omission occurring outside the Territorial Limits, and any Defence Costs associated with such Penalty.

11. the Insurer shall not be liable to pay the amount of the Deductible in respect of each loss.

12. Without limiting the Exclusions applicable to all Sections of the Policy, Section 5 does not provide indemnity in respect of any Claim, for any Penalty; the insurance of which is prohibited by law.

6. Continuous Cover

If the Insured was aware of any facts that might give rise to a Claim prior to the commencement date of the Period of Insurance and had not notified the Insurer of such facts prior to the commencement date of the Period of Insurance, then Exclusion 5.4 will not apply to the notification of a Claim resulting from such facts, provided that:

a) the failure to notify such facts was not a fraudulent misrepresentation or fraudulent non-disclosure by the Insured; and
b) the Insured has been insured continuously under a Statutory Liability Policy with any insurer and was so insured by such insurer at the time the Insured first became aware of such facts; but
c) indemnity will be considered under the terms and conditions of the Policy (including limits of liability and deductibles) in force when the Insured first became aware of such facts
d) the Insurer will reduce its liability to the extent of any prejudice suffered as a result of the Insured's failure to notify such facts giving rise to a Claim prior to the commencement date of the Period of Insurance.

7. Conditions Applicable to Section 5

The following Conditions apply to Section 5 of this Policy.

a) In the event of a Claim, the Insured must give immediate notice in writing to the Insurer of such Claim and such information as the Insurer may require to reasonably investigate the Claim and to enable the Insurer to determine its liability under this section of the Policy.
b) The Insured must take all reasonable care and do and concur to do all things reasonably practicable to avoid or prevent a Wrongful Breach, or diminish a Loss.
c) The Insured shall not make any admission, offer, promise or payment in respect of any Claim, or agree to pay any Penalty or consent to any order directing the Insured to pay any Penalty without the prior written consent of the Insurer.
The Insurer shall not be liable for any such Penalty incurred without its consent, and such consent will not be unreasonably withheld by the Insurer.
d) The Insurer shall be entitled, but not obligated, to take over the conduct in the name of the Insured the investigation, defence (including appeal and resisting appeal) and settlement of any Claim. Any amount incurred by the Insurer shall be deemed part of Defence Costs.
e) If the Insurer grants indemnity under this Section of the Policy in respect of any Claim, then the Insurer shall be subrogated to all the Insured's rights of recovery in respect of such Claim whether or not payment has in fact been made and whether or not the Insured has been compensated in full for their loss. Each Insured must, at its own cost, provide all reasonable assistance to the Insurer (including, but not limited to giving information, signing documents and giving evidence) to help enforce those rights. The Insured must not do anything that may prejudice the Insurer's position or its potential or actual rights of recovery against any party. Any amounts recovered by the Insurer shall be allocated in the following order – recovery costs, uninsured loss, Limit of Indemnity and Deductible.
f) Where the Insurer recommends to the Insured to pay any Penalty, consent to any directing the Insured to pay any Penalty or otherwise settle or resolve any Claim, and the Insured does not agree to do so, then the Insurer is entitled to reduce its liability to the Insured to the extent of any prejudice suffered by the Insurer by reason of the Insured's failure to so agree.

g) The Insured shall comply with any lawful notice or direction received from, or any enforcement action taken by any appropriate Regulatory Authority under any Act within the time specified or, if no time is specified, within a reasonable time.

h) Where the Insured comprises more than one person or company, it is agreed that the named Insured referred to in the Schedule shall be the agent of each of the other Insured persons or companies for the purposes of receiving any notice of cancellation pursuant to this Clause h) or any other notice, statement, document or information relating to this section of the Policy. Where the Insured has an insurance broker, nothing in this paragraph shall restrict the Insurer's right to notify the broker as agent of the Insured.

i) Except to the extent that the Insured is compelled by law to do so, the Insured shall not release to any third party or otherwise publish details of :
   i. the nature of the liabilities insured by this Section of the Policy;
   ii. the extent of cover provided by this Section of the Policy; or
   iii. the amount of the premium specified in Section 5 of the Schedule, without the written consent of the Insurer.

j) Where this section of the Policy provides any indemnity to the Insured which is prohibited by law, this Section of the Policy shall be varied by operation of this Clause j) so that this Section of the Policy does not respond to the extent that the indemnity is prohibited by law.

k) To the extent of any inconsistency, the provisions of this Section prevail over those of the Policy. Nothing contained in this Section shall in any way serve to increase the Limit of Liability stated in the Schedule. Other than as amended above, the terms of this Policy shall continue to apply.

Definitions Applicable to All Sections

The following definitions are applicable to all Sections of the Policy. Where a definition is specified in a section of this policy then the relevant Section definition will override the following definitions.

1. Advertising Liability

Advertising Liability means:

a) the publication or utterance of a defamation;
b) any infringement of patent, copyright, design, title or slogan;
c) any infringement of trademark, service mark or trade name in a title or slogan but only where used on or in connection with goods or services sold, offered for sale or advertised;
d) piracy or unfair competition or idea misappropriation under an implied contract;
e) any invasion of right of privacy; committed or alleged to have been committed and arising out of the Insured's advertising activities.

2. Aircraft

Aircraft means any vehicle or thing designed to transport persons or property through the air, atmosphere or space.

3. Airside

Airside is defined as that part of an airport provided for take-off and landing of an aircraft, or the movement of an aircraft on the surface, aircraft parking aprons, including associated surface roads and ground equipment parking areas.

4. Asbestos

a) That group of natural fibrous silicate minerals that comprises Actinolite, Amosite, Anthophyllite, Chrysotile, Crocidolite and Tremolite; or
b) That group of man made mineral fibres that comprises mineral wool, rockwool, glass fibre, ceramic fibres and superfine fibres, and includes Asbestos Products and Products containing Asbestos.

5. Claim or Claims

Claim or Claims means:

a) any writ, statement of claim, summons, application or other originating legal or arbitral process, cross claim, counter-claim or third or similar party notice issued against or served on the Insured.

b) any written claim or allegation against the Insured which may result in Injury and/or Damage.

6. Communicable Disease

Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

a) the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
b) the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
c) the disease, substance or agent can cause or threaten bodily injury, illness, emotional distress, damage to human health, human welfare or property damage.

7. Computer System

Computer System means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the Insured or any other party.

8. Cyber Act

Cyber Act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

9. Cyber Incident

Cyber Incident means:

a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or
b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

10. Data

Data means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

11. Deductible

Deductible means the amount which is payable by the Insured (excluding legal, adjusters and other claim costs) as specified in the Schedule.

12. Hovercraft

Hovercraft means any vessel, craft or thing made or intended to transport persons or property over land or water supported on a cushion of air.

13. Insured

Insured wherever used in this Policy means:

a) the Insured named in the Schedule and includes:
   i. all subsidiary companies incorporated within Australia named in the Schedule, excluding associated companies, except any such company that is specifically included in the title of the Insured as stated in the Schedule, corporate as defined in the Corporations Act 2001 (including those acquired or incorporated during the Period of Insurance);
   ii. any other entity under the control of the named Insured within Australia (or subsidiary or related body corporate), excluding associated companies and over which it is assuming active management which are not stated in the Schedule as an Insured.
   iii. any director, executive officer or employee or partner of the Insured but only whilst acting within the scope of their duties in such capacity;
   iv. any principal in respect of that principal's vicarious liability for the negligent acts or omissions of the Insured pursuant to Definition 13 and arising out of the Insured's Business, but this insurance does not extend to the liability of any principal howsoever arising out of the negligence, breach of contract or breach of duty of such principal;
   v. any officer, member, employee or voluntary helper of the Insured's canteen, social and sporting clubs, child care facilities, welfare organisations, first aid, fire fighting or ambulance services in respect of claims arising from duties connected thereto;
   vi. any partner, director or senior executive of the Insured in respect of private work undertaken by the Insured's employees for such partner, director or senior executive;
   vii. any joint venture or partnership in which the Insured is engaged in or is a party to but only to the extent of the Insured's liability in respect of such joint venture or partnership;
   viii. any voluntary worker and/or person on work experience but only whilst acting within the scope of their duties in such capacity for the Insured;
   ix. any person or organisation with respect to Personal Injury or Property Damage or Advertising Liability arising out of the Insured's Product which are distributed or sold in the regular course of their business as vendor;
   x. any person or firm arising out of the performance of a contract with the Insured constituting the provision of labour only.

xi. the legal personal representative of any person entitled to indemnity under this Definition 13 in circumstances giving rise to indemnity under this insurance.

14. Insured's Business

As specified in the Schedule

15. Insured's Product

Insured's Product means anything (after it has ceased to be in the possession or under the control of the Insured) which is manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, altered, serviced, repaired, treated, sold, handled, supplied or distributed by the Insured or by others trading under the name of the Insured.

Insured's Product includes:

a) any packaging or containers thereof;
b) its design, formula or specifications and directions, instructions or advice given or omitted to be given in connection with such thing;
c) any other thing the Insured is deemed to have manufactured in the course of the Business including any discontinued product.

The Insured's Product shall not include a vending machine or any other property rented to or located for use of others but not sold.

16. Insurer

Certain Underwriters at Lloyd's, led by Brit Global Specialty, Syndicate No. BRIT 2987.

17. Limit of Liability

Limit of Liability means the applicable Limit of Liability specified in the relevant sections of the Schedule.

18. Medical Persons

Medical Persons means medical practitioners, medical nurses, dentists and first aid attendants.

19. Multiple Damages

Multiple Damages shall mean additional damages resulting from the multiplication of compensatory damages against an Insured, such additional damages being awarded as a result of the Insured and/or their legal advisers having engaged in unnecessary delaying tactics or having hindered the due process of the court in some other manner.

20. Occurrence

Occurrence means an event, including continuous or repeated exposure to substantially the same general conditions which results in Personal Injury and/or Property Damage or Advertising Liability neither expected nor intended from the standpoint of the Insured.

All events of a series consequent on or attributable to one source or original cause will be deemed one Occurrence. With regards to Advertising Liability, all liability arising out of the same injurious material or act regardless of the number or kind of media used, the frequency or repetition thereof and number of claimants shall be deemed to be one Occurrence.

21. Personal Injury

Personal Injury means:

a) bodily injury, death, sickness, disease, disability, shock, fright, mental anguish and mental injury including loss of services, loss of consortium and/or loss of dependency resulting therefrom;
b) false arrest, false imprisonment, wrongful eviction, wrongful entry, wrongful detention, malicious prosecution or humiliation, trespass or nuisance;
c) assault and battery not committed by or at the direction of the Insured unless committed for the purpose of preventing Personal Injury or Property Damage or eliminating danger to persons or property;
d) publication or utterance of a defamation or invasion of the right of privacy;

22. Period of Insurance

Period of Insurance is the period shown in the Schedule.

23. Products Liability

Products Liability means Personal Injury or Property Damage arising out of the Insured's Product or reliance upon a representation or warranty made at any time with respect thereto, but only where the Personal Injury or Property Damage occurs away from premises owned or controlled by or leased or rented to the Insured and after physical possession of such Insured's Product has been relinquished to others.

24. Property Damage

Property Damage means:

a) loss of, physical injury to or destruction of tangible property including the loss of use thereof at any time resulting therefrom. All such loss of use shall be deemed to happen at the time of the physical damage that caused it.
b) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by physical damage or destruction of other tangible property which first happened during the Period of Insurance. All such loss of use shall be deemed to first happen at the time of the physical damage that caused it.

25. Silica

Silica means any solid, liquid or gaseous material consisting of or containing Silica, Silica fibres, particles or dust.

26. Territorial Limits

Australia and New Zealand unless stated otherwise in the Schedule.

27. Vehicle

Vehicle means any type of machine on wheels or on caterpillar tracks made or intended to be propelled other than by manual or animal power.

28. Watercraft

Watercraft means any vessel, craft or thing made or intended to float on or in or travel on or through water.

29. Worker

Worker means any person engaged under a contract of service or apprenticeship with the Insured, but does not include a person employed under such contract who is excluded from the definition of Worker under any Workers' Compensation Law.

30. Workers' Compensation Law

Workers' Compensation Law means any law relating to compensation for Personal Injury to a Worker.

Exclusions Applicable to All Sections

The following exclusions are applicable to all Sections of the Policy. Where an exclusion is specified in a Section of this Policy then the relevant Section exclusion will override the following exclusions.

1. Airside

Any legal liability arising from any business conducted by any Insureds under this policy whilst performed airside.

2. Claims Made Within the USA & Canada

a) Claims made and actions instituted within the United States of America or Canada and their respective territories and protectorates, and any other territory coming within the jurisdiction of the courts of the United States of America or Canada; or

b) Claims and actions to which the laws of the United States of America or Canada and their respective territories and protectorates apply.

3. Communicable Disease

Notwithstanding any provision to the contrary within this policy, this policy does not cover all actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.

For the purposes of this endorsement, loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test for a Communicable Disease.

4. Cyber and Data Limited (Other than Bodily Injury or Property Damage arising out of a Cyber Incident)

a) Notwithstanding any provision to the contrary within this Policy or any endorsement thereto this Policy does not apply to any loss, damage, liability, claim, fines, penalties, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:

   i. Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident; or

ii. loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any Data, including any amount pertaining to the value of such Data;

regardless of any other cause or event contributing concurrently or in any other sequence thereto, unless subject to the provisions of paragraph e).

b) In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

c) This endorsement supersedes any other wording in the Policy or any endorsement thereto having a bearing on a Cyber Act, Cyber Incident or Data, and, if in conflict with such wording, replaces it.

d) If the Underwriters allege that by reason of this endorsement loss sustained by the Insured is not covered by this Policy, the burden of proving the contrary shall be upon the Insured.

e) However, clause 4 a) i. of this Exclusion shall not apply in respect of any actual or alleged liability for and/or arising out of:

i. any ensuing third party bodily injury (other than mental injury, mental anguish or mental disease); or
ii. any ensuing physical damage to or destruction of third party property

resulting from or arising out of a Cyber Incident, unless that Cyber Incident is caused by, contributed to by, resulting from, arising out of or in connection with a Cyber Act. Nothing contained in the foregoing shall provide any coverage for any action taken in controlling, preventing, suppressing or remediating a Cyber Incident or a Cyber Act.

5. Deductible

The Deductible amount shown in the Schedule.

6. Fraudulent, Dishonest, Malicious, Willful or Criminal Acts

Any alleged or actual fraudulent, dishonest, malicious, willful or criminal act or omission of the Insured, or any person covered by Definition 13 herein.

7. Perfluorinated Compounds, Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Exclusion

a) This Policy does not cover any claim for actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with any PFAS, such as any perfluoroalkyl or polyfluoroalkyl substances for example.

b) For the purposes of this Exclusion, loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor, contain, test for or in any way respond to or assess the effect of any PFAS, such as any perfluoroalkyl or polyfluoroalkyl substances for example.

c) If Underwriters allege that this Exclusion applies to any claim under this Policy the burden of proving the contrary shall be upon the Insured.

d) PFAS means any organic molecule, salt, free radical or ion, the composition of which includes at least one:
   i. perfluorinated methyl group (-CF3); or
   ii. perfluorinated methylene group (-CF2-).

8. Pollution

Personal Injury or Property Damage caused by the discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water.

Provided however that:

a) this Exclusion 8 does not apply if such discharge, dispersal, release or escape arises out of a sudden, unexpected and unintended happening which takes place at a specific time and place and occurs outside of the United States of America or Canada;
b) expenses for the prevention of such contamination or pollution shall also form part of this Exclusion and shall not be recoverable under this Policy.
c) testing, monitoring, clean up, removal, containment, treatment, detoxifying or neutralising of Pollutants or their effect: or
d) the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants caused by any Product that has been discarded, dumped, abandoned or thrown away by others.

The total aggregate liability of the Insurers for all claims covered in any one Period of Insurance in respect of the proviso in Exclusion 7 shall not exceed the Limit of Indemnity shown in the Schedule.

9. Radioactive Contamination

This Policy does not cover

a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss

b) any legal liability of whatsoever nature

directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

10. Sanction Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

11. Terrorism

Personal Injury or Property Damage directly or indirectly caused by, resulting from or in connection with any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to such Personal Injury or Property Damage.

For the purpose of this Exclusion Act of Terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This Policy also excludes Personal Injury or Property Damage directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

12. War and Civil War

War and military action which includes without limitation the following:

a) war, including undeclared or civil war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), military or usurped power or confiscation, nationalisation, requisition, destruction of or damage to property by or under the order of any government or public or local authority;
b) warlike action by military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
c) insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

Conditions Applicable to All Sections of This Policy

1. Acquisitions of Properties or Companies

Notwithstanding anything contained herein to the contrary the indemnity granted by this Policy extends to properties, assets, companies, firms or other bodies formed or acquired by the Insured or of which the Insured assumes management responsibility and which undertakes activities consistent with the description of the Insured's Business stated in the Schedule. The Insured shall disclose to the Insurer within 30 days of any new acquisition which represents more than 5% of current group turnover in which event, the Insurer shall be entitled to reasonable additional premium for such acquisition.

Provided that no indemnity shall be granted in respect of claims for Personal Injury and/or Property Damage and/or Advertising Liability:

a) which happened prior to the date of such acquisition, formation or assumption of management responsibility; or
b) where indemnity is provided by any existing insurance until expiry or cessation of such existing insurance.

2. Assignment

The Insured's rights and duties under this Policy may not be assigned without the Insurer's written consent except in the case of death of an individual Named Insured.

If the Insured dies, the Insured's rights and duties will be assigned to the Insured's legal representative but only while acting within the scope of duties as the Insured's legal representative. Until the Insured's legal representative is appointed, anyone having proper temporary custody of the Insured's property will have the Insured's rights and duties but only with respect to that property.

3. Bankruptcy

Bankruptcy or insolvency of the Insured or of the Insured's estate will not relieve the Insurer of its obligations under this Policy.

4. Burning and Welding

It is a condition precedent to liability under this Policy that the Insured shall take all steps to ensure the following precautions are complied with on each occasion where the Insured is using any process which involves the application of heat away from the Insured's own premises.

a) the immediate area in which the operation is to be carried out must be segregated to the greatest practicable extent by the use of screens made of metal and/or fire retardant materials,

b) the whole of this segregated area must be adequately cleaned and freed from combustible material before operations commence,

c) combustible floors/substances in or surrounding this segregated area must be liberally covered with sand or protected by overlapping sheets of incombustible material,

d) where work is being carried out in any enclosed area an additional Employee of the Insured or an employee of the occupier or of the main contractor shall be present at all times to guard against the outbreak of fire,

e) no work should be carried out unless specifically authorized and signed for by the occupier or the main contractor who should also be asked to approve the safety arrangements,

f) the following must be kept in readiness for immediate use near the scene of operations

   i. suitable fire extinguishers

   ii. hoses connected up in readiness for immediate use and tested prior to the commencement of the work,

g) a thorough examination must be made in the vicinity of the work approximately one hour after the termination of each operation. In the event that it is not practicable for such examination to be carried out by the Insured’s own Employee than appropriate arrangements must be made with the occupier,

h) before burning off metal work built into or projecting through walls or partitions an examination must be made including the area on the other side of any walls or partitions to ensure that no combustible material is in danger of ignition either directly or by conducted heat.

   Furthermore where the Insured burns debris away from his premises the following precautions shall be taken on each occasion

   i. fires to be in a cleared area and at a distance of at least ten meters from any Property

   ii. fires not to be left unattended at any time

   iii. a suitable fire extinguisher to be kept available for immediate use

   iv. fires to be extinguished at least one hour prior to leaving site at the end of each working day

5. Cancellation

The Insured may cancel this Policy at any time by providing written notice to the Insurer. The Insurer may only cancel the Policy in accordance with the applicable provisions of the Insurance Contracts Act 1984 (Cth) and, in such cases, will provide a pro-rata refund of the Premium for the unexpired portion of the Period of Insurance.

If the Insured has notified the Insurer of any Claim, act, error, omission, event, fact, or circumstance that could give rise to a liability under this Policy, the Premium will be considered fully earned as of the cancellation date, and no refund will be issued.

6. Claims

Written notice of demands or claims must be emailed to claims_support@gbtpa.com.au with a copy to binders@victorinsurance.com.au

7. Deductible

The amount shown within the Schedule as a Deductible is the first amount for all claims arising out of any one Occurrence which is to be borne by the Insured or any person covered by Section 1, Clause 4 – Indemnity to Others herein.

8. Headings

Headings have been included for ease of reference and it is understood and agreed that the terms and Conditions of this Policy are not to be interpreted by reference to such headings.

9. Inspection and Audit

The Insurer shall be permitted, but not obligated, to inspect the Insured's property and operations with reasonable notice. Neither the Insurer's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the Insured or others to determine or warrant that such property or operations are safe or are in compliance with any law, rule or regulation.

The Insurer may examine and audit the Insured's books and records at any time during the Period of Insurance and extensions thereof and within three years after the final termination of this Policy, as far as they relate to the subject matter of this insurance.

10. Insured's Duties

a) In the event of an Occurrence the Insured shall promptly take at its own expense all reasonable steps to prevent or minimise Personal Injury or Property Damage or Advertising Liability arising or continuing to arise out of the Occurrence.
b) The Insured shall give notice in writing to the Insurer as soon as reasonably practicable of every Occurrence likely to give rise to a claim under this Policy and shall forward to the Insurer all information relevant to such Occurrence that the Insurer may reasonably require, in particular every demand, writ, summons, proceeding, impending prosecution or inquest.
c) The Insured shall not without the Insurer's consent, make any admission, offer, promise or payment in connection with any Occurrence.
d) The Insured shall use its best endeavours to preserve all property, any Insured's Product, appliance, plant and all other things which may assist in the investigation or defence of a claim or in the exercise of rights of subrogation and so far as may be reasonably practicable no alteration or repair shall be effected without the consent of the Insurer until the Insurer shall have had the opportunity of inspection.
e) The Insured will co-operate with the Insurer and comply with the terms and Conditions of this Policy, and assist as necessary in enforcing any right to contribution or indemnity from any person, corporation or organisation.

f) The Insured must exercise reasonable care that only competent Workers and/or employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition.

g) The Insured must take reasonable precautions to:

   i. prevent Injury and Damage;
   ii. prevent the manufacture, sale or supply of defective Products;
   iii. comply and ensure that its Workers, servants and agents comply with all statutory obligations, bylaws or regulations imposed by a public authority for the safety of persons or property.

The amount of any benefit under this insurance caused or contributed to by the lack of such precautions, measures and compliances shall be reduced by the amount that fairly represents the extent to which the Insurers interests have been prejudiced thereby.

11. Insurer's Right to Discharge Total Liability

The Insurer's may at any time discharge its total liability to the Insured in respect of any one claim or series of claims arising from one Occurrence by paying to or on behalf of the Insured:

a) The total amount in respect of such claim to which the Insured is entitled to indemnity under this insurance;
b) The total amount sought by the claimant for such claim; or
c) The total amount for which such claim can be settled.

and in addition to such payment the Insurers will pay defence costs incurred up to the date of payment as provided for by Clause 3 herein.

Upon such payment, the Insurers shall relinquish conduct or control of such claim and be under no further liability under this insurance in connection with such claim including but not limited to Supplementary Payments.

12. Policy Interpretations

Where words other than the Insured or the Insurer have been used in this Policy to represent those legal entities, it is agreed that for the purposes of this Policy and any subsequent Endorsements, the words the Insured and the Insurer are deemed to have the same meaning as those alternative words used in this Policy.

It is further agreed that

a) words importing persons shall include corporations and other legal entities
b) references in the singular shall be deemed to include the plural and vice versa
c) words depicting any gender include reference to all other genders
d) references to money shall be expressed as Australian dollars, unless otherwise stated.

This wording and any endorsements attached to this contract of insurance shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this contract or insurance or the Schedule shall bear such specific meaning wherever it may appear.

13. Premium

Unless otherwise stated the premium for this Policy or any renewal or replacement thereof is a flat premium and is not subject to adjustment except as provided in Condition 1 – Acquisitions of Properties or Companies and Condition 5 – Cancellation.

However, where the premium is stated to be adjustable, the Insured shall within a reasonable period after the expiry of each annual Period of Insurance furnish such information as the Insurer may require to adjust the premium, and any difference in premium shall be paid by or allowed to the Insured as the case may be.

Where the premium is provisionally based on the Insured's estimates, the Insured shall keep accurate records and after expiry of the Period of Insurance declare as soon as possible such details as the Insurers require and the premium shall be adjusted and any difference paid by or allowed to the Insured as the case may be subject to any minimum premium that may apply.

14. Premium Payment

Notwithstanding any provision to the contrary within this Policy or any endorsement hereto, in respect of non-payment of premium only the following clause will apply.

The Insured undertakes that premium will be paid in full to Insurer within 30 days of inception of this Policy (or, in respect of instalment premiums, when due).

If the premium due under this Policy has not been so paid to Insurer by the 30th day from the inception of this Policy (and, in respect of instalment premiums, by the date they are due) Insurers shall have the right to cancel this Policy by notifying the Insured via the broker in writing. In the event of cancellation, premium is due to Insurers on a pro rata basis for the period that Insurers are on risk but the full Policy premium shall be payable to Insurer in the event of a loss or occurrence prior to the date of termination which gives rise to a valid claim under this Policy.

It is agreed that Insurers shall give not less than 14 days prior notice of cancellation to the Insured via the broker. If premium due is paid in full to Insurers before the notice period expires, notice of cancellation shall automatically be revoked. If not, the Policy shall automatically terminate at the end of the notice period.

If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

15. Proper Law

This Policy shall be interpreted in accordance with the laws of Australia and the States or Territories thereof. All disputes arising out of or under this Policy will be subject to determination by any court of competent jurisdiction within Australia.

16. Severability and Cross Liability

This Policy, including any amendment, renewal or variation or Endorsement to or of it, shall be construed as if each person or entity entitled to claim on it, whether a party to the contract or not, had made a proposal, application or request for the Policy, or amendment, or renewal, or variation or endorsement, in respect of their interest only. Further any information or knowledge possessed by such person or entity, whether possessed before or after the contract was entered into, shall not be imputed to any other person or entity.

The Insurer will not seek any relief whatsoever (including cancellation of the Policy) for non-disclosure or misrepresentation or both against a person or entity entitled to claim under this Policy unless the Insurer would have been entitled to that relief had the person or entity claiming been the only person or entity covered by the Policy.

Each person or entity indemnified under this Policy is separately indemnified in respect of claims made against any of them by any other of them, provided that nothing in this clause will operate to increase the Insurer's Limit of Liability.

17. Statutory Requirements

The Insured shall take reasonable measures to comply with all statutory obligations and regulations imposed by any statutory or governmental authority.

The Insured shall be bound by all procedures and regulations as stated within Australian Standard 2601 – "Demolition of Structures" (and any amendments thereto) together with all relevant State Occupational Health and Safety guidelines and procedures.

18. Subrogation

In the event of payment for loss under this Policy to or on behalf of the Insured, the Insurer shall be subrogated to all the Insured's rights of recovery against all persons and entities.