



# Industrial Special Risks (ISR)

## Policy Wording

Mark IV (Consolidated)



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# Welcome to Zurich

## About Zurich

The Insurer of this product is Zurich Australian Insurance Limited (ZAIL), ABN 13 000 296 640, AFS Licence Number 232507. In this document, ZAIL may also be expressed as 'Zurich', 'we', 'us' or 'our'.

ZAIL is part of the Zurich Insurance Group, a leading multi-line Insurer that serves its customers in global and local markets. Zurich provides a wide range of general insurance and life insurance products and services in more than 210 countries and territories. Zurich's customers include individuals, small businesses, mid-sized and large companies, including multinational corporations.

## Duty of Disclosure

Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an Insurer; or
- we waive your duty to tell us about.

## If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

## Our contract with you

This policy is a contract of insurance between the Insured and Zurich and contains all the details of the cover that we provide.

This policy is made up of:

- the policy wording. It states what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
- the proposal, which is the information you provide to us when applying for insurance cover;
- the most current policy schedule issued by us. The schedule is a separate document unique to the Insured. It includes any changes, exclusions, terms and conditions made to suit the individual circumstances and may amend the policy; and
- any other written change otherwise advised by us in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only covers shown in the schedule are insured. This document is used for any offer of renewal we may make, unless we tell you otherwise. Please keep your policy in a safe place. We reserve the right to change the terms of this product where permitted to do so by law.

## Privacy

Zurich is bound by the Privacy Act 1988 (Cth). We collect, disclose and handle information, and in some cases personal or sensitive (eg health) information, about you ('your details') to assess applications, administer policies, contact you, enhance our products and services and manage claims ('Purposes'). If you do not provide your information, we may not be able to do those things. By providing us, our representatives or your intermediary with information, you consent to us using, disclosing to third parties and collecting from third parties your details for the Purposes.

We may disclose your details, including your sensitive information, to relevant third parties including your intermediary, affiliates of Zurich Insurance Group Ltd, other insurers and reinsurers, our banking gateway providers and credit card transactions processors, our service providers, our business partners, health practitioners, your employer, parties affected by claims, government bodies, regulators, law enforcement bodies and as required by law, within Australia and overseas.

We may obtain your details from relevant third parties, including those listed above. Before giving us information about another person, please give them a copy of this document. Laws authorising or requiring us to collect information include the Insurance Contracts Act 1984 (Cth), Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), Corporations Act 2001 (Cth), Autonomous Sanctions Act 2011 (Cth), A New Tax System (Goods and Services Tax) Act 1999 (Cth) and other financial services, crime prevention, trade sanctions and tax laws.

Zurich's Privacy Policy, available at [www.zurich.com.au](http://www.zurich.com.au) or by telephoning us on 132 687, provides further information and lists service providers, business partners and countries in which recipients of your details are likely to be located. It also sets out how we handle complaints and how you can access or correct your details or make a complaint.

## General Insurance Code of Practice

We are signatories to the General Insurance Code of Practice (the Code) and support the Code.

The objectives of the Code are:

- to commit us to high standards of service;
- to promote better, more informed relations between us and you;
- to maintain and promote trust and confidence in the general insurance industry;
- to provide fair and effective mechanisms for the resolution of complaints and disputes you make about us; and
- to promote continuous improvement of the general insurance industry through education and training.

The Code Governance Committee is an independent body that monitors and enforces insurers compliance with the Code.

Further information about the Code or the Code Governance Committee and your rights under it is available at <https://insurancecouncil.com.au/cop/> or by contacting us.

## Complaints and Disputes Resolution process

If you have a complaint about an insurance product we have issued or the service you have received from us, please contact your intermediary to initiate your complaint with us. If you are unable to contact your intermediary, you can contact us directly on 132 687. We will acknowledge receipt of your complaint within 24 hours or as soon as practicable.

If you are not satisfied with our initial response, you may access our internal dispute resolution process. Please refer to the general insurance fact sheet available on our website for details of our internal dispute resolution process.

We expect that our internal dispute resolution process will deal fairly and promptly with your complaint, however, you may take your complaint to the Australian Financial Complaints Authority (AFCA) at any time.

AFCA is an independent external dispute resolution scheme. We are a member of this scheme and we agree to be bound by its determinations about a dispute. AFCA provides fair and independent financial services complaint resolution that is free to you.

Their contact details are:

Website: [www.afca.org.au](http://www.afca.org.au)

Email: [info@afca.org.au](mailto:info@afca.org.au)

Freecall: 1800 931 678

In writing to: The Australian Financial Complaints Authority, GPO Box 3, Melbourne, Victoria 3001.

If your complaint or dispute falls outside the AFCA Rules, you can seek independent legal advice or access any other external dispute resolution options that may be available to you.

## Underinsurance

Underinsurance will apply for claims under Section 1 – Material Loss or Damage if you have under-declared the total value of your assets.

Underinsurance applies if the total value of the assets declared for insurance is less than 80% of the actual full replacement value at the commencement of the Period of Insurance. If underinsurance applies, you are considered your own insurer for the proportion under-declared below 80%, and your claim entitlement will reduce accordingly.

Asset declarations must therefore be accurate and include such aspects as architect's and other professional fees. We recommend that you have your property professionally valued at least once every 3 years, updated every 12 months, and that you arrange cover in accordance with the valuations. If you obtain valuations in this manner, the Co-Insurance Clause will not apply.

Underinsurance shall not apply if the amount of the Damage does not exceed 10% of the amount of your declaration of value for all Property Insured.

Example of a claim calculation where Underinsurance applies under Section 1 – Material Loss or Damage

- You insure the property located over all situations covered by the insurance for a total Declared Value of \$500,000.
- Your property is Damaged by fire.
- The cost of repairs and replacement of all lost and Damaged property is assessed as \$200,000.
- The value of all property at Premises covered by this Policy at the commencement of the Period of Insurance, in accordance with the basis of settlement was \$800,000.
- Underinsurance is applied because the Declared Value of your property is less than 80% of the value at the commencement of the Period of Insurance.

$$\begin{aligned} \text{Claims payment} &= \$200,000 \quad \times \quad \frac{\$500,000}{\$800,000 \times 80\%} \\ &= \$156,250 \end{aligned}$$

In this example, We pay \$156,250 less the amount of any Excess applicable under Section 1 – Material Loss or Damage, and the uninsured loss is \$43,750 plus the amount of the Excess.

# ISR Mark IV (Consolidated) – Policy Wording

## Introduction

Where the Insured named in the Schedule has paid, or agreed to pay, to the Insurer the premium shown on the Schedule, the Insurer agrees, subject to the terms, conditions, exclusions, memoranda, limitations and other provisions contained in this Policy, or endorsed hereon, to indemnify the Insured and other parties as specified in this Policy, against loss arising from any insured events which occur during the Period of Insurance stated in the Schedule or any renewal of this Policy.

That indemnity is provided on the basis the total liability of the Insurer at any one Situation shall not exceed the relevant Limit of Liability or Sub-Limits of Liability as stated in the Schedule, or such amounts as may be substituted by any endorsement or memoranda issued in writing by the Insurer. If there is more than one Insurer subscribing to this Policy, each Insurer shall only be liable to indemnify the Insured for that percentage (%) of any claim as shown against their name in the Schedule.

## Definitions Applicable to All Sections

Defined words are words with particular meanings. Defined words are used in this Policy, as well as in any schedules, endorsements, or attachments that are issued, which all form part of this Policy and are to be read together. For the purpose of identifying defined words, the first letter of such words will be capitalised, and if they comprise of a group of words, the first letter of each principal word will be capitalised.

### Act of Terrorism

An Act of Terrorism means and includes an act, or preparation in respect of action or threat of action, designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or groups of persons, whether acting alone or on behalf of, or in connection with, any organisations or governments de jure or de facto, and which:

- (a) involves violence against one or more persons; or
- (b) involves Damage to property; or
- (c) endangers life other than that of the person committing the action; or
- (d) creates a risk to health or safety of the public or a section of the public; or
- (e) is designed to interfere with or to disrupt an electronic system.

### Boiler, Economiser, and/or Pressure Vessel

Boiler, Economiser, and/or Pressure Vessel means:

- (a) any boiler used for domestic purposes; and
- (b) any other boiler, economiser, or other similar pressure vessel which includes any pipes, valves, and other apparatus forming part of these, and in respect of which a certificate is required to be issued under the terms of any statute or regulation.

### Boiler Collapse

Boiler Collapse means the sudden and dangerous distortion of any part of the permanent structure of plant, by bending or crushing, caused by force of steam or fluid pressure whether attended by rupture or not.

However the term “Boiler Collapse” shall not mean any collapse or explosion that occurs when the plant is undergoing any type of testing, except for steam testing, provided the pressure applied during testing does not exceed the maximum pressure permitted for such plant by any:

- (a) inspecting authority, being a person, entity, department, or agency, that is certified to perform such tests or is designated as an authority in relation to inspecting and testing plant; and
- (b) regulation, Australian Standard, or manufacturing or operational guidelines.

**Boiler Explosion**

Boiler Explosion means the sudden and violent rending of the permanent structure of the plant by force of internal steam or fluid pressure or bodily displacement of any part of such structure together with forced ejection of its contents.

Except in the case of a steam test at a pressure not exceeding the maximum pressure permitted by the inspecting authority, the term 'Boiler Explosion' shall not mean failure under any test.

**Burglary**

Burglary means Theft, or attempted Theft, by any person:

- (a) consequent upon forcible and violent entry to the Premises or locked cabinets, counters, or showcases in which Property Insured is located, including any attempt at that place;
- (b) feloniously concealed in an enclosed building at the Situation; or
- (c) threatening or committing physical violence against persons including armed hold up;

but does not include any other Damage caused by persons engaged in Burglary, Theft, or attempted Theft, except where directly attributable to the act of Theft.

**Business**

Business means the occupation of the named Insured described in the Schedule, including all incidental activities.

**Business Hours**

Business Hours means the period during which the Insured Premises are actually occupied for Business purposes, and during which the Insured or employees of the Insured are at the Insured Premises.

**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.

**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 human health or human welfare, or can cause or threaten Damage to, deterioration of, loss of value of, marketability of or loss of use of property,

and includes, but is not limited to, a disease that:

- (i) is or becomes listed on, or becomes a temporary addition to, the National Notifiable Disease List;
- (ii) is or becomes a Listed Human Disease; and/or
- (iii) has or could give rise to a public health event of national significance.

**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 or operation of any Computer System.

**Cyber Loss**

Cyber Loss means any loss, damage, liability, claim, cost, or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of, or in connection with, any 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.

**Cyber Incident**

Cyber Incident means:

- (a) any error or omission or series of related errors or omissions involving access to, processing of, use 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.

**Damage/Damaged**

Damage/Damaged means physical loss, damage, or destruction of property.

**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.

**Data Processing Media**

Data Processing Media means any property insured by this Policy on which Data can be stored but not the Data itself.

**Debris**

Debris means:

- (a) the residue of Damaged Property Insured and liquids and/or chemicals used in the extinguishment or suppression of Damage, or in preventing imminent damage to Property Insured; and
- (b) other materials deposited on the Insured Premises (but not landlord's property if it is not Property Insured by this Policy), following Damage to Property Insured by a peril or event covered by this Policy.

**Deductible**

Deductible means the first amount of each claim or series of claims arising out of any one original source or cause which is payable by the Insured.

Should more than one Deductible apply under this Policy for any claim or series of claims arising from the one original source or cause, such Deductibles shall not be aggregated and the highest Deductible only shall apply.

The Limits of Liability and Sub-Limits of Liability shall apply in addition to, and shall not be reduced by, the amount of any applicable Deductible.

**Flood**

Flood means the covering of normally dry land by water that has escaped or been released from the normal confines of any of the following:

- (a) a lake (whether or not it has been altered or modified);
- (b) a river (whether or not it has been altered or modified);
- (c) a creek (whether or not it has been altered or modified);
- (d) another natural watercourse (whether or not it has been altered or modified);
- (e) a reservoir;
- (f) a canal;
- (g) a dam.



**Green Standards**

Green Standards means the Green Star certified rating system of the Green Building Council of Australia or equivalent Energy Star qualified requirements applicable to buildings or areas within the Insured Premises.

**Indemnity Value**

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

**Insured**

The Insured means the parties and related entities named in the Schedule.

**Insurer**

The Insurer means Zurich Australian Insurance Limited and if more than one Insurer is listed as subscribing to this Policy, each Insurer shall only be responsible for the percentage (%) of the indemnity subscribed against their name.

**Land Value**

Land Value means the sum certified by the Valuer General as being the value of the land specified as the Situation in the Schedule so described in the Policy after due allowance has been made for variations in or other circumstances affecting such value either before or after the Damage or which would have affected the value had the Damage not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable, the true Land Values pertaining both before and after the Damage.

**Money**

Money means current coin, bank notes, currency notes, cheques, travellers cheques, stored value cards, negotiable instruments, valuable documents (but limited to Securities), credit card sales and/or discount house vouchers, postal orders, money orders, unused postage and revenue stamps, including the value of stamps contained in franking machines, and shall also include any cash carrying bag used with the transit, whilst contained at the Situation and whilst in transit to and from the Situation anywhere in Australia, including whilst contained in the night safe of any bank or financial institution where the Insured transacts business, and in the personal custody of the Insured and/or persons authorised by the Insured whilst contained in their private residences.

**Period of Insurance**

Period of Insurance means the period shown in the Schedule and any subsequent period for which the Insurer has agreed to renew or extend the cover.

**Pollution or Contamination**

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

**Property Insured**

Property Insured means all tangible property, both real and personal of every kind and description (except as excluded by this Policy), belonging to the Insured or for which the Insured is responsible, or has assumed responsibility to insure prior to the occurrence of any Damage, including all such property in which the Insured may acquire an insurable interest during the Period of Insurance.

For customer's goods not within the definition of Property Insured, where the Insured has elected to insure unspecified customers' goods and a Sub-Limit of Liability is shown in the Schedule, Property Insured shall include goods to the extent that they are not otherwise insured. The Co-insurance Memorandum will not apply to 'Unspecified Customers' Goods cover'.

It is understood and agreed that the term 'personal property' shall include Money.

**Securities**

Securities mean any bond, debenture, note, share, stock, American Depositary Receipts (ADR), or other equity or security for debt which is issued or given by the Insured, and includes any certificate of interest or participation in, receipt for, warrant or other right to subscribe to or to purchase, voting trust certificate relating to, or other interest in any of the foregoing items.

**Situation**

Situation means the Situation or Situations shown in the Schedule. Where the Situation specified in the Schedule is other than a single address, each separate address at which the Property Insured is located shall be one Situation for the purposes of this Policy, particularly in relation to the Limit of Liability or Sub-Limits of Liability.

**Theft**

Theft means the physical removal of property without the consent of the owner with the intention of depriving the owner of the rightful possession of that property or its use.

**Unspecified Damage**

Unspecified Damage means, for the purpose of any Limit of Liability or Sub-Limit of Liability or Deductible as shown in the Schedule, Damage caused by any peril or circumstance not more specifically covered or excluded by this Policy other than:

- (a) fire; lightning; thunderbolt;
- (b) explosion; implosion; fusion; collapse; smoke and/or steam;
- (c) earthquake, subterranean fire, volcanic eruption and/or tsunami;
- (d) impact, impact by watercraft;
- (e) aircraft and/or other aerial devices and/or articles dropped therefrom,
- (f) sonic boom and/or space debris;
- (g) Burglary, Theft; breakage of glass; loss of Money;
- (h) the acts of persons taking part in riots or civil commotions or of strikers or locked-out workers or of persons taking part in labour disturbances or of other malicious persons (including those engaged in Theft or attempted Theft) or the acts of any lawfully constituted authority in connection with the foregoing acts or in connection with any conflagration or other catastrophe;
- (i) fraudulent or dishonest acts;
- (j) subsidence, earth movement or collapse resulting therefrom, or landslide;
- (k) cyclone;
- (l) water from or action by the sea;
- (m) storm and/or tempest and/or rainwater and/or wind and/or hail, and/or Flood, and/or snow and/or ice and/or
- (n) water or other liquids or substances discharged, overflowing or leaking from apparatus, appliances, pipes or any other system at the Premises or elsewhere or any other peril mentioned under the heading Sub-Limits of Liability in the Schedule.

# Section 1 - Material Loss or Damage

## The Indemnity

In the event of any Damage by a peril or event covered by this Policy, happening during the Period of Insurance to Property Insured described in Section 1 at the Situation, the Insurer will, subject to the provisions of this Policy, including the limitation on the Insurer liability, indemnify the Insured in accordance with the applicable Basis of Settlement.

### Additional Costs and Expenses

Subject to the liability of the Insurer not being increased beyond the Limits of Liability and/or Sub-Limits of Liability stated in the Schedule, the Insurer will also pay to the Insured the following additional costs and expenses necessarily and reasonably incurred for:

- (a) architects', surveyors', consulting engineers', legal and other fees, project management and certification of the reinstatement, replacement, or repair of Damaged Property Insured, clerks of works' salaries for estimates, plans, specifications, quantities, tenders, and supervision necessarily incurred in reinstatement consequent upon Damage to property hereby insured, but not such costs, fees, and salary for preparing any claim hereunder;
- (b) any fee, contribution, or other tax or similar compulsory payment payable to any Government, Local Government, or other statutory authority, where payment of which is a condition precedent to the obtaining of consent to reinstate any buildings or structures insured under this Section 1. The Insurer shall not be liable for payment of any fines and/or penalties imposed upon the Insured by any such authorities;
- (c) any legal liability to make enquiries in connection with the reinstatement or replacement of Property Insured following the Damage;
- (d) representation at any Statutory Inquiry conducted following Damage to Property Insured. The term 'Statutory Inquiry' shall mean any judicial, coronial, or other form of inquiry or hearing established by or at the direction of any government, semi-government, local or planning authority as a direct result of Damage to Property Insured. The Insurer shall not be liable for payment of any fines and/or penalties imposed upon the Insured by any such inquiry;
- (e) the purpose of preventing imminent Damage and/or minimising Damage to Property Insured caused or threatened by fire or caused by any other peril or event insured by this Policy, happening at or in the vicinity of the Property Insured, including fire brigade attendance fees associated with fire or a chemical emergency, fees, and costs of other state emergency services (if applicable), and the costs of making good Damage to gain access. The cover applies to action taken after Damage has commenced or been threatened and whether the Property Insured is saved or totally destroyed;
- (f) making the Premises safe following the Damage and for the temporary protection and safety of Property Insured pending its repair, replacement, or sale as salvage;
- (g) the replenishment of firefighting appliances and for the purpose of shutting off the supply of water, gas, or other substance following accidental discharge from any fire protective equipment or otherwise escaping from intended confines following Damage happening at the Insured Premises;
- (h) switching off and re-setting alarms following the Damage;
- (i) travelling expenses to avert or minimise Damage including the protection of, safeguarding, or recovery of Property Insured;
- (j) locating and exposing the source of gas, water, or other liquid, escaping, discharging, leaking, or overflowing from fixed systems including tanks, pipes, and other fixed apparatus in preventing imminent Damage or diminishing Damage to Property Insured, including the costs and expenses of making good or reinstating Damage to other property necessarily incurred in locating the source of the problem.

The Insurer will pay the cost of repairing or reinstating the fixed system, tanks, or other apparatus, but not the cost of repairing or reinstating any part found to have been installed incorrectly or which has failed due to age, gradual deterioration and corrosion, or was unfit for its intended purpose.

- (k) the replacement of locks and/or keys, magnetic keys or cards, or similar device and/or combinations where the keys and/or combinations are accidentally lost or stolen, or if there are reasonable grounds to believe the keys may have been duplicated.

The cost of opening safes and/or strong room as a result of Theft of keys and/or combinations and other costs that are necessarily incurred to restore the security of the Property Insured to the same level of security that existed prior to the loss of these keys or combinations;

- (l) the clearance of blocked pipes, drains, gutters, sewers, filters, pumping equipment, and the like (including exploratory costs) resulting from Damage covered by this Policy to Property Insured at the Insured Premises;
- (m) taking inventory (including unpacking, repacking, and restacking) to identify, quantify, and value any property Damaged by any peril insured against by this Section 1, including examination of property not belonging to, but in the care, custody and control of, the Insured;
- (n) express carriage rates and extra payments for overtime, night, Sunday, or holidays working incurred in connection with the repair or reinstatement of the Property directly resulting from Damage covered by this Policy;
- (o) customs, excise, and other duties which the Insured becomes liable to pay in the event of Damage to Property Insured;
- (p) removal of Debris as specified below:
  - (i) the removal, storage, and/or disposal of Debris or the demolition, dismantling, shoring up, propping, underpinning, or other temporary repairs consequent upon Damage to Property Insured covered by this Policy and occasioned by a peril insured against in this Policy; and
  - (ii) the clean-up and restoration of the land at the Situation, (notwithstanding Property Exclusion 9), where such costs are the responsibility of the Insured, including the cost of clean-up and removal of any material or substance classed as a pollutant or contaminant deposited as a direct result of a peril or event covered by this Policy causing Damage to Property Insured. This indemnity shall apply whether the Insured is proceeding pursuant to an order issued by a relevant environmental authority or not, provided that the Insurer will not cover the Insured for the additional cost and expense of cleaning and removing any Pollution or Contamination of land or property that existed prior to the occurrence of the Damage. and
  - (iii) the Insured's legal liability for the removal, storage, clean-up, and disposal of Debris (other than any material which is in itself a pollutant or contaminant) originating from the Premises and deposited onto premises, roadways, services, railway, or waterways of others, consequent upon Damage to the Property Insured, provided that such liability was not assumed by the Insured under an agreement entered into after the commencement of the Period of Insurance or any renewal thereof unless liability would have attached in the absence of such agreement. Property Exclusions 9 to 12 and Perils Exclusions 9 and 10 are modified to give effect to this variation;

The Insurer shall not be liable for payment of any fine or penalty imposed by such law or ordinance arising from any of the above.

- (q) the demolition, dismantling, shoring up, propping, underpinning, or other temporary repairs consequent upon Damage to Property Insured covered by this Policy;
- (r) the demolition of, or dismantling, removal, or reinstatement of undamaged property belonging to the Insured, which is no longer useful for the purpose it was intended, provided such demolition of, or dismantling, removal, and reinstatement is necessary for the purpose of the reinstatement or replacement of Property Insured following the Damage;
- (s) legal liability under any Federal or State award or determination for Damage to employees' clothing and/or tools;
- (t) Damage to personal property, tools of trade, and personal effects (including Money) belonging to directors and employees of the Insured, and Damage to visitor's personal effects whilst located at the Situation but only to the extent that such property is not otherwise insured.
- (u) Damage occurring anywhere in Australia to personal property belonging to directors and employees of the Insured whilst they are engaged on the business of the Insured away from the Insured Premises or their place of residence to the extent that such property is not otherwise insured.

- (v) public reward offers paid by the Insured up to \$10,000 to protect or recover Property Insured or to locate offenders, provided that:
- (i) the terms and the amount of the reward are agreed by the Insurer and approved by the relevant authority before being offered; and
  - (ii) the amount of the payment does not exceed the value of the property lost, destroyed, or Damaged.
- The Insurer will not unreasonably withhold or refuse consent to the terms of any reward payable under this Clause (v), nor does the offer by the Insurer to pay a reward in any way limit the amount of any reward the Insured may wish to offer for its own account.
- (w) the legal costs associated with the discharge of a mortgage or mortgages on buildings or other assets following settlement of a claim on a total loss basis.

The insurance under clauses (b) to (w) above shall not be subject to any Co-Insurance Clause or Memorandum contained in this Policy.

## The Basis of Settlement

For the purpose of ascertaining the classification under which any property is insured, the Insurer agrees to accept the designation applied to such property by the Insured in its records, provided that such property is not specifically excluded by this Policy.

The Basis of Settlement by property classification is set out below subject to the application of Memorandum to Section 1 'Co-Insurance'.

In determining the amount payable as the indemnity, the value of salvage shall be deducted before the application of co-insurance.

- (a) Buildings, machinery, plant, and all other property and contents (other than those specified below):

The cost of reinstatement, replacement, or repair in accordance with the provisions of the Reinstatement or Replacement and Extra Costs of Reinstatement Memoranda as set out herein.

Provided that if the Insured elects to claim the Indemnity Value of any Damaged property, the Insurer will pay to the Insured the value of such property at the time of the happening of the Damage, or reinstate, replace, or repair such property, or any part thereof, including the costs of dismantling or demolishing Damaged property to facilitate such work. The Insurer will also pay costs incurred in accordance with the provisions of the Extra Costs of Reinstatement Memorandum.

In determining whether co-insurance is applicable to the Insured's claim following any such election, the value of such property declared by the Insured in the Schedule representing "the value of all Property Insured at the Situation at the time of the commencement of the Period of Insurance", will be its Indemnity Value in accordance with the amended Basis of Settlement.

- (b) On raw materials, supplies, and other merchandise not manufactured by the Insured:

The replacement cost at the time and the place of replacement, provided that replacement shall have been carried out with reasonable despatch, or if such property is not replaced, the original cost to the Insured of such property or the Indemnity Value, whichever is the lesser. If such property is obsolete, the Basis of Settlement, whether or not such property is replaced, shall be the original cost to the Insured of such property or the Indemnity Value immediately prior to the Damage, whichever is the lesser.

The claim will not be affected to the extent that the Insurer caused or contributed to the delay.

- (c) On materials in process of manufacture:

The replacement cost of the raw materials and the cost of labour and other manufacturing costs (including overheads as per the accounts of the Insured) expended thereon at the time and the place of the Damage.

(d) On finished goods manufactured by the Insured:

The replacement cost of the raw materials and the cost of labour and other manufacturing costs (including overheads) expended thereon before any allowance for profit, calculated at the time and place of the Damage or the cost of restocking such goods within a reasonable time, whichever is the lesser for property which is not obsolete. If such goods are obsolete, the Basis of Settlement (whether or not such goods are replaced) shall be the original cost to the Insured of such goods or the Indemnity Value immediately prior to the Damage, whichever is the lesser.

The claim will not be affected to the extent that the Insurer caused or contributed to the delay.

(e) On goods sold but not delivered for which the Insured is responsible and, under the conditions of sale, the sale contract is by reason of the Damage cancelled either wholly or to the extent of the Damage:

The contract price.

(f) On Computer Systems records, documents, manuscripts, deeds, specifications, plans, drawings, design, business books, and other records of every description:

The cost of repairing, replacing, reproducing, or restoring same, including information contained on or in them, but excluding the value to the Insured of the said information. If repair or restoration is not required, the replacement cost of materials as blank stationery at the time and place of the Damage.

(g) On Securities:

(i) if the Securities can be replaced, the cost of replacement paid or payable by the Insured; or

(ii) if the Securities cannot be, or are not to be, replaced by the Insured, the greater of:

- the price for which the Insured purchased them; and
- the closing market value on the last business day prior to the date of discovery by the Insured of the loss or destruction of the Securities or, if the time of discovery by the Insured is after the close of the market, their closing market value on the day of discovery by the Insured of the loss or destruction of the Securities;

(iii) in the case of a loss of subscription, conversion, or redemption privileges through the loss of any Securities:

- the value of such privileges immediately preceding the expiration thereof such valuation being in the currency in which the loss was sustained.
- Losses sustained in currencies other than Australian dollars shall be settled by converting the amount of loss to Australian dollars at the market rate as set by the Reserve Bank of Australia at the time of settlement of the loss or such other rates as may be expressly agreed with the Insurer.
- If there is no market price or value on the relevant day, then the value shall be agreed between the Insured and the Insurer, or failing such agreement, the Insured and the Insurer shall seek resolution via an independent mediator to resolve their differences.

(h) On patterns, models, moulds, jigs, template, dies, or lasts:

The cost of repair or replacement if repaired or replaced with reasonable dispatch, otherwise the value of such property to the Insured calculated at the time and place of the Damage, but not exceeding the cost of replacement.

(i) On glass:

The cost incurred in repairing or replacing the broken glass in accordance with the current Australian Standard AS 1288-2021 (as amended or replaced) including the cost of:

- (i) temporary shuttering and/or hiring of a security service pending replacement of broken glass; and
- (ii) removing and re-fixing of window and show-case frames, locks, fittings, shop front tiling, and replacing burglar alarm tapes, protective film, and heat reflecting material or other process on glass;
- (iii) replacing signwriting or ornamentation on glass.

- (j) On works of art, antiques, and curios, not forming part of the stock in trade or merchandise of the Business:  
The cost of restoring and repairing to a condition substantially the same as before the Damage, plus any reduction in market value caused by the Damage. If restoration or repair is not possible, the value of the item immediately before the Damage as determined by an auctioneer or the Valuers Association of Australia or an independent expert.
- (k) On personal effects (including Money) belonging to directors and employees and on the property of welfare, sports, and social clubs:  
The necessary cost of replacement or repair at the time and place of replacement or, if not replaced with reasonable despatch, the Indemnity Value.  
For personal effects forming part of a pair or set, unless every component of the pair or set is Damaged, the Basis of Settlement shall be the difference between the market or replacement value of the pair or set (whichever is greater) before the Damage and the market or replacement value of the pair or set (whichever is greater) after the Damage.
- (l) On machinery, plant, and equipment leased on a Residual Value basis:  
In the event of Damage resulting in the actual or constructive total loss of such equipment, notwithstanding the first paragraph of Basis of Settlement (a), if the Residual Value exceeds the cost of replacement of such property with similar property in a condition equal to, but not better or more extensive than, its condition when new, Provisions (i), (iii) and (iv) of the Reinstatement or Replacement Memorandum 20 below and the provisions of the Extra Costs of Reinstatement Memorandum 9 below shall apply, and the Basis of Settlement shall be the amount for which the Insured, as lessee, is contractually liable to the lessor, but not exceeding the sum represented by rent payable under such leases for the period commencing on the date of loss or destruction and ending on the retirement dates of such leases, plus the current market value of the property immediately before its loss or destruction or the Residual Value, whichever is the greater, less any salvage value.  
The term 'Residual Value' means the minimum amount which the Insured, as lessee, has guaranteed that the leased property will realise, being the same amount which the Insured, as lessee, has agreed would be payable to acquire such property upon the retirement dates of the leases.  
For the purposes of this Item (l) there shall be deemed to be a constructive total loss of a Damaged item of machinery, plant, or equipment when the cost necessary to repair that item exceeds the cost necessary to replace it with similar property in a condition equal to, but not better or more extensive than, its condition when new.
- (m) On empty Premises awaiting demolition or upon which demolition work has commenced:  
The salvage value of the building materials and/or landlord's fixtures and fittings which the Insured would have received had the Damage not occurred, net of the actual demolition costs, provided that if the actual demolition costs are increased in consequence of the Damage, the Insurer will also pay the Insured the difference in demolition costs.

## Memoranda to Section 1

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

### 1. Abandoned Undamaged Portion of a Building

If any building is Damaged and, due to the exercise of statutory powers or delegated legislation or authority by any government department, local government, or other statutory authority, reinstatement of any building is carried out upon another site, then the abandoned undamaged portion of such building (including foundations and services) shall be deemed to have been destroyed, provided that if the presence of such abandoned undamaged portion of the building increases the sale value of the original site, the increase in sale value shall be regarded as salvage and the amount thereof shall be payable to the Insurer by the Insured upon completion of any sale of the site, or shall be deducted from the total amount otherwise payable by the Insurer under this Policy, whichever shall occur later.

Any differences between the parties about the amount of any increase in site value, shall forthwith be referred to the decision of two registered valuers; one to be appointed by each of the parties and in case the two registered valuers do not agree, the parties shall be required to submit to mediation to resolve their differences assisted by the services of a third valuer, appointed as mediator by the President of the Australian Property Institute.

## 2. Accompanied Baggage in Australia

This Policy extends to cover Damage occurring anywhere in Australia to personal property belonging to directors and employees of the Insured during the Period of Insurance whilst they are engaged on the Business of the Insured away from the Insured Premises to the extent that such property is not otherwise insured by the Insured or any other party or a policy required by law.

## 3. Branded Goods

Any salvage of branded goods covered by this Policy shall not be disposed of by sale without the consent of the Insured. If such salvage is not disposed of by sale, then the value of the salvage shall be the market value of the goods after the brands, labels, or names have been removed by, or on behalf of, the Insured.

## 4. Co-Insurance

The Insured is required to insure for full value calculated in accordance with the appropriate Basis of Settlement Clauses, as at the commencement of the Period of Insurance and, in relation to any Property Insured acquired after the commencement of the Period of Insurance, as at the time of acquisition of that property.

In the event of a claim, the monies otherwise payable under Section 1 of this Policy shall be the proportion that the Insured's declaration of value of such Property Insured at the Situation where the Damage occurred at the time of the commencement of the Period of Insurance bears to eighty per cent (80%) of the actual value of all such Property Insured at the Situation as at the time of commencement of the Period of Insurance calculated in accordance with the appropriate Basis of Settlement Clauses.

Provided that if the Insured elects to claim the Indemnity Value of any Damaged Property Insured, the Insurer shall be liable for no greater proportion of the loss of such Property Insured at the Situation, than the amount that the Insured's declaration value of all Property Insured at the Situation Insured bears to eighty per cent (80%) of the value of all declared Property Insured at the Situation as at the time of commencement of the Period of Insurance calculated in accordance with the appropriate Basis of Settlement Clauses, but not exceeding the Limit of Liability expressed in the Schedule. Any amount recoverable under the Extra Cost of Reinstatement Memorandum shall not be taken into account in determining the Insurer's proportion of the loss of such property.

This Memorandum shall not apply:

- (i) if the amount of the Damage does not exceed ten percent (10%) of the total of all declared value of Property Insured at the Situation at the time the Period of Insurance commences;
- (ii) to claims for Burglary, Theft, Money, Glass, or Unspecified Customers Goods for which a Sub-Limit of Liability is stated in the Schedule; or
- (iii) to property forming part of the Property Insured, which has been insured under this Policy for the full value stated in a valuation prepared by an Accredited Valuer not less than three years before the Period of Insurance commences. The term 'Accredited Valuer' means a Certified Practising Valuer registered with The Australian Property Institute.

For the purposes of the application of this Memorandum 4 - Co-Insurance, the Insured's declared values at any Situation shall not include any allowance for Extra Cost of Reinstatement nor any of the costs and expenses referred to under clauses (b) to (w) under the heading "The Indemnity" in Section 1.

## 5. Constructive Total Loss

There shall be deemed to be a constructive total loss of Property Insured, or any part thereof, if it is reasonably abandoned:

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

Provided that:

- (i) the words 'actual total loss' for the purposes of this Memorandum 5 shall mean loss, destruction, or Damage (and not merely physical loss, destruction, or Damage) of or to the Property Insured specified herein or any part thereof; and
- (ii) if the Insurer elects not to take possession of any Property Insured deemed to be a constructive total loss, the Insured shall retain legal responsibility for such property.



## 6. Declared Values

The schedule of declared values at each Situation (in accordance with the applicable Basis of Settlement) shall represent the estimated cost of reinstatement of the property covered by this Policy (or the value of such property where Indemnity Value is insured), on the day the Period of Insurance commences.

If asset movements between Situations used by the Insured have resulted in an under-declaration of values at a Situation and an offsetting over-declaration of values at one or more other Situations, then such factors shall be taken into account when calculating the test for the application of Co-insurance.

Declared values shall not include any allowance for the Extra Costs of Reinstatement Memorandum nor any of the costs and expenses referred to under clauses (b) to (u) under the heading "The Indemnity" in Section 1.

## 7. Depreciation of Undamaged Stocks

On goods in storage remaining after the Insurer's liability for these goods has been determined in accordance with the Basis of Settlement, notwithstanding anything contained in this Policy to the contrary, in particular Property Exclusion 16 and Perils Exclusions 4 and 10, the Insurer will, to an extent not exceeding the value of the goods in storage covered by this Policy that remain, also indemnify the Insured against loss due to their deterioration arising from the Insured's inability to process them in the normal way, in consequence of the Damage to Property Insured or to property used by the Insured.

## 8. Environmental Improvements

This Memoranda is applicable to buildings and other property not rated and certified under the Green Star systems of Green Building Council of Australia or equivalent Energy Star qualified requirements.

Following Damage to Property Insured by a peril or event covered by this Policy, the Insured may, in consultation with the Insurer, elect to repair or replace Damaged Property Insured (building and contents, excluding stock in trade of the business) with materials or equipment that comply with Green Standards applicable at the date of the Damage, to improve the energy or water efficiency of the Property Insured and reduce environmental impacts (Environmental Improvements).

Subject to the liability of the Insurer not being increased beyond the Limits of Liability stated in the Schedule, the Insurer will pay the following additional costs necessarily and reasonably incurred by the Insured for Environmental Improvements enhancements:

- (a) the fees and charges for the services of a Green Star accredited professional person or any competent environmental verifier to specify the work required to comply with Green Standards in the repair or replacement of Damaged Property Insured;
- (b) the reasonable additional costs of performing the specified work;
- (c) the cost and expense to clean-up, sort, segregate, and transport recyclable Debris of property from the Insured Premises to recycling facilities; and
- (d) for air quality management in flushing out the air in the repaired, replaced, or rebuilt property with one hundred per cent (100%) outside air as required by The Green Building Council of Australia Green Star® or LEED® standards.

The amount recoverable under this Memorandum is excluded from the calculation of Co-Insurance.

The Insurer's liability under this Memorandum 'Green Standards' is limited in the aggregate in any one Period of Insurance to twenty per cent (20%) of the amount that would have been otherwise payable to repair or replace the Damaged property had this Memorandum not been effected but not exceeding the Sub-Limit of Liability stated in the Schedule against 'Environmental Improvements'.

## 9. Extra Cost of Reinstatement

This memorandum is applicable to buildings, machinery, plant, and all other property and contents, other than those specified in clauses (b) to (m) under the heading "Basis of Settlement" in Section 1.

This Policy extends to cover the Extra Cost of Reinstatement (including demolition, dismantling, or altering) of Damaged Property Insured at the Situation necessarily incurred by the Insured to comply with the requirements of lawful authority imposed after the Damage under any statute, or regulation made thereunder, or any by-law or regulation of any municipal or other statutory authority, subject to the following Provisions and subject also to the terms, Conditions and Limits of Liability or Sub-Limits of Liability of this Policy.

### Provisions

- (i) The work of reinstatement (which may be carried out wholly or partially upon another site or sites subject to the liability of the Insurer not being thereby increased) must be commenced and carried out with reasonable dispatch, failing which the Insurer's liability is limited to the amount that would have been payable under the policy if this Memorandum had not been incorporated in this Policy.  

This Provision (i) shall not apply to any delay in undertaking such work caused or contributed to by the Insurer or Insurer's representatives or due to circumstances beyond the control of the Insured, including but not limited to planning approval, statutory or authority inquiries, and the availability of labour and materials, provided always that the Limits of Liability and Sub-Limits of Liability are not increased by any such delay.
- (ii) The amount recoverable shall not include the additional cost incurred in complying with any such act, regulation, by-law, or requirement with which the Insured has been duly required to comply prior to the happening of the Damage.
- (iii) Co-Insurance shall not be applied to the amount recoverable under this Memorandum 9, and any amount specified shall not be taken into account for Co-insurance purposes in terms set out in any clause contained in this Policy.

## 10. Floor Space Ratio Index (Plot Ratio)

If any buildings being Property Insured is/are Damaged and, as a result of the exercise of statutory powers and/or authority by any government departments, local government or any other statutory authorities, reinstatement of such buildings as before is prohibited and reinstatement is only permissible subject to a reduced floor space ratio index, subject to the terms, Conditions, Limits of Liability and Sub- Limits of Liability of the Policy, the Insurer agrees to pay in addition to any amount payable on reinstatement of such buildings the difference between:

- (a) the actual cost of reinstatement incurred in accordance with the reduced floor space ratio index; and
- (b) the cost of reinstatement which would have been incurred had a reduced floor space ratio index not been applicable.

In arriving at the amount payable under (a) and (b) above, any payment made by the Insurer shall include the Extra Cost of Reinstatement, including demolition or dismantling of the Property Insured necessarily incurred to comply with the requirements of any act of parliament or regulation made thereunder or any by-law or regulation of any municipal or other statutory authority after the Damage.

Any payment made for the difference between (a) and (b) above shall be made as soon as the said difference is ascertained upon completion of the rebuilding works and certified by the architect acting on behalf of the Insured in the reinstatement of the buildings.

## 11. Interests of Other Parties

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

Where the insurance covers the interest of more than one party, any act or neglect of an individual party will not prejudice the rights of the remaining parties, provided the remaining parties shall as soon as practicable, on becoming aware of any act or neglect whereby the risk of Damage has materially changed or increased, give notice in writing to the Insurer and pay extra premium as the Insurer may require in order to maintain cover that the Insurer may agree to provide for the material change or increased risk.

## 12. Labels, Containers and Wrappings

In the event of Damage affecting labels, containers, or wrappings, the Insurers shall not be liable for more than an amount sufficient to pay the cost of new labels, containers, or wrappings, and the cost of reconditioning the goods, but in no case shall the Insurers be liable for more than the insured value of the Damaged merchandise.

## 13. Landscaping

Notwithstanding any term or provision of the Policy including Property Exclusions 7 and 9, cover is extended to include the cost of reinstating Damage to landscaping (which shall mean lawns, gardens, plants, shrubs, trees, paths, garden edges, rockwork, ornamentation, and the like).

## 14. Loss of Land Value

Notwithstanding the provisions of Property Exclusion 9 and Perils Exclusion 10:

- (a) in the event of the absolute refusal by the competent local or government authority to allow the reconstruction of the Premises following the Damage, the Insurer shall pay by way of indemnity the amount of excess of the Land Value before the Damage to improvements, over the Land Value after the destruction or Damage to improvements; or
- (b) in the event of the competent local or government authority allowing only partial reconstruction of the Premises after Damage, the Insurer shall pay by way of indemnity the deficiency between the Land Value after such reconstruction and the Land Value before the Damage;

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

### Special Conditions

Settlement shall be made following the ruling of the competent local or government authority resulting in the loss of Land Value. Should settlement have been made, however, and subsequently the ruling of the competent local or government authority be changed prior to completion of the reconstruction, resulting in an increase in the Land Value, that part of the claim paid in excess of the revised Land Value shall be refunded to the Insurer.

Any differences under this Memorandum relating to Land Values shall forthwith be referred to the decision of two registered valuers: one to be appointed by each of the parties, and in case the two registered valuers do not agree, the parties shall be required to submit to mediation to resolve their differences assisted by the services of a third valuer, appointed as mediator by the President of the Australian Property Institute.

## 15. Metered Water

The Insurer will indemnify the Insured for the additional costs chargeable to the Insured by a water authority or company, or by a landlord as outgoings under a rental agreement for consumption of metered water at the Insured Premises, arising following:

- (a) Damage to property owned or used by the Insured by a peril not otherwise excluded; or
- (b) Theft or attempted Theft of property owned or used by the Insured in the operations of the Business.

Provided that where the property referred to in (a) or (b) above is owned by the Insured, the value thereof has been included in the Insured's declaration of Property Insured by this Policy.

## 16. Notable Old Buildings Without Legal Protection

In the case of a building with architectural features and/or structural materials possessing an ornamental or historical character, or for which the original materials are not available, but which is not legally protected for preservation by national, state, or local legislation or regulation, the first paragraph of Basis of Settlement (a) shall be deemed to be amended as follows:

- (a) If the building is Damaged, the cost necessary to repair the Damage and restore the Damaged portion to a condition substantially the same as, but not better or more extensive than its condition when new, but not exceeding the cost of the rebuilding thereof if destroyed;
- (b) If the cost of repairing the Damage and restoring the Damaged portion exceeds the said cost of rebuilding, the building may, at the Insured's option, be deemed to be destroyed;
- (c) If the building is destroyed, the cost necessary to replace the building with one that is no more expensive but of equivalent or improved utility, using current design techniques and modern materials.

## 17. Output Replacement

Notwithstanding anything contained to the contrary in the Reinstatement or Replacement Memoranda, any property that has a measurable output and which is capable of replacement with a new item or items that perform a similar function shall be valued for insurance purposes as follows, and values for the settlement of any Damage in respect thereof shall be on the same basis:

- (a) If Damaged Property Insured is to be replaced by an item or items that have the same or a lesser total output, then the insurable value thereof is the new installed cost of such replacement item or items as would give the same total output as the property that was Damaged.
- (b) If Damaged Property Insured is to be replaced by an item or items that have a greater total output and the new installed cost of such replacement property is no greater than the replacement value of the Damaged Property Insured then no deductions shall be made from any claim for the improved output.
- (c) If Damaged Property Insured is to be replaced by an item or items that have a greater total output and the new installed cost of such replacement property is greater than the replacement value of the Damaged Property Insured, then its insurable value is the greater of:
  - (i) the cost of replacement with similar property in a condition equal to but not better or more extensive than its condition when new; and
  - (ii) that proportion of the new installed cost that the output of the Damaged Property Insured bears to the output of the replacement item or items.

The difference between the insurable value so calculated and the new installed cost of the replacement item or items, shall be borne by the Insured.

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

Provided that in the event of partial Damage where Property Insured is to be repaired, the Insurer shall pay the cost of restoration of the Damaged Property Insured to a condition substantially the same but not better nor more extensive than its condition when new and provided further that the liability of the Insurer shall not exceed the sum representing the cost that the Insurer could have been called upon to pay if such Property Insured had been wholly destroyed.

## 18. Property in Transit

Notwithstanding Property Exclusion 1, the Policy is extended to cover Damage to property (other than stock and/or merchandise of the Business and/or registered vehicles) whilst in transit during temporary removal to any location in the Commonwealth of Australia, caused by or arising from a peril or event not otherwise excluded by this Policy and not otherwise insured by any other policy of insurance.

## 19. Reinstatement by The Insured

If the Insured shall, after obtaining the consent of the Insurer, reinstate Damaged Property Insured, the Insurer shall pay the cost of such reinstatement including the value of labour and other overhead charges expended. The liability of the Insurer shall not exceed the amount that would otherwise have been payable under this clause 19 had such reinstatement been carried out by outside contractors.

## 20. Reinstatement or Replacement

This Memoranda is applicable to buildings, machinery, plant, and all other property and contents, other than those specified in clauses (b) to (w) under the heading "Basis of Settlement" in Section 1.

The basis upon which the amount payable is to be calculated shall be the cost of Reinstatement of the Damaged Property Insured at the time of its Reinstatement, subject to the following Provisions and subject also to the terms, Conditions and Limits of Liability or Sub-Limits of Liability of this Policy.

Regarding the insurance under this Memorandum 20, 'Reinstatement' shall mean:

(a) Where Property Insured is lost or destroyed:

In the case of a building, the rebuilding thereof, or in the case of property other than a building, the replacement thereof by similar property; and in either case, in a condition equal to, but not better or more extensive than, its condition when new.

(b) Where Property Insured is Damaged:

The repair thereof including the associated costs of stripping, dismantling, or demolition to facilitate work, and the restoration of the Damaged portion of the property to a condition substantially the same as, but not better or more extensive than, its condition when new.

The cost of Reinstatement under clauses (a) and (b) above shall also include the costs of re-commissioning plant and systems.

#### Provisions

(i) The work of rebuilding, replacing, repairing, or restoring as the case may be, which, at the option of the Insured, may be carried out wholly or partially upon any other sites and in any manner suitable to the requirements of the Insured, but subject to the liability of the Insurer not being thereby increased, must be commenced and carried out with reasonable dispatch, failing which the Insurer shall not be liable to make any payment greater than the Indemnity Value of the Damaged property at the time of the happening of the Damage or assume any increased liability under Section 2 of the Policy.

This Provision (i) shall not apply to any delay in undertaking such work caused or contributed to by the Insurer or Insurer's representatives or due to circumstances beyond the control of the Insured, including but not limited to planning approval, statutory or authority inquiries, and the availability of labour and materials, provided always that the Limits of Liability and Sub-Limits of Liability are not increased by any such delay.

(ii) When any Property Insured to which this Memorandum applies, is Damaged in part only, the liability of the Insurer shall not exceed the sum representing the cost which the Insurer could have been called upon to pay for Reinstatement if such property had been wholly destroyed.

(iii) No payment beyond the amount which would have been payable under this Policy if this Memorandum had not been incorporated shall be made until a sum equal to the cost of Reinstatement has been incurred in meeting some or all the claim. This will be mutually agreed by the Insured and Insurer prior to the Insured incurring such costs.

Where the Insured reinstates or replaces any Damaged Property Insured at a cost which is less than the cost of Reinstatement (as defined) but greater than the value of such Property Insured at the time of the happening of the Damage, then the cost so incurred shall be deemed to be the cost of Reinstatement. The Insurer may make progress payments in settlement of any claim for reinstatement of any property.

(iv) If the Insured elects to reinstate or replace Damaged Property Insured with dissimilar property whether or not to be used for a similar purpose as the destroyed Property Insured, the Insurer shall pay the lesser of:

(A) cost of the dissimilar property; or

(B) an amount equal to the replacement cost which would have been payable if the Damaged Property Insured had been reinstated by similar property in a condition equal to, but not better or more extensive than, its condition when new.

(v) The Insured shall not be bound to reinstate any building deemed to be a total loss, but may, at its option, purchase an existing building or buildings to replace the Damaged building, limited to the cost that would have been incurred if the Damaged building had been reinstated in accordance with Clause (a) of the definition of 'Reinstatement' including the Extra Cost of Reinstatement which would have been payable under the Policy in respect of such Reinstatement.

(vi) Where any Damaged Property Insured is replaced by property that is better or more extensive than its condition when new, the Insurer shall pay to the Insured the cost that would have been incurred if such property had been reinstated in accordance with the provisions of Clause (a) of the definition of 'Reinstatement' including the amount payable under the Policy for Extra cost of Reinstatement associated with the Reinstatement of the original structure. The Insured shall bear the balance of the cost of such better or more extensive property.

**21. Theft of Property in the Open Air**

Perils Exclusion 7 (a) is varied to indemnify the Insured for loss arising from Theft of Property in the Open Air from within the boundary of the Insured's Premises specified in the Schedule.

**22. Tree Removal**

The Policy extends to cover the reasonable costs incurred by the Insured to remove and dispose of any branch or tree at the Insured Premises that has fallen as a result of a peril insured under this Section 1 and directly impacts Property Insured by this Policy. The Insurer will also pay the cost of stump removal when required.

**23. Undamaged Ancillary and/or Peripheral Equipment**

If plant and/or machinery is destroyed and its ancillary and/or peripheral equipment is not destroyed but, upon replacement of the destroyed plant and/or machinery, the ancillary and/or peripheral equipment is rendered superfluous, then such equipment shall be deemed to be destroyed. The salvage value shall be payable to the Insurer by the Insured upon completion of any sale, or shall be deducted from the total amount otherwise payable by the Insurer under the Policy, whichever shall occur later.

**24. Wind, Rainwater, or Hail Damage to Certain Property in the Open Air**

The Policy extends to include Damage by wind, rainwater or hail to certain Property Insured otherwise excluded by Property Exclusions 13 and 14.

"Certain Property" means:

- (a) exterior blinds, awnings, shade sails, and canopies; and/or
- (b) other property in the open air not forming part of a permanent structure designed to function without the protection of the walls or roof but not shade houses, glass houses, or fibre glass houses.

# Section 2 – Business Interruption

## Definitions Applicable to Section 2

Defined words are words with particular meanings. Defined words are used in this Section 2, as well as in any schedules, endorsements, or attachments that form part of this Policy and are to be read together. For the purpose of identifying defined words, the first letter of such words will be capitalised, and if they comprise of a group of words, the first letter of each principal word will be capitalised.

### Annual Turnover

Annual Turnover means the Turnover during the twelve (12) months immediately before the date of the Damage.

### Consolidated Period

Consolidated Period means the sum of the number of weeks specified in the Schedule in which the Insured will be indemnified up to one hundred per cent (100%) of Payroll, such number being determined by dividing the combined declared values of Payroll under Clauses (a) (i) and (a) (ii) of Item No 3 by the declared value amount based on one hundred per cent (100%) of the declared value applicable for one (1) week under Clause (a) (i).

If no sum appears, the Consolidated Period shall be as produced as determined within this Clause.

### Gross Profit

Gross Profit means the amount by which:

- (a) the sum of the Turnover and the amount of the closing stock and work in progress shall exceed;
- (b) the sum of the amount of the opening stock and work in progress and the amount of the uninsured working expenses as set out in the Schedule.

Note: The amounts of the opening and closing stocks and work in progress shall be arrived at in accordance with the Insured's normal accountancy methods; due provision being made for depreciation.

### Indemnity Period

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

However, if there is delay in the results of the Business being affected, the Insured may request the Insurer to delay the commencement of the Indemnity Period to a later date, but not exceeding twelve (12) months from the date when the Damage occurred. Any such request for delay in the commencement of the Indemnity Period must be made in writing to the Insurer by the Insured within ninety (90) days of the date of the Damage and the Insurer agrees not to unreasonably withhold consent to such variation.

Upon the agreement to any such variation, all references to Indemnity Period and cover in Section 2 of the Policy will be interpreted and applied in accordance with the changes agreed.

### Insured Payroll

Insured Payroll means the declared value of estimated Payroll referred to in Item No. 3 and specified in the Schedule, declarable as at the day of commencement of the Period of Insurance.

### Payroll

Payroll means the remuneration paid to all employees of the Insured (including but not limited to holiday pay, sick pay, long service leave pay, and bonus) plus payments for payroll tax, fringe benefits tax, superannuation and pension fund contributions, workers compensation insurance premiums, accident compensation levies and the like.

### Rate of Gross Profit

Rate of Gross Profit means the rate of Gross Profit earned on the Turnover during the financial year immediately before the date of the Damage.

### **Rate of Payroll**

Rate of Payroll means the rate of Payroll to Turnover during the financial year immediately before the date of the Damage.

### **Shortage in Turnover**

Shortage in Turnover means the amount by which the Turnover during the Indemnity Period shall, in consequence of the Damage fall short of the part of the Standard Turnover which relates to that period.

### **Standard Turnover**

Standard Turnover means the Turnover during that period in the twelve (12) months immediately before the date of the Damage which corresponds with the Indemnity Period.

### **Turnover**

Turnover means the Money (less discounts, if any allowed) paid or payable to the Insured for goods sold and delivered and for services rendered by or on behalf of the Insured in course of the Business including financial incentives or concessions granted to the Insured by any Australian or state government department in recognition of specific performance in the development of market opportunities or employment of disadvantaged persons.

## **Special addendum applicable to the above Definitions**

### **Adjustments Clause**

Adjustments shall be made to the Annual Turnover, Rate of Gross Profit, Standard Turnover, and Rate of Payroll as may be necessary to provide for the trend of the Business and for variations in/or other circumstances affecting the Business either before or after the Damage or which would have affected the Business had the Damage not occurred, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which, but for the Damage, would have been obtained during the relative period after the Damage.

## **The Indemnity**

The Insurer will indemnify the Insured in accordance with the applicable Basis of Settlement, subject to the Limits of Liability and Sub-Limits of Liability stated in the Schedule, against loss resulting from the interruption of, or interference with, the Business, caused by Damage (not otherwise excluded) covered by Section 1 occurring in the Period of Insurance to:

- (a) any building or any other property or any part thereof used by the Insured at the Premises for the purpose of the Business;
- (b) any property belonging to the Insured or property for which the Insured is responsible, while such Property is at any storage premises within Australia or at any Situation in Australia where the Insured is undertaking work or has any process or work being carried out by others;
- (c) any land-based premises or property in Australia of any company or authority producing, supplying, providing, or delivering electricity, gas, water, sewerage, or communication services to the Insured's Business;
- (d) computer installations, including ancillary equipment and Data Processing Media utilised by the Insured's Business;
- (e) property in the vicinity of the Premises which shall prevent or hinder the use of or access to the Premises whether the Premises or any property of the Insured shall be Damaged or not;
- (f) property in any complex of which the Premises forms part or in which the Premises are contained, which results in a cessation or diminution of trade of the Business due to the temporary falling away of potential customers, whether the Premises or Property Insured shall be Damaged or not;
- (g) roads, bridges, and railway lines infrastructure on which the Business depends for the conveyance of goods, property, and/or potential customers to and from the Premises. Property Exclusion 10 and 11 are varied to give effect to the indemnity provided by this Clause (g);



- (h) property at premises, anywhere in Australia, of any direct supplier or direct customer of the Insured. The reference to:
  - (i) ‘premises of a supplier’ refers to premises (other than those described in Clause (c) above), at which any of the goods or services used directly by the Insured are produced, assembled, reprocessed, or stored; and
  - (ii) ‘premises of a customer’ refers to premises to which the Insured directly provides goods or services;
- (i) registered vehicles and/or trailers whilst such vehicles or trailers are at the Insured’s Premises or at the premises of others in Australia provided always that the Insurer does not cover Damage to such vehicles and/or trailers at such premises or whilst being used on any public highway or thoroughfare. Property Exclusion 6 is varied to give effect to this cover under Section 2.
- (j) Property Insured (other than Money, stock and/or merchandise of the Business and registered vehicles) while in transit during temporary removal to other locations outside of Premises occupied by the Insured anywhere in Australia. Property Exclusion 1 is varied to give effect to this cover under Section 2.
- (k) documents and Data files belonging to or held in trust by the Insured while physically in transit or while elsewhere at the premises of others. Property Exclusion 1 is varied to give effect to this cover under Section 2.

## General Provisions applying to The Indemnity

The Insurer will not be liable for any loss under this Section 2 unless:

- (a) the Insured’s property lost, destroyed or Damaged is insured against such Damage (loss arising out of destruction or Damage by the explosion, implosion, rupture, collapse, bursting, cracking, or overheating of any Boiler, Economiser and/or Pressure Vessel, including pipes, valves and other apparatus forming part of any of these and in respect of any of which a certificate is required to be issued under the terms of any statute or regulation, being excepted from this provision) and the Insurer by which such property is insured shall have paid for or admitted liability in respect of such Damage other than indemnity not applying only because of the application of a Deductible; and
- (b) in the case of non-owned property which suffers Damage, that Damage must occur in circumstances in which the indemnity would apply as if that property was insured under Section 1 of this Policy, other than indemnity not applying only because of the application of a Deductible. Such Damage being deemed by the Insurer to be Damage to property used by the Insured at the Premises.

## The Basis of Settlement

### Item No. 1 – Loss of Gross Profit

The insurance under this item is limited to actual loss of Gross Profit due to: (a) reduction in Turnover, and (b) Increase in Cost of Working, and the amount payable as indemnity thereunder shall be:

- (a) In respect of reduction in Turnover:
 

The sum produced by applying the actual Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period shall, in consequence of the Damage, fall short of the Standard Turnover.
- (b) In respect of Increase in Cost of Working:
 

The additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in Turnover which, but for that expenditure, would have taken place during the Indemnity Period in consequence of the Damage but not exceeding the sum produced by applying the Rate of Gross Profit to the amount of the reduction thereby avoided.

Less any sum saved during the Indemnity Period in respect of such of the charges and expenses of the Business payable out of Gross Profit as may cease or be reduced in consequence of the Damage.

Provided that if the estimated value of Gross Profit declared at the commencement of the Period of Insurance is less than eighty per cent (80%) of the sum produced by applying the Rate of Gross Profit to the Annual Turnover (appropriately increased if the Indemnity Period exceeds twelve (12) months) which would have been achieved if the Damage had occurred on the day the Period of Insurance commences, the amount payable hereunder shall be proportionately reduced.

However, this provision shall not apply:

- (a) If the amount of the loss does not exceed ten per cent (10%) of the Insured's declaration of value of Gross Profit on the day of commencement of the Period of Insurance; or
- (b) if the Gross Profit (after the application of the Adjustments Clause) which the Business would have earned in the Indemnity Period had the Damage not occurred is less than eighty per cent (80%) of the Insured's declaration of Gross Profit (appropriately increased if the Indemnity Period exceeds twelve (12) months at the commencement of the Period of Insurance); or
- (c) where the Insured's declaration of Gross Profit at the commencement of the Period of Insurance has been stated in a valuation prepared by a qualified loss adjuster with membership to the Australasian Institute of Chartered Loss Adjusters and mutually agreed to by the Insured and Insurer.

### **Item No. 2 – (Additional) Increased Cost of Working**

The insurance under this item is limited to Increase In Cost of Working (not otherwise recoverable hereunder) necessarily and reasonably incurred during the Indemnity Period in consequence of the Damage for the purpose of avoiding or diminishing reduction in Turnover and/or resuming and/or maintaining normal Business operations and/or services.

### **Item No. 3 – Payroll**

When Payroll is not insured under Gross Profit, the insurance under this item is limited to loss in respect of Payroll and the amount payable as indemnity thereunder shall be:

- (a) In respect of reduction of Turnover:
  - (i) During the portion of the Indemnity Period beginning with the occurrence of the Damage and ending not later than the number of weeks thereafter specified in the Schedule: The sum produced by applying the Rate of Payroll to the Shortage in Turnover during the said portion of the Indemnity Period, less any saving during the said portion of the Indemnity Period, through reduction in consequence of the Damage in the amount of Payroll paid.
  - (ii) During the remaining portion of the Indemnity Period: The sum produced by applying the Rate of Payroll to the Shortage in Turnover during the said remaining portion of the Indemnity Period, less any saving during the said remaining portion of the Indemnity Period, through reduction in consequence of the Damage in the amount of Payroll paid; but not exceeding the sum produced by applying the percentage of the Rate of Payroll specified in the Schedule to the Shortage in Turnover during the said remaining portion of the Indemnity Period, increased by such amount as is deducted for savings under the terms of Clause (a) (i).

Note: At the option of the Insured, the number of weeks referred to in Clause (a) (i) above may be increased to the number of weeks specified in the Schedule under the heading 'Consolidated Period' provided that the amount arrived at under the provisions of Clause (a) (ii) shall not exceed such amount as is deducted under Clause (a) (i) for savings effected during the said increased number of weeks.

- (b) In respect of Increase in Cost of Working:

So much of the additional expenditure described in Clause (b) of Item 1 as exceeds the amount payable thereunder, but not more than the additional amount which would have been payable in respect of Shortage in Turnover under the provisions of Clauses (a) (i) and (ii) of this item had such expenditure not been incurred.

Provided that if the estimated value of Insured Payroll declared at the commencement of the Period of Insurance is less than eighty per cent (80%) of the amount produced by applying the Payroll Limits set out in the Schedule to the amount produced by applying the Rate of Payroll to the Annual Turnover (or its appropriately increased multiple if the Indemnity Period exceeds twelve (12) months) which would have been achieved if the Damage had occurred on the the Period of Insurance commences, the amount payable hereunder shall be proportionately reduced.

This provision shall not apply:

- (i) If the amount of the loss does not exceed ten per cent (10%) of the estimated value of Insured Payroll declared at the commencement of the Period of Insurance; or
- (ii) If the value of Insured Payroll (after the application of the Adjustments Clause) in the Indemnity Period is less than eighty per cent (80%) of the Insured's declaration of Payroll at the commencement of the Period of Insurance; or

- (iii) where the value of Insured Payroll Limits at the commencement of the Period of Insurance has been stated in a valuation prepared by a qualified loss adjuster with membership to the Australasian Institute of Chartered Loss Adjusters and mutually agreed to by the Insured and Insurer.

#### **Item No. 4 – Claim Preparation Fees**

The insurance under this item is to cover such reasonable professional fees as may be payable by the Insured, and such other reasonable expenses necessarily incurred by the Insured and not otherwise recoverable, for preparation, certification, presentation, and negotiation of claims under the Insured's Material Damage and Business Interruption insurance Policies and the Insurer shall indemnify the Insured for such reasonable fees and expenses.

#### **Item No. 5 – Additional Severance Pay**

The insurance under this item is limited to such further additional expenditure beyond that recoverable under Item 1 or Item 3 of Section 2 of this Policy as the Insured is obligated or has agreed to pay under industrial awards, determinations, decisions, or agreements for severance pay and/or in lieu of notice to employees whose services are terminated during the Indemnity Period in consequence of the Damage.

#### **Item No. 6 – Rent Receivable**

The insurance under this item is limited to the loss of rent receivable which term shall include amounts payable by the tenant as outgoings in accordance with the rental agreement or payable by the tenant for services rendered. The amount payable as indemnity hereunder shall be the amount by which rent (including amounts payable as outgoings or for services rendered) received or payable during the Indemnity Period shall fall short of the amount which it may be reasonably estimated would have been received or paid during that period had the Damage not occurred including the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the loss of rent (including amounts for services rendered and recoverable expenses), less any sum saved during that period in respect of the charges or expenses payable out of rent as may cease or be reduced in consequence of the Damage.

#### **Item No. 7 – Contractual Damages**

The insurance under this item is limited to fines and/or damages for breach of contract and the amount payable as indemnity hereunder shall be such sum or sums as the Insured shall be legally liable to pay in discharge of fines and/or damages incurred in consequence of the Damage for non-completion or late completion of orders, inability to meet contract specifications, or cancellation of orders.

#### **Item No. 8 – Accounts Receivable**

The insurance under this item is limited to the loss sustained by the Insured in respect of all outstanding debit balances if the Insured is unable to effect collection thereof as a direct result of Damage to records of accounts receivable.

The Insurers will also pay:

- (a) interest charges at the Reserve Bank of Australia rates on any loan to offset impaired collections pending repayment of such amounts rendered uncollectible in consequence of the Damage;
- (b) interest lost by the Insured in consequence of such impaired collections;
- (c) additional expenditure necessarily and reasonably incurred in tracing and establishing the amounts of accounts receivable; and
- (d) collection expenses in excess of normal collection costs, incurred in consequence of the Damage.

Where there is proof that a loss covered by the Policy has occurred, but the Insured cannot accurately establish the total amount of accounts receivable outstanding at the date of Damage, such amount shall be computed as follows:

- (i) Determine the total amount of accounts receivable outstanding on the last working day of the fiscal month which ended twelve (12) months before the beginning of the month in which the Damage occurs.
- (ii) Calculate the average increase or decrease in the monthly total amounts of accounts receivable outstanding on the last working day of each of the twelve (12) months immediately preceding the month in which Damage occurs.
- (iii) The amount determined under paragraph (i), increased or decreased by the percentage calculated in accordance with paragraph (ii) shall be deemed to be the total amount of accounts receivable outstanding at the time and date of the Damage.

- (iv) The amount determined under paragraph (iii) shall be adjusted as may be necessary to provide for any demonstrable variance from the amount so determined occurring before but during the month in which the Damage occurs; due consideration also being given to normal monthly trends in receipts.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or Damaged, or otherwise established or collected by the Insured, and an equitable amount to provide for doubtful debts.

## Memoranda to Section 2

The terms, conditions, and limitations of the Policy shall apply, except to the extent they, including Perils Exclusion 10, are modified under the following Memoranda.

### 1. Accumulated Stocks

In adjusting any loss, account shall be taken, and equitable allowance made, if any Shortage in Turnover due to the Damage is postponed by reason of the Turnover being temporarily maintained from accumulated stocks.

### 2. Books of Account

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

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

### 3. Business Interruption Following Resultant Damage

For the purposes of Section 2 (but not Section 1) of this Policy, Proviso (ii) applying to Perils Exclusions 4, clauses (a) to (f), is extended to include loss resulting from interruption or interference with the Business following subsequent damage to Property Insured (or any part thereof), including property used by the Insured for the purpose of the Business, caused by a peril or event covered by this Policy.

### 4. Departmental Clause

If the Business is conducted in departments or business units the independent trading results of which are ascertainable, the provisions of Clauses (a) and (b) of Item Nos. 1 and 3 shall apply separately to each department or unit affected by the Damage.

### 5. New Business

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

#### Rate of Gross Profit

The Rate of Gross Profit earned on the Turnover during the period between the date of the commencement of the Business and the date of the Damage.

#### Annual Turnover

The proportional equivalent, for a period of twelve (12) months, of the Turnover realised during the period between the commencement of the Business and the date of the Damage.

#### Standard Turnover

The proportional equivalent, for a period equal to the Indemnity Period, of the Turnover realised during the period between the commencement of the Business and the date of the Damage.

#### Rate of Payroll

The Rate of Payroll to Turnover during the period between the date of the commencement of the Business and the date of the Damage.

## Special addendum applicable to the above Definitions

### Adjustments Clause

Adjustments shall be made to the Rate of Gross Profit, Annual Turnover, Standard Turnover, and Rate of Payroll as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business either before or after the Damage or which would have affected the Business had the Damage not occurred, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which, but for the Damage would have been obtained during the relative period after the Damage.

### 6. Premises in the Vicinity (Prevention of Access)

Loss as insured by this Policy resulting from an interruption of the Insured's Business consequence of Damage to property within a five (5) kilometres radius of the Premises caused by a peril, damage as a result of which is insured hereunder, which shall prevent or hinder the use thereof or access thereto, whether the Premises or property of the Insured there in shall be Damaged or not, shall be deemed to be loss resulting from Damage to property used by the Insured at the Premises.

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

Provided that no cover is granted under this Memorandum 6 for any interruption of the Insured's Business caused by or arising from any Communicable Disease excluded under General Exclusion 1 – 'Communicable Diseases'.

### 7. Reduced Margin

If, in consequence of Damage giving rise to a claim under this Policy, Turnover is maintained but at a reduced Rate of Gross Profit, an equitable allowance shall be made for the loss of Gross Profit resulting from an increase in the ratio to Turnover of stock usage or purchases (adjusted for stock variations). No allowance will be made for an increase in the ratio to Turnover of any other uninsured working expenses.

### 8. Salvage Sale

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

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

(i) In respect of reduction in Turnover:

The sum produced by applying the Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period (less the Turnover for the period of the salvage sale) shall, in consequence of the Damage fall short of the Standard Turnover, from which shall be deducted the Gross Profit actually earned during the period of the salvage sale.

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

"Shortage in Turnover" shall mean the amount by which the Turnover during a period (less the Turnover for the period of the salvage sale) shall, in consequence of the Damage, fall short of the part of the Standard Turnover which relates to that period, from which shall be deducted the Payroll paid out of the proceeds of the salvage sale.

### 9. Trade Exhibitions

Loss as insured by Section 2 of the Policy resulting from interruption of, or interference with, the Business due to curtailment of any trade exhibition anywhere in the world in consequence of Damage thereat and/or to property exhibited therein by the Insured shall be deemed to be loss resulting from Damage to property used by the Insured at the Premises.

**10. Turnover Elsewhere After Damage**

If during the Indemnity Period goods shall be sold or services shall be rendered elsewhere than at the Premises for the benefit of the Business either by the Insured or by others on the Insured's behalf, the Money paid or payable in respect of such sales or services shall be brought into account in arriving at the Turnover during the Indemnity Period.

**11. Turnover/Output Alternative**

If it gives a more equitable result in determining the actual loss sustained by the Insured, the term 'Output' may be substituted for the term 'Turnover' and, for the purpose of this Policy, 'Output' shall mean the sale and/or invoice value of goods manufactured and/or processed by the Insured in course of the Business at the Premises. Provided that only one such meaning shall be operative in connection with any one event.

If the meaning set out above be used:

- (a) The Memorandum 'Turnover Elsewhere After Damage' shall be altered to read as follows:  
"If during the Indemnity Period goods shall be manufactured and/or processed other than at the Premises for the benefit of the Business either by the Insured or by others on the Insured's behalf the sale and/or invoice value of the goods so manufactured and/or processed shall be brought into account in arriving at the Output during the Indemnity Period".
- (b) The Memorandum titled 'Accumulated Stocks' shall be altered to read as follows:  
"In adjusting any loss under this Section, account shall be taken and equitable allowance made if any shortage in Output due to the Damage is postponed by reason of the Output being temporarily maintained from Accumulated Stocks."

# Exclusions Applicable to All Sections

## Property Exclusions

This Policy does not cover Damage to the following property or loss under Section 2 resulting from:

1. Property (except Money) whilst in transit, however this does not apply to property while it is being moved in between Situations occupied by the Insured and where the Insured is not indemnified under another policy of insurance.

This Exclusion shall not apply during temporary removal of property (other than stock and/or merchandise of the Business) including unregistered motor vehicles to any Situation in the Commonwealth of Australia. Whilst such property is in transit (excluding loading, unloading, and storage in transit), cover is limited to Damage caused by fire, lightning, explosion, earthquake, aircraft, riot, strikes, malicious Damage, and storm and/or tempest.

For the purposes of Property Exclusion 1, the term 'Temporary Removal' means removal for a particular purpose, other than Property Insured out on hire, with the intention that the property be returned to the place from which it has been removed when that purpose has been served.

2. Money:
  - (a) whilst being carried by professional money carriers, professional carriers, or common carriers which is insured by any person or entity other than the Insured except to the extent of any Damage in excess of the amount of that insurance;  

Provided that where in the ordinary course of Business the Insured enters into an agreement with such carriers and that agreement provides that the Insured shall indemnify, hold harmless and/or release from liability such carriers in respect of Damage which may occur as a result of any event insured by this Policy, this insurance shall operate as if this Property Exclusion 2(a) had been deleted;
  - (b) stolen from an unlocked and unattended vehicle;
  - (c) stolen from a safe or strong room opened by a key or by use of details of a combination, either of which has been left at the Situation outside Business Hours, unless such key or combination details had been properly secured by the Insured, but were obtained through actual violence to persons or property;
  - (d) where the loss is not discovered within a period reasonably expected for an Insured in those circumstances to identify and notify the Insured of the loss;
  - (e) where the loss arises out of a demand made for the payment of Money in connection with any kidnapping, bomb threat, hoax or extortion, or an attempt of any of these.
3. Jewellery, furs, bullion, precious metals, or precious stones other than as stock and/or merchandise of the Business. This Exclusion does not apply to jewellery or furs which are the personal property of directors, partners, or employees of the Insured, where the loss or Damage occurs at the Insured's Premises;
4. Any locomotive or rolling stock or watercraft unless covered as stock or merchandise of the Business, provided always that no cover shall apply to any watercraft while in water;
5. Any aircraft including its accessories and/or spare parts unless insured as stock in trade of the Business.  

This Exclusion 5 shall not apply to drones with a maximum take-off weight of less than twenty-five kilograms (25kgs) used for Business purposes which are not specifically otherwise insured against Damage by this Policy and which have been included in the Insured's declaration of Property Insured.

However, the Insurer will not cover Damage to aircraft (including drones) sustained during taxiing, take-off flight or landing, including those insured as stock in trade of the Business.
6. Vehicles or trailers registered or licensed to travel on a public road, provided that this exclusion shall not apply to mobile plant and equipment (excluding cars, sedans, panel vans and trucks) not otherwise insured whilst on any Premises occupied or used by the Insured for the purpose of the Business.
7. Standing timber, growing crops, and pastures;
8. Livestock, animals, birds, or fish (other than birds or fish contained in an aviary or aquarium and used solely for decorative purposes, where the Damage results from a peril or event, covered by this Policy) unless insured as stock in trade of the Business;

9. Land, unmined or unrecovered oil, and gas and mineral deposits, provided that this Exclusion shall not apply to:
  - (a) structural improvements on or in the land if such structural improvements are not otherwise excluded in this Policy; or
  - (b) to the cover provided under Memorandum to Section 1 – Landscaping and The Indemnity – ‘Removal of Debris’ clauses (p) (i), (p) (ii) and (p) (iii);
10. Bridges and tunnels (except where such infrastructure is included as Property Insured at the Premises), roadways (other than driveways, vehicle parking, or manoeuvring areas and other paved areas at the Premises used or occupied by the Insured for the purposes of the Business) and canals, dams, and reservoirs (other than tanks) and their contents;
11. Railway tracks (other than on the Premises used or occupied by the Insured for the purpose of the Business);
12. Docks, wharves, and piers not forming part of any building at the Premises;
13. Exterior blinds, awnings, shade sails and canopies, shade houses, fibre glass houses and retaining walls not part of the structure of any building when caused by wind, rainwater or hail;
14. Property in the open air other than as stated above in Exclusion 13 caused by wind, rainwater, or hail, unless such property comprises or forms part of the permanent structure designed to function without the protection of walls or roof;
15. Mining property located beneath the surface of the ground unless otherwise expressly stated in this Policy;
16. Property during the course of and as a result of its processing unless the Damage results from an intervening cause not otherwise excluded under this Policy, provided that this Exclusion shall be limited to the item or items immediately affected and shall not exclude subsequent Damage to other Property Insured caused by or resulting from a peril or event not otherwise excluded;
17. Property included in a project of construction, erection, alteration, or addition, including the partial dismantlement of existing structures, where the total contract value of all work to be carried out at any one Situation during such activity exceeds one million dollars (\$1,000,000), provided that this Exclusion 17 shall apply only to the works comprising such construction, erection, alteration, or addition and not to any original or existing structures;
18. Empty Premises upon which demolition work has commenced;
19. Oil and gas drilling and/or production rigs whilst offshore;
20. All Machinery (as defined in this exclusion), Data Processing Media or electronic control equipment occasioned by or happening through any mechanical, electrical, electro-mechanical, electronic, or hydraulic malfunction, failure, derangement, breakdown, or non-operation, except non-operation occasioned by or happening through any cause or event not otherwise excluded;

Provided that Property Exclusion 20 shall not apply to any subsequent Damage to such Machinery, Data Processing Media or electronic control equipment occasioned by or happening through any cause or event not otherwise excluded herein which results from any of the events referred to in this Exclusion.

For the purpose of Property Exclusion 20, the term ‘Machinery’ means any apparatus whether or not functioning independently or as any component part of a collection of apparatus which generates, contains, controls, transmits, receives, transforms or utilises any form or source of energy or power but does not include a Boiler, Economiser or other Pressure Vessel including pipes, valves and other apparatus thereof.

## Perils Exclusions

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

1. Damage to the Property Insured caused directly or indirectly, occasioned by, or happening through or in connection with:
  - (a) war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military, or usurped power;
  - (b) an Act of Terrorism;
  - (c) confiscation, nationalisation, requisition, or Damage to property by or under the order of any government or public or local authority, unless such order involves the demolition of property deemed unsafe following Damage by any peril not otherwise excluded by this Policy.



Furthermore, any Damage, cost or expense of any nature directly or indirectly caused by, contributed to by, resulting from, or arising out of or in connection with, any action taken in controlling, preventing, suppressing or in any way relating to 1 (a) or 1 (b) above is also excluded from this Policy.

Notwithstanding 1 (c) above, the Insurer shall indemnify the Insured for Damage and cost of removal of sound property including Damage resulting from such removal, undertaken for the sole purpose of preventing or diminishing imminent Damage by, or inhibiting the spread of fire or any other cause not excluded under this Policy.

2. Damage to the Property Insured; or any legal liability of whatsoever nature; directly or indirectly caused by or contributed to or arising from:
  - (a) ionising radiations or contamination by radioactivity from any nuclear waste or from the combustion of nuclear fuel; or
  - (b) nuclear weapons materials.

Note: For the purposes of this Exclusion 2 only, 'combustion' shall be any self-sustaining process of nuclear fission.

This Perils Exclusion 2 does not apply to any radiations emitted by spectrometers, x-ray units, diathermy machines, equipment for radio and television broadcasting, telecommunications equipment, radar installations, or industrial and commercial appliances used for sealing plastics or for welding, heating, drying, and cooking.

3. Damage occasioned by, or happening through, water from or action by the sea, tidal wave, or high water.  
Provided that this Perils Exclusion 3 shall not apply if loss or Damage is caused by or arises out of:
  - (a) an earthquake, seismic disturbance, or tsunami; or
  - (b) cyclone or storm and tempest (being a violent wind or storm) having a wind force scale 11 or greater on the "Beaufort Scale of Wind Force".

4. Damage to Property Insured due to:
  - (a) smut or smoke from industrial operations (other than sudden and unforeseen Damage) resulting therefrom moths, termites or other insects, vermin, rust, oxidation, mildew, mould, wet or dry rot, corrosion, change of colour, dampness, or atmosphere;
  - (b) variations in temperature, evaporation, disease, inherent vice or latent defects, loss of weight, change in flavour, texture, or finish;
  - (c) wear and tear, fading, scratching, or marring, gradual deterioration or developing flaws, normal upkeep, or making good;
  - (d) normal settling, seepage, shrinkage or expansion in buildings or foundations, walls, pavements, roads and other structural improvements, creeping, heaving, and vibration;
  - (e) faulty materials or faulty workmanship, provided that Exclusion 4(f) is not otherwise excluded in relation to Boiler Explosion and/or Boiler Collapse;
  - (f) error or omission in architectural design or specification.

Provided that:

- (i) Exclusions 4 (a) to 4 (d) shall not apply where the circumstance listed therein is caused by or results from the operation of a peril or event covered by this Policy;
- (ii) the Insurer will indemnify the Insured for any subsequent Damage to Property Insured occasioned by a peril (not otherwise excluded) notwithstanding that such loss, destruction of or Damage may in turn have been caused by circumstances listed in Exclusions 4 (a) to 4 (f).

5. Damage occasioned by or happening through:
- (a) incorrect siting of any building covered by this Policy consequent upon:
    - (i) error in architectural design or specification;
    - (ii) faulty workmanship; or
    - (iii) non-compliance by the Insured (or anyone acting on behalf of the Insured) with the necessary permits issued by government, public or local authorities; or
  - (b) demolitions ordered by government or public or local authorities due to failure on the part of the Insured or their agents to obtain the necessary permits required.

6. Damage to any Boiler, Economiser and/or Pressure Vessel including pipes, valves and other apparatus thereof consisting of or caused by:
- (a) cracks, fractures, blisters, laminations, flaws, or grooving even when accompanied by leakage or Damage to tubes, headers, or other parts of the plant caused by over-heating or leakage at seams, tubes, or other parts of the plant;
  - (b) slowly developing deformation or distortion of any part of the plant;
  - (c) wearing away or wasting of the material of the plant whether by leakage, corrosion, or by action of the fuel or otherwise;
  - (d) failure of joints;
  - (e) mechanical malfunction or breakdown;

Provided that the Insurer will cover subsequent Damage to such plant and Property Insured including Boiler Explosion resulting therefrom, excepting where at the time of the explosion or collapse;

- (i) the pressure plant was being subject to a hydraulic test and the Damage was occasioned thereby; or
- (ii) the load on the safety valve or safety valves of the pressure equipment was in excess of the manufacturer's specification or the load permitted by the latest certificate issued in accordance with the Boiler inspection regulations; or
- (iii) any safety valve limiting the pressure is removed or rendered inoperative;
- (iv) where certificates of inspection are required by a government department for the operation of such equipment and the item of plant was not so certified.

7. Damage occasioned by or happening through:

- (a) Theft of property in the open air;  
Provided that the Insurer will indemnify the Insured for:
  - (i) Theft of Money in transit;
  - (ii) Theft or attempted Theft of parts of the building or fixed plant in the open air; or
  - (iii) any Damage to Property Insured caused directly by any circumstances not excluded under Section 1 of this Policy, notwithstanding that these circumstances may in turn have been occasioned by or happened through Theft or attempted Theft of property (other than Money in transit) in the open air;
- (b) unexplained or inventory shortage, disappearance resulting from clerical or accounting errors, shortage in the supply or delivery of materials to or from the Insured; or
- (c) spontaneous combustion; or
- (d) spontaneous fermentation or heating or whilst undergoing any process involving the direct application of heat.

Provided that Perils Exclusions 7 (c) and 7 (d) shall be limited to the item or items immediately affected and shall not extend to other property Damaged as a result of such spontaneous combustion, fermentation or heating or process involving the direct application of heat.

8. Damage occasioned by or happening through:

- (a) (i) fraudulent or dishonest acts, fraudulent misappropriation, embezzlement, forgery, counterfeiting, Data corruption, unauthorised amendment of Data and erasure by electronic or non-electronic, means involving the Property Insured by the Insured or any employees of the Insured acting alone or in collusion with any other persons;
- (ii) access by any persons other than the Insured or the Insured's employees to the Insured's Computer System via Data communication media that terminate in the Insured's Computer System.

Provided that this Exclusion 8 (a) shall not apply to Theft consequent upon forcible and violent entry to the Premises or felonious concealment upon the Premises where such acts are committed by an employee of the Insured;

Provided further that the term 'Dishonest Acts', in relation to any of the Insured's employees, shall not be deemed to mean acts of arson or vandalism for the purposes of this Exclusion;

- (b) (i) the cessation of work whether total or partial; or
- (ii) the cessation, interruption, or retarding of any process or operation as a result of strikes, labour disturbances, or locked out workers.

Provided that Perils Exclusion 8 (b) shall not apply in respect of Damage directly caused by strikers, locked out workers, or similar persons;

- (c) erosion, subsidence, earth movement or collapse resulting therefrom,

Provided that this Exclusion 8 (c) shall not apply if Damage is caused by or arises out of an earthquake, seismic disturbance, cyclone, in consequence of and within 72 hours of a storm, storm and tempest having a wind force of scale 11 or greater on the "Beaufort Scale of Wind Force", Flood or water escaping from a water main owned by a water supply authority or company;

- (d) kidnapping, bomb threat, threat of Pollution or Contamination, hoax, extortion, or any attempt thereat,

Provided that this Exclusion 8 (d) shall not apply to loss caused by hold-up and/or Theft or any attempt thereat.

Provided that Exclusions 8 (a) to (d) shall not apply to subsequent Damage to the Property Insured, (including all property or any part thereof used by the Insured at the Premises for the purpose of the Business), occasioned by a peril (not otherwise excluded) resulting from any event or peril referred to in this Exclusion.

9. Any legal liability of whatsoever nature other than as herein provided.

10. Consequential loss of any kind. This means cover is not provided for anything which is not expressly described in the cover sections of the Policy including, for example, consequential loss due to interruption or interference with the Business, delay, lack of performance, loss of contract or depreciation in the value of land, excepted as stated in Sections 1 and 2 of the Policy and not exceeding the specified Limits and/or Sub-Limits of Liability shown in the Schedule.

11. Pollution or Contamination, except where directly arising from Damage to property or any part thereof used by the Insured at the Premises for the purpose of the Business, which is sudden, unexpected, and accidental and results from an insured peril or event covered by this Policy, and where otherwise provided under Section 1 clauses (p) (i) and (p) (ii) of The Indemnity – 'Removal of Debris'.

## General Exclusions

The Insurer shall not be liable under Sections 1 and 2 for:

### 1. Communicable Diseases

Loss, Damage, claim, cost, expense, or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with, a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.

For the purposes of this Exclusion, the phrase "loss, damage, claim, cost, expense or other sum" includes, but is not limited to, any:

- (i) Cost to clean up, detoxify, or remove, monitor, or test for a Communicable Disease; or
- (ii) to clean-up, detoxify or remove any Property Insured hereunder that is affected by such Communicable Disease.

## 2. Property Cyber and Data

any:

- (a) Cyber Loss, unless subject to the provisions of clause (c) below;
- (b) loss, Damage, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration, or reproduction of any Data, including any amount pertaining to the value of such Data, unless subject to the clause (d) below;

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

- (c) Subject to all the terms, conditions, limitations and exclusions of this Policy or any endorsement thereto, this Policy covers physical loss or physical damage to property insured under this Policy caused by any ensuing fire or explosion which directly results from 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 including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act.
- (d) Subject to all the terms, conditions, limitations and exclusions of this Policy or any endorsement thereto, should Data Processing Media owned or operated by the Insured suffer physical Damage insured by this Policy, then this Policy will cover the cost to repair or replace the Data Processing Media itself plus the costs of copying the Data from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering, or assembling the Data. If such media is not repaired, replaced, or restored the basis of valuation shall be the cost of the blank Data Processing Media. However, this Policy excludes any amount pertaining to the value of such Data, to the Insured or any other party, even if such Data cannot be recreated, gathered, or assembled.

Notwithstanding any provision to the contrary contained within this Policy or any endorsement thereto, it is understood and agreed that this Property Cyber and Data exclusion shall prevail.

## 3. Overhead Transmission and Distribution Lines

Loss, Damage, cost or expense of whatsoever nature in respect of overhead transmission and distribution lines and their supporting structures of power-generating authorities or companies and telecommunications companies, but this exclusion shall not apply in respect of the aforementioned lines (and their supporting structures) that extend from the public highway to Property Insured at the Insured's Premises for not more than three hundred (300) metres, and are the responsibility of the insured.

## 4. Sanctions Regulation

The Insurer will not be liable to provide any coverage or make any payment hereunder if to do so would be in violation of any sanctions law or regulation which would expose the Insurer, its parent company, or its ultimate controlling entity to any penalty under any sanctions law or regulation.

# Memoranda Applicable to All Sections

The terms, conditions, and limitations of this Policy shall apply, except to the extent they are modified under the following Memoranda.

## 1. Acquired Property and/or Companies

This Policy extends to include:

- (a) property, including additions and alterations, and stock, located in Australia acquired by the Insured for the purpose of the Business; or
- (b) property located in Australia belonging to companies and other organisations in which a controlling interest is acquired by the Insured during the Period of Insurance, provided that the business of the acquired company or organisation is similar to the Business stated in the Schedule. A controlling interest in the case of a company, means the acquisition of shares carrying more than fifty per cent (50%) of votes capable of being cast at a general meeting of all shareholders in the company.
- (c) property located in Australia for Damage to which such companies or other organisations are legally responsible or for which they have assumed responsibility to insure prior to the occurrence of any Damage; and
- (d) any loss suffered by the Insured and/or any such companies or organisations referred to above covered by the indemnities provided under Section 2 of this Policy, subject to the Limits of Liability and Sub-Limits of Liability stated in the Schedule following Damage to such property by a peril or event covered by this Policy.

This Memorandum shall not be construed as automatically noting or providing an increase in the Limit of Liability or Sub-Limits of Liability under the Policy.

Declarations required under this Memorandum

### 1. Acquired Property (Other than Acquired Companies)

The Insured shall declare to the Insurer within sixty (60) days of acquisition or the commencement of any construction of additional property, the details thereof of if exceeding \$1,000,000 in value.

Zurich reserves the right to assesses the risk associated with any acquired property notified in accordance with this clause, and Zurich may vary the terms of coverage for any increased risk the acquisitions poses and/or if Zurich and the Insured agree to accept or vary the terms of coverage, to recalculate the premium for any such coverage.

### 2. Acquired Companies

The Insured must, within sixty (60) days of acquisition, declare in writing to the Insurer:

- (i) the name of the company or other organisation and the nature of its business;
- (ii) the nature and extent of the property to be insured;
- (iii) the value of the indemnity provided, calculated in accordance with the relevant Basis of Settlement clauses; and
- (iv) agree to pay to the Insurer such reasonable extra premium required for the Period of Insurance to cover the added risk insured and comply with the risk improvement requirements of the Insurer for the security and/or safety of such property.

All such property shall be Property Insured for the purpose of the Adjustment of Premium Memorandum and the Insured shall make declarations with respect to it accordingly and with respect to the indemnity provided under Section 2.

Nothing in this Memorandum shall be construed as automatically noting or providing an increase in the Limits of Liability under the Policy.

## 2. Adjustment of Premium

- (a) The premium shown is provisional and is calculated on the declared values of:
  - (i) Property Insured; and
  - (ii) The estimated amount of Gross Profit and Insured Payroll;  
on the day of commencement of each Period of Insurance.
- (b) The Insured undertakes to declare to the Insurer within a reasonable time after the day of expiry of the Period of Insurance.
  - (i) the value of the Property Insured on the day of expiry of the Period of Insurance. For the purpose of this declaration, stock in trade and/or merchandise shall be taken at its average value during the Period of Insurance; and
  - (ii) the amount of Gross Profit earned, and Payroll paid, in accordance with the cover afforded in the respective items of Section 2, in the course of the Business during the accounting period of twelve (12) months most nearly concurrent with the Period of Insurance;
- (c) The provisional premium shall be adjusted by payment to the Insurer of any extra premium or by allowance to the Insured of a return premium, calculated at the agreed rate on:
  - (i) fifty per cent (50%) of the difference between property declared in accordance with Clauses (a) (i) and (b) (i) after allowance for any agreed extra premium already paid by the Insured following a declaration of property values as required by the Memorandum – ‘Acquired Property and Companies’.
  - (ii) the full agreed rate hereunder on the difference between the amounts declared under Clauses (a) (ii) and (b) (ii) after allowance for any agreed extra premium already paid by the Insured following a declaration of values under Section 2 of the Policy as required by the Memorandum – ‘Acquired Property and Companies’.
- (d) It is agreed to make allowance for any abnormal fluctuation in values and to charge a premium commensurate with the risk, such premium to be agreed between the parties to this agreement.
- (e) The Declared Values at the expiry of the Period of Insurance declared in accordance with this Memorandum shall not be reduced as the result of Damage in respect of which a claim has been paid or is payable under this Policy.
- (f) If any claim paid or payable under Section 1 and/or 2 of the Policy in respect of Damage occurring during the Period of Insurance is reduced due to under-insurance in accordance with the provisions of a co-insurance or average clause or clauses, the Insurer shall waive any extra premium for that Period of Insurance, which would otherwise be payable in accordance with this Memorandum.

## 3. Amount of Policy Not Reduced by Loss

Unless the Insured requests otherwise, the insurance under each Section and/or item of this Policy and the Indemnity Period shall be automatically reinstated in the event of any loss in consideration of the payment by the Insured upon request by the Insurer of a pro-rata extra premium calculated on the amount of the loss settlement at the rates agreed for the Period of Insurance.

Provided that automatic reinstatement shall not apply in respect of any Limit of Liability or Sub-Limit of Liability stated to be in the annual aggregate during any one Period of Insurance unless agreed in writing by the Insurer.

## 4. Event

Only for the purpose of the application of any Deductible, all Damage resulting from earthquake, volcanic eruption, subterranean fire, bushfire, or atmospheric disturbance occurring during each period of seventy-two (72) consecutive hours shall be considered as one event whether continuous or sporadic in its sweep and/or scope and whether the Damage was due to the same seismic or meteorological conditions. Each event shall be deemed to have commenced on the first happening of any such Damage, not within the period of any previous event.

## 5. Goods & Services Tax

Where settlement is made under Section 1 of this Policy wholly or partly by way of:

- (a) payment for the acquisition of goods, services, or other supply; or
- (b) payment for compensation instead of payment for the acquisition of goods, services, or other supply;

the Insurer shall reduce the settlement amount by:

- (i) the amount of any input tax credit that the Insured is or will be entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth) in relation to the acquisition of such goods, services or supply; or
- (ii) the amount of any input tax credit that the Insured would be entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth) had the monetary compensation been applied to acquire such goods, service or supply.

## 6. Incidental Contracts

The Insured may, without prejudicing its position under this Policy:

- (a) release any statutory governmental, semi-governmental, or municipal authority from any liability if required by any contract to do so;
- (b) agree to enter into a contract for storage of goods or merchandise even if the terms of the contract include a disclaimer clause;
- (c) agree to enter into a lease for occupancy of any building or part of a building or a lease or hiring of property where the terms of the lease or hiring include a disclaimer clause in favour of the lessor or the owner; and
- (d) agree in the ordinary course of Business to enter into any other contractual agreement with another party, providing in substance that the Insured shall indemnify and/or hold harmless and/or release such other party from liability in respect of Damage to Property Insured. However, the Insured shall, upon becoming aware of any such other agreement, inform the Insurer thereof as soon as reasonably practicable and the Insured shall pay a reasonable extra premium if required by the Insurer.

## 7. Subrogation Waiver

The Insurer agrees to waive any rights and remedies or relief to which it/they may become entitled by subrogation against:

- (a) any Insured named or described by this Policy (including its directors, officers, employees, or servants);
- (b) any corporation or organisation (including its directors, partners, officers, employees, or servants) owned or controlled by any Insured named herein or subsidiary to any Insured named herein or any co-owner of the Property Insured hereunder; or
- (c) any party described in the Memorandum to Section 1, headed 'Interests of Other Parties' in relation Damage to Property Insured, but not in respect of any loss under Section 2 of the Policy caused by or resulting from a specific act of negligence by any such party, unless the Insured shall expressly request that such recovery action not be pursued.

# Conditions Applicable to All Sections

## 1. Alteration

Subject always to Section 54 of the Insurance Contracts Act 1984 (Cth), the Insurer shall not be liable for Damage to any Property Insured caused or contributed to by any changes materially affecting the facts or circumstances existing at the commencement, or after the commencement of this Policy:

- (a) by removal of such Property Insured from the Premises other than as provided under the terms of Property Exclusion 1;
- (b) in the trade or processes of manufacture carried on at the Premises or where the nature of the occupation or other circumstances affecting the Premises and/or the Insured's property shall be changed in such a way as to increase the risk of Damage;
- (c) whereby any premises containing any Property Insured hereunder shall become unoccupied, and so remain for a period of more than ninety (90) days; or
- (d) whereby the Insured's interest ceases except by will or the operation of law.

Provided that any such alteration, upon coming to the knowledge of the Insured's officer responsible for insurance, shall as soon as reasonably practicable, notify the Insurer and, if agreed to by the Insurer in writing, the Insured's acceptance of terms and undertaking to pay the extra premium the Insurer may require.

Provided further that paragraphs (a), (b) and (c) of this Condition shall not apply if such alterations are neither known to nor made by an officer of the Insured who is responsible for insurance.

## 2. Breach of Conditions

Any breach of condition without the knowledge or consent of the Insured's officer responsible for insurance shall not prejudice or invalidate this insurance, provided that due diligence is exercised at all times by the Insured.

Provided further that the Insured's officer responsible for insurance shall, upon becoming aware of any such breach of condition or unintended and/or inadvertent act, error, or omission, inform the Insurer as soon as reasonably practicable and that the Insured shall, upon request, pay any reasonable extra premium to the Insurer which they may require from the date of the increase in risk.

## 3. Cancellation

- (a) This Policy may be cancelled at any time at the request of the Insured, in which case the Insurer will be entitled to a pro rata proportion of the premium, subject to any adjustment in accordance with the Adjustment of Premium Memorandum, for the time this Policy has been in force.
- (b) To the extent permitted by law and Section 60 of Insurance Contracts Act 1984, the Insurer may also cancel this Policy by giving the Insured written notice to that effect where:
  - (i) the Insured, or any person who was at any time the Insured, failed to comply with the duty of utmost good faith;
  - (ii) the person who was the Insured at the time when this Policy was entered into failed to comply with the duty of disclosure;
  - (iii) the person who was the Insured at the time when this Policy was entered into made a misrepresentation to the Insurer during the negotiations for this Policy but before it was entered into;
  - (iv) the Insured or any person who was at any time the Insured failed to comply with a provision of this Policy, including a provision with respect to the payment of the premium;
  - (v) the Insured has made a fraudulent claim under this Policy or any other policy of insurance (whether with the Insurer or some other insurer) that provided insurance cover during any part of the period during which this Policy provides insurance cover;
  - (vi) the Insured failed to notify the Insurer of any specific act or omission where such notification is required under the terms of this Policy; or
  - (vii) the Insured acted in contravention of or omitted to act in compliance with any condition of this Policy which empowers the Insurer to refuse to pay, or reduce its/their liability in respect of, a claim in the event of such contravention or omission.



- (c) The Insurer's notice of cancellation takes effect at the earlier of the following times:
- (i) The time when another policy of insurance between the Insured and the Insurer or some other insurer, being a policy that is intended by the Insured to replace this Policy, is entered into; or
  - (ii) 4:00pm on the thirtieth business day (30<sup>th</sup>) after the day on which notice was given to the Insured.

In the event that the Insurer cancels this Policy, the Insurer will repay to the Insured a pro rata proportion of the premium for the unexpired Period of Insurance from the date of cancellation, subject to any adjustment in accordance with the Adjustment of Premium Memorandum, for the time this Policy has been in force.

If the premium has been funded by a premium funding company which holds a legal right over the Policy by virtue of a notice of assignment and irrevocable power of attorney, then it is understood and agreed that, subject to Section 60 of the Insurance Contracts Act 1984 (Cth), the Insurer may cancel the Policy at the request of the premium funding company, after substantiation of the debt and default in payment by the Insured has been made and proven by the Insurer, by giving the Insured not less than three (3) working days written notice to that effect, following which a refund will be made to the premium funding company of the proportionate part of the premium applicable to the unexpired Period of Insurance.

#### **4. Fraud**

If any claim be in any respect fraudulent or if any fraudulent means or devices be used by the Insured or anyone acting on the Insured's behalf to obtain any benefit under this Policy, or if any destruction or Damage be occasioned by the wilful act or with the connivance of the Insured, the Insurer, without prejudice to any other rights the Insurer might have under this Policy, shall, subject to the provisions of the Insurance Contracts Act 1984 (Cth), be entitled to refuse to pay such claim.

#### **5. Headings**

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

#### **6. Insured's Action After Theft or wilful or malicious Damage**

The Insured shall report to the police within a reasonable period upon becoming aware of any loss by Theft or of any wilful or malicious Damage which may give rise to a claim under this Policy.

#### **7. Insurer Rights**

On the happening of any Damage in respect of which a claim is, or may be made, under this Policy, the Insurer and every person authorised by the Insurer may (without thereby admitting any liability and without diminishing the right of the Insurer to rely upon any Conditions of this Policy), at all times acting reasonably:

- (a) enter, take, or keep possession of any building or Premises where the Damage has happened; and
- (b) may take possession of, or require to be delivered to the Insurer, any of the property hereby insured.

The Insurer may keep possession of, and deal with, such building, premises, and/or Property Insured for all reasonable purposes and in any reasonable manner, including:

- (c) to preserve property and evidence for inspection, investigations and/or testing; or
- (d) to any evidence necessary to defend any claim or proceedings brought against the Insured or to advance any recovery.

This Condition shall be evidence of the leave and licence of the Insured to the Insurer so to do. If the Insured or anyone acting on the Insured's behalf shall not comply with the requirements of the Insurer or shall hinder or obstruct the Insurer in doing any of the abovementioned acts, the Insurer may be able to:

- (a) refuse a claim;
- (b) reduce our liability to pay a claim by an amount that fairly represents the extent to which our interests are prejudiced by the failure to comply; or
- (c) cancel the policy.

The Insured shall not in any case be entitled to abandon any property to the Insurer whether taken possession of by the Insurer or not.

## 8. Misrepresentation and Non-Disclosure

If the Insured:

- (a) failed to disclose any matter which the Insured was under a duty to disclose to the Insurer; or
- (b) made a misrepresentation to the Insurer before this Policy was entered into;

and if the Insurer would not have entered into this Policy for the same premium and on the same terms and Conditions expressed in this Policy but for the failure to disclose or the misrepresentation, then:

- (i) the liability of the Insurer in respect of any claim will be reduced to an amount to place the Insurer in the same position in which the Insurer would have been placed if such non-disclosure had not occurred or such misrepresentation had not been made; and/or
- (ii) if the non-disclosure or misrepresentation was fraudulent, the Insurer may treat this Policy as if it had never existed.

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

## 9. Notification of Claims

As soon as reasonably practicable upon the discovery of any Damage, the Insured shall:

- (a) notify the Insurer in writing of any Damage and/or loss (to allow the Insurer to commence investigations and to preserve property); and
- (b) provide to the Insurer as much detail, information, or documents as is available to you as to the circumstances of the Damage:
- (c) deliver to the Insurer written particulars of:
  - (i) the items of property Damaged;
  - (ii) the amount of Damage having regard to the value of the items at the time Damage occurred;
  - (iii) the amount of any claim under Section 2 of this Policy; and
  - (iv) details of any other insurances which may also afford the Insured an indemnity against such Damage and/or loss.

The Insured shall:

- (d) use due diligence, and do all things reasonably practicable, to minimise any interruption of, or interference with, the Business or to avoid or diminish the loss;
- (e) deliver to the Insurer a written statement of any claim certified by the Insured's auditor, with all particulars and details reasonably practicable of the loss;
- (f) produce and furnish all books of accounts and other business books, invoices, vouchers, and all other documents, proofs, information, explanations, and other evidence and facilities as may reasonably be required for investigation and verification of the claim together with (if required) a statutory declaration of the truth of the claim and of any matters connected therewith.

If the Insured does not comply with this condition, the Insurer may be able to:

- (g) refuse a claim;
- (h) reduce its liability to pay a claim by an amount that fairly represents the extent to which the Insurer's interests are prejudiced by the failure to comply;
- (i) cancel the policy.

#### **10. Precautions to Prevent Loss**

The Insured shall take all reasonable care and precautions to prevent or minimise Damage to the Property Insured by this Policy, including compliance with legislation and Australian Standards.

Providing that this Condition shall not apply where Damage to Property Insured arises from the unauthorised acts of an employee of the Insured, or of any third party, and is not due to failure of the Insured to exercise due diligence.

#### **11. Progress Payments**

Provided that indemnity has been granted by the Insurer, progress payments on account of any claim will be made to the Insured at such intervals and for such amounts as may be agreed, either upon production of a report by a loss adjuster, or if no loss adjuster is appointed, then upon the presentation of loss information by the Insured as agreed between the Insurer and the Insured.

Progress payments will be deducted from the settlement amount finally determined upon adjustment of the claim.

#### **12. Proper Law**

The Insurer and the Insured hereby submit to the Jurisdiction of all Australian Courts in relation to matters arising under this Policy.

A reference to any statute, regulation, subordinate legislation, Australian Standard, or code includes any amendment, replacement, successor or equivalent to or of that statute, regulation or subordinate legislation.

#### **13. Reinstatement**

If, in consultation with the Insured, the Insurer elects or becomes bound to reinstate or replace any property, the Insured shall deliver to the Insurer all such plans, documents, information, and render such assistance as the Insurer may reasonably require.

Where the Insurer is not able to reinstate exactly or completely, the Insurer will reinstate in a reasonable manner and shall not in any case be bound to expend more than the applicable Limit of Liability.

#### **14. Sprinkler Installations**

This condition applies to owned premises or installations for which the Insured is responsible.

Where Premises are protected, or are required by law to be protected, by an approved installation of automatic sprinklers, automatic external alarm signal, and automatic alarm signal connected with a fire brigade station, in or on the Premises, at all times the Insured shall use due diligence to ensure such automatic systems are maintained in good working order.

The Insured undertakes that provision will be made for the regular maintenance of the installation in accordance with Australian Standard AS1851 (Part 3 – Automatic Sprinkler Installation) by the installing engineers or firm or, failing this, by a person or organisation who to carry out such maintenance.

Where the sprinklered Premises are leased to a tenant and the lease provides that the tenant shall provide for maintenance of the installation, any failure so to do will not prejudice the rights of the Insured, provided that the Insured, upon becoming aware of the failure, shall as soon as reasonably practicable, provide for maintenance of the installation or give notice in writing to the Insurer and pay such reasonable extra premium as the Insurer may require.

Where the Insured or a tenant responsible to provide for maintenance of the installation enters into an agreement for maintenance with a contractor and such agreement provides in substance that the Insured or tenant shall indemnify and/or hold harmless and/or release from liability the contractor in respect of loss, destruction or Damage which may occur as a result of any peril insured against by this policy, the insurance hereby shall not be prejudiced by the Insured or the said tenant agreeing to such provision.

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

Notice of all alterations and additions to the automatic sprinkler installation shall be given by the Insured to the Insurer as soon as reasonably practicable.

## 15. Subrogation

- (a) Any person claiming under this Policy shall, at the request and at the expense of the Insurer, do and concur in doing and permit to be done any such acts and things as may be necessary and reasonably required by the Insurer for the purpose of enforcing any rights and remedies, or of obtaining relief or indemnity from other parties to which the Insurer shall be or would become entitled or subrogated upon the Insurer paying for making good any Damage under this Policy or paying any Moneys under Section 2 of this Policy.
- (b) Notwithstanding Section 67 of the Insurance Contracts Act 1984 (Cth) the monies recovered in subrogation proceedings whether effected by the Insurer or the Insured shall be applied net of the expense of such recovery:
  - (i) first to the satisfaction of the Insured's loss in excess of the claim paid under this Policy (disregarding the amount of any Deductible applicable);
  - (ii) second to the Insurer in reimbursement of the amounts paid in settlement of the Insured's claim;
  - (iii) third to the Insured in satisfaction of any Deductible amount applicable; and
  - (iv) any excess amount remaining will be disbursed to the Insured.

Nothing contained in this Condition shall prevent the Insurer and the Insured entering into a specific Subrogation Agreement following a claim under this Policy, whereby both parties agree to share legal costs, expenses and the allocation of monies recovered on a different basis.

## 16. Termination of Cover Under Section 2

If during the Period of Insurance or the Indemnity Period, the Insured ceases to operate the Business and:

- (a) permanently discontinues or ceases to carry on the Business or if the Insured's proprietary interest in the Business ceases otherwise than by death; or
- (b) (being a corporation) is placed in liquidation, provisional liquidation, under official management, under the control of a receiver and manager or if control over its assets is assumed by a receiver; or
- (c) (being a natural person) becomes bankrupt,

then the insurance under Section 2 shall cease unless its continuance is admitted in writing by the Insurer.

Such termination of cover shall not apply if any of the events stated in Clauses (a), (b) or (c) are caused by loss, insured by Section 2 of the Policy, resulting from interruption of or interference with the Business in consequence of Damage to property used by the Insured at the Premises.

# Optional Endorsements

The Optional Endorsements listed in this part shall only apply to the Policy when requested by the Insured and are subject to the Insurer agreement to underwrite the additional risk and the Insured's undertaking to pay the extra premium required by the Insurer.

The Optional Endorsements included in the indemnity and any Sub-Limits of Liability applicable will be stated in the Schedule.

For the avoidance of doubt, any conflict between the printed words of the Policy and the wording of any Optional Endorsement will be decided in the Insured's favour.

## Sections 1 – Material Damage and Section 2 – Business Interruption

### 1. Flood Exclusion (Blanket)

Peril Exclusion 3 is deleted in full and replaced as follows:

3. Physical loss, destruction, or damage occasioned by or happening through:
  - (a) Flood;
  - (b) water from or action by the sea, tidal wave, or high water.

Provided that Perils Exclusions 3 shall not apply if loss or Damage is caused by or arises out of:

- (i) an earthquake, seismic disturbance, or tsunami: or
- (ii) cyclone or storm and tempest having a wind force scale 11 or greater on the "Beaufort Scale of Wind Force".

### 2. Flood Exclusion (Certain Situations)

This Policy is amended to exclude Flood as follows:

This Policy does not cover Damage to any Property Insured located at the Situation designated in the Schedule under this Endorsement caused by or happening through Flood or loss under Section 2 resulting therefrom.

## Section 1 – Material Damage

### 3. Environmental Improvements – including Extra Cost of Reinstatement

Applicable to buildings and other property covered by this Policy having a Certified Green Star Performance rating under the Green Star systems of Green Building Council of Australia or equivalent Energy Star qualified requirements.

#### 3.1 Reinstatement or Replacement Memorandum

The provisions of the Reinstatement or Replacement Memorandum are amended to read as follows:

- (a) Where property is lost or destroyed:

In the case of a building, the rebuilding thereof; or in the case of property other than a building, the replacement thereof by similar property: in either case, in a condition equal to, but not better or more extensive than, its condition when new or last renovated, including restoration of the Green Star certification and performance rating applicable immediately prior to the date of the Damage.
- (b) Where property is Damaged:

The repair thereof including the associated costs of stripping, dismantling, or demolition to facilitate work, and the restoration of the Damaged portion of the property to a condition substantially the same as, but not better or more extensive than, its condition when new or last renovated, including restoration of the Green Star certification and performance rating applicable immediately prior to the date of the Damage.

The Insurers will also pay:

- (i) fees and charges of a professional Green Star accredited professional associated with the repair or reinstatement of the Property Insured to required standards;
- (ii) the reasonable cost of additional air quality management to flush out the air in the repaired, replaced, or rebuilt property with one hundred per cent (100%) outside air as required by The Green Building Council of Australia Green Star® or LEED® standards; and
- (iii) such additional charges payable to Green Building Council of Australia for re-certification of the Property Insured on completion of the additional work.

### **3.2 Environmental Extra Cost of Reinstatement Memorandum**

The Extra Cost of Reinstatement Memorandum is amended to read as follows in respect of any such Property Insured.

This Policy extends to cover the extra costs of reinstatement (including demolition, dismantling, or altering of property) incurred to meet Green Standards at the date of the Damage that are additional to those already certified and agreed previously for the Property Insured and necessary to maintain continuity of the Green Standards certification of the Property Insured.

However, the Insurer will not pay fees, costs and expenses associated with complying with additional Green Standards which the Insured was responsible to carry out prior to the occurrence of the Damage.

The Insurer agree to pay the following additional extra costs under this Memorandum necessarily and reasonably incurred by the Insured and not otherwise recoverable under the Basis of Settlement provisions or the Extra Cost of Reinstatement Memorandum of Section 1 of the Policy for:

- (i) fees and charges of a professional Green Star accredited professional person to specify the additional work;
- (ii) the reasonable extra cost of the additional work;
- (iii) the cost and expense to clean-up, sort, segregate, and transport recyclable additional Debris from the Premises to recycling facilities;
- (iv) additional air quality management to flush out the air in the repaired, replaced, or rebuilt property with one hundred per cent (100%) outside air as required by The Green Building Councils of Australia Green Star® or LEED® standards; and
- (v) such additional charges payable to Green Building Councils of Australia for re-certification of the Property Insured on completion of the additional work.

The amount recoverable under this Memorandum is excluded from the calculation of co-insurance.

The Insurer liability under this Memoranda 'Green Standards' is limited to any one event in the Period of Insurance to the Sub-Limit of Liability shown in the Schedule against Optional Extension of Cover 1.2 – 'Environmental Extra Costs of Reinstatement Memorandum'.

## **4. Playing Surfaces**

Notwithstanding any term or provision of the Policy including Property Exclusions 9 and 14, cover is extended to include the cost of repairing Damage to outdoor playing surfaces including supporting base, drainage, sub layers, and foundations of those playing surfaces (unless otherwise excluded) at the Premises, caused by:

- (i) vandals or malicious persons, other than the Insured, or the Insured's guests, director's partners, officers, employees, or members, or their guests;
- (ii) fire, lightning, or explosion causing Damage to Property Insured at the Premises for which the Insurer has admitted liability under Section 1; or
- (iii) the action of the firefighting services, police, or other emergency services in attending to their duties at the Premises.

## 5. Removal of Pollutants or Contaminants from Property of Others

The Indemnity Section of the Policy is extended to indemnify the Insured against responsibility for costs and expenses, necessarily and reasonably incurred to comply with any environmental law, ordinance or regulation governing the removal, storage, clean-up and/or disposal of material classified as a pollutant or contaminant, in respect of any such property originating from the Insured's Premises as Debris and deposited on premises, roadways, services, railway or waterways of others in consequence of Damage to Property Insured by a peril or event covered by this Policy. Property Exclusions 9 to 12 and Perils Exclusions 9 and 10 are varied to give effect to this extension of cover.

Provided that:

- (a) such liability was not assumed by the Insured under an agreement entered after the commencement of the Period of Insurance or any renewal thereof unless liability would have attached in the absence of such agreement;
- (b) the Insurer will not be liable for the additional cost and expense of cleaning and removing any Pollution or Contamination of land or property that existed prior to the occurrence of the Damage;
- (c) the Insurer's liability under this Optional Endorsement 5 shall not exceed the Sub-Limit of Liability stated in the Schedule against 'Removal of Pollutants or Contaminants from Property of Others'; and
- (d) the insurance under this Optional Endorsement is excluded from the calculation of Co-insurance.

## 6. Fusion

Property Exclusion 20 is varied to provide an indemnity to the Insured for Damage to any part or parts of the electrical, electro-mechanical and electronic machines, switchboards, installations, or apparatus forming part of the Property Insured (excluding rectifiers, radio, television, or amplifying equipment of any description) caused by the actual burning out of such part or parts by the electric current therein.

The Insurer shall not be liable under this endorsement for loss, destruction of or Damage to lighting or heating elements, fuses, or protective devices.

## Section 2 – Business Interruption

### 7. Royalties Receivable

The Indemnity under Section 2 is extended to include the following clause (l).

- (l) property at the specified premises anywhere in the world of any company, firm or person identified in the Schedule which results in loss of royalties' receivable by the Insured.

### 8. Remote Premises and Property of Public Utilities Extension – Direct Unspecified Suppliers and/or Direct Customers and their Direct Suppliers and/or Customers

Clause (c) of Section 2 – 'The Indemnity' is deleted and replaced by the following wording and will be shown in the Schedule:

- (c) any land-based premises or property in Australia of any company or authority producing, supplying, providing, or delivering electricity, gas, water, sewerage, or communication services to:
  - (i) the Insured's Business; or
  - (ii) the Insured's direct suppliers and/or direct customers or the direct supplier of commodities, materials, components, goods, or services to any of those parties;

**9. Other Specified Premises – Where the Insured’s Business is dependent on the supply of goods or services to the Insured’s direct Suppliers and Customers**

The Indemnity under Section 2 is extended to include the following clause (l)

- (l) property at premises specified in the Schedule anywhere in Australia of any producer or merchant (other than the parties referred to in clause (c) of The Indemnity), supplying goods or services to any direct supplier or direct customer of the Insured which results in the interruption or interference with their position as a supplier or customer of the Insured. The term ‘Premises of a Producer’ means premises where any goods (or the constituents of such goods) used by the Insured’s direct supplier or customer are produced, assembled, reprocessed and/or stored. The term ‘Premises of a Merchant’ refers to premises from which the supply of goods or services are stored and/or delivered to the Insured’s direct supplier or direct customer;

**10. Unspecified Suppliers’ and/or Customers’ Premises – (World Wide) – Single Limit**

“Unspecified Suppliers and/or Customers Premises (World Wide)” will be shown in the Schedule when included in the insurance.

Notwithstanding anything contained in this Policy to the contrary, loss resulting from interruption of or interference with the Business in consequence of Damage to property (as defined in Section 2 anywhere in the World (excluding Afghanistan, Albania, Angola, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Burma/Myanmar, Democratic Republic of Congo, Cuba, Eritrea, Georgia, Republic of Guinea, Iran, Iraq, Ivory Coast (Republic of Côte d’Ivoire), Kazakhstan, Kampuchea, Kyrgyzstan, Laos, Lebanon, Liberia, Libya, Macedonia, Montenegro, Moldova, North Korea, Mongolia, Romania, Russia (or any country formerly part of the Soviet Union), Rwanda, Serbia, Sierra Leone, Somalia, Sudan (North and South), Syria, Tajikistan, Tibet, Turkmenistan, Ukraine, Uzbekistan, Zaire and/or Zimbabwe) other than Australia to property at the premises of any direct supplier or customer of the Insured shall be deemed to be loss resulting from Damage to Property used by the Insured at the Premises.

There is no requirement under this endorsement that a payment shall be made or liability admitted for Damage under Section 1 of the Policy.

The liability of the Insurer under this endorsement, shall be limited to the Sub-Limit of Liability stated in the Schedule, “Unspecified Suppliers and/or Customers Premises (World Wide)”.

It is understood and agreed that:

- (i) a ‘supplier’ is any person, body, or entity from which the Insured obtains supplies of commodities, materials, components, goods, or services; and
- (ii) a ‘customer’ is a person, body, or entity to which the Insured supplies or provides commodities, materials, components, goods, or services.

It is also understood and agreed that there is no cover provided by the Insurer under this endorsement for loss resulting from Damage to the premises or property of the Insured’s direct customers and direct suppliers caused by natural catastrophe events including, but not limited to, earthquake, volcanic eruption and resultant fire damage, Flood, windstorm (including cyclone, typhoon, hurricane) and hail.

**11. Interdependency Australia**

The Indemnity under Section 2 is extended to include the following clause and will be shown in the Schedule when included in the insurance.

Loss as insured by Section 2 of the policy resulting from interruption of or interference with the Business in consequence of Damage to real or personal property not insured by Section 1 of the Policy; and situated at any other Premises in Australia owned and/or occupied and/or used by the Insured for the purpose of the Business shall be deemed to be loss resulting from Damage to Property Insured.

**12. Isolation by Landslide or Flood**

The Indemnity under Section 2 is extended to include the following clause and will be shown in the Schedule when included in the insurance.

Notwithstanding Property Exclusions 9 to 12, and Perils Exclusions 3 and 8 (c) any loss resulting from interruption of or interference with the Business in consequence of blockage of roads or railway links, bridges or tunnels caused by landslide or Flood within a five (5) kilometres radius of the Premises and which prevents or hinders the use of or access to the Premises shall be deemed to be loss resulting from Damage to Property Insured.



### 13. Other Contributing Properties

The Indemnity under Section 2 is extended to include the following clause and will be shown in the Schedule when included in the insurance.

Any loss resulting from interruption of or interference with the Business in consequence of Damage to any other property (not more specifically mentioned in this Policy) at any Situation in Australia not owned or operated by the Insured, but which wholly or partly prevents delivery of materials, goods, or services to the Insured and/or to the Insured's customers shall be deemed to be loss resulting from Damage to Property Insured.

### 14. Vermin or, Pests or Defective Sanitary Arrangements; Murder or, Suicide

The Indemnity under Section 2 is extended to include the following clause and will be shown in the Schedule when included in the insurance.

Loss as insured by the Policy resulting from interruption of or interference with the Business exceeding 48 hours duration, arising from closure or evacuation of the whole or part of the Insured's Premises by the order of a competent public authority consequent upon:

- (a) vermin or pests or defects in the drains or other sanitary arrangements at the Insured's Premises;
- (b) murder or suicide occurring in or at the Insured's Premises;

occurring during the Period of Insurance, shall be deemed to be loss resulting from Damage to property used by the Insured at the Insured's Premises for the purpose of the Business. This coverage is subject to the Sub-Limit stated in the Schedule and is the maximum the Insurer will pay in any one Period of Insurance.

### 15. Gross Rentals Specification

"Gross Rentals Specification" will be shown in the Schedule when included in the insurance.

In interpreting cover under Section 2, this Endorsement assumes that the indemnity for Gross Rentals Specification replaces and is in substitution for Item 1 of Section 2 and is to be interpreted accordingly.

Where Section 2 of the Policy also includes cover for loss of Gross Profit under Items 1 of the Policy the original provisions and Definitions in the base wording shall apply with full force and effect to claims that relate to settlements under Item 1.

The following clauses are deleted from the policy:

- Item No. 1 (Gross Profit)
- Item No. 3 (Payroll)

Definitions of:

- Gross Profit
- Turnover
- Payroll
- Shortage in Turnover
- Rate of Gross Profit
- Annual Turnover
- Standard Turnover
- Rate of Payroll

Memoranda entitled:

- Turnover Elsewhere After Damage
- Departmental Clause
- New Business
- Accumulated Stocks
- Turnover/Output Alternative
- Salvage Sale

and replaced by the following clauses:

### **Item No. 1**

The Insurance under this Item is limited to loss of Gross Rentals due to a reduction in Gross Rentals and an Increase in Cost of Working and the amount payable as indemnity thereunder shall be:

- (a) in respect of reduction in Gross Rentals: The amount by which the Gross Rentals during the Indemnity Period shall, in consequence of the Damage, fall short of the Standard Gross Rentals;
- (b) in respect of Increase in Cost of Working: The additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in Gross Rentals which but for that expenditure would have taken place during the Indemnity Period in consequence of the Damage, but not exceeding the loss of Gross Rentals thereby avoided;

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

Provided that if the estimated value of Gross Rentals declared at the commencement of each Period of Insurance is less than eighty per cent (80%) of the Annual Gross Rentals (or the appropriate multiple if the Indemnity Period exceeds twelve (12) months), the amount payable hereunder shall be proportionately reduced.

This provision shall not apply:

- (i) if the amount of the loss does not exceed ten per cent (10%) of the value of Annual Gross Rentals declared at the commencement of the Period of Insurance
- (ii) if the value of Insured Payroll Limits (after the application of the Adjustments Clause) in the Indemnity Period is less than eighty percent (80%) of the Insured's declaration of Payroll at the commencement of the Period of Insurance; or
- (iii) where the Insured's declaration of Payroll receivable at the commencement of the Period of Insurance has been stated in a valuation prepared by Gallagher Claim Preparation Solutions, LMI Group, MSM Loss Management, Martin Minett Claims Preparation or a qualified professional approved by the Insurer.

### **Definitions applicable to this endorsement**

**Gross Rental:** means the Money paid or payable to the Insured by tenants or paid by the tenant to others as outgoings under the terms of the rental agreement for rental of the Premises and for services rendered by or on behalf of the Insured.

**Standard Gross Rentals:** means the Gross Rentals during that period in the twelve (12) months immediately before the date of the Damage which corresponds with the Indemnity Period.

**Annual Gross Rentals:** means the Gross Rentals earned during the twelve (12) months immediately before the commencement date of the Period of Insurance.

Adjustments Clause applicable to Standard Gross Rentals and Annual Gross Rentals only.

Adjustments shall be made to Standard Gross Rentals and Annual Gross Rentals as may be necessary to provide for variations in or other circumstances affecting the Business either before or after the Damage or which would have affected the Business had the Damage not occurred, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Damage would have been obtained during the relative period after the Damage.

### **Memoranda**

**Gross Rentals elsewhere after Damage:** If during the Indemnity Period the Business shall be conducted elsewhere than at the Premises, the Gross Rentals derived from such other premises shall be brought into account in arriving at the Gross Rentals during the Indemnity Period.

**Departmental Clause:** If the Business be conducted in departments, the independent trading results of which are ascertainable, the provisions of clauses (a) and (b) of Item No. 1 shall apply separately to each department affected by the Damage.

New Business: In the event of Damage occurring at Premises before completion of the first year's trading of business, the terms 'Standard Gross Rentals' and 'Annual Gross Rentals' shall bear the following meanings and not as within stated:

Standard Gross Rentals: means the proportional equivalent for a period equal to the Indemnity Period, of the Gross Rentals realised during the period between the commencement of the Business and the date of the Damage.

Annual Gross Rentals: means the proportional equivalent, for a period of twelve (12) months of the Gross Rentals realised during the period between the commencement of the Business and the date of the Damage.

Adjustments Clause applicable to Standard Gross Rentals and Annual Gross Rentals only.

Adjustments shall be made to Standard Gross Rentals and Annual Gross Rentals as may be necessary to provide for variations in or other circumstances affecting the Business either before or after the Damage or which would have affected the Business had the Damage not occurred, so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Damage would have been obtained during the relative period after the Damage.

#### **Premium Adjustment Memoranda – Gross Rentals**

The following alteration is made to the Adjustment of Premium Memorandum:

It is agreed that the words "Gross Rental" shall be substituted for "Gross Profit" in the provisions that relate to the 'Adjustment of Premium' in 'Memoranda Applicable to All Sections'.

#### **Additional Increase in Cost of Working – Gross Rentals**

Where this additional coverage is required, it will be shown in Section 2 in the Schedule.

The insurance under this item is limited to Increase in Cost of Working (not otherwise recoverable hereunder) necessarily and reasonably incurred during the Indemnity Period in consequence of the Damage for the purpose of avoiding or diminishing reduction in Gross Rentals and/or maintaining normal operations and/or services.

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