SURA CONSTRUCTION



Owner Builder Construction Policy

Product Disclosure Statement and Policy Wording

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Important Information

About this Document

This is an important document that must be read carefully before making a decision in relation to this insurance (which is not compulsory). The insurer is responsible for the content of this document.

This document can help **you** to:

- decide whether this insurance will meet **your** needs; and
- compare it with other products **you** may be considering.

See the Words With Special Meanings section page for details of terms that have special meaning. In some cases, a word with special meaning may be defined in a specific part of the **policy**.

This document is also a Product Disclosure Statement (PDS) under the Corporations Act 2001 (Cth) to the extent specified (See Further PDS Information).

Product Disclosure Statement

This document is a Product Disclosure Statement (PDS) and an important document **you** must read carefully before making a decision to purchase this insurance. SURA is responsible for the content of this PDS.

This PDS can help **you** to:

- decide whether this insurance will meet **your** needs; and
- compare it with other products **you** may be considering.

Please note that any recommendation or opinion in this document is of a general nature only and does not take into account **your** objectives, financial situation or needs. **You** need to decide if this insurance is right for **you**.

A Quick Overview of the Available Covers

By way of quick overview, you can apply to buy:

- Material Damage (see Section 1 – Material Damage for details page 39) – Designed to cover the construction materials meant to be incorporated into the **insured project, pre-existing property, mobile machinery and equipment** and **employee tools**; and/or
- Third Party Liability (see Section 2 – Third Party Liability for details page 46) – Designed to cover the legal liability arising from the construction of the **insured project** and to pay by way of **compensation** in respect of **personal injury** or **property damage**.

The above cover is subject to eligibility criteria and provided subject to the **policy** terms as explained in this document. **You** must read the **policy** for full details of the cover.

Who is insuring you

This insurance is underwritten by Certain Underwriters at Lloyd's.

Lloyd's has been insuring Australian risks for over 150 years and is licensed to write non-life insurance business under the Australian Insurance Act 1973. **You** or **your** representatives can obtain further details of the syndicate numbers and the proportions of this insurance for which each of the Underwriters at Lloyd's is liable by requesting them from **us**. In the event of loss, each Underwriter (and their Executors and Administrators) is only liable for their own share of the loss.

You should contact SURA Construction in the first instance in relation to this insurance.

Lloyd's contact details are:
Lloyd's Australia Limited
PO Box R1745 Royal Exchange NSW 1225
Telephone: (02) 8298 0700

Who acts for the insurer

About SURA Construction

SURA Construction Pty Ltd ABN 35 147 580 756 (SURA Construction) has developed this Owner Builder Construction Policy which is underwritten by the insurer referred to above.

SURA Construction has an authority from the insurer to arrange, enter into/bind and administer this insurance (including handling and settling claims) for the insurer.

In providing any financial services SURA Construction acts as an Authorised Representative (AR No419873) of SURA Pty Ltd ABN 36 115 672 350 AFSL 294 313.

This means that SURA will be acting as agent for Lloyd's, not for **you**.

Our contact details are:
Level 14, 141 Walker Street
North Sydney NSW 2060
PO Box 1813 North Sydney NSW 2059
Telephone: 02 9930 9560

There are words with special meanings

Words and terms in bold (other than headings) are defined in the Words with Special Meanings section on page 25, unless expressly stated otherwise in the **policy**.

What you need to do when making any disclosures and answering questions

You must answer any questions **we** ask honestly and accurately and to the best of **your** knowledge.

If **you** don't comply with the above obligations **we** may be able to refuse to pay or reduce a claim **you** make and/or cancel the **policy**, or treat it as if it never existed, subject to relevant law.

Refer to the Your Duty to Take Reasonable Care Not to Make a Misrepresentation to Us notice on page 8 for details.

Some important things to understand about the cover

The standard cover **we** provide is set out in the relevant cover section(s) starting page 39 (subject to eligibility and acceptance by **us**). **We** may apply additional terms that affect this cover if **we** agree this with **you** or where permitted by law.

The cover and what **we** pay can be affected by things such as:

- exclusions which restrict the cover;
- compliance with any terms/conditions **we** apply which impose obligations on **you** and others who may be covered;
- limits (including time limits) **we** apply to the cover;
- **excess(es) you** have to pay in relation to a claim;
- recovery **you** or **we** may make in relation to the relevant loss.

You need to consider these things to see if the cover is right for **you** personally as **we** don't do this. **You** should seek advice to help **you** when needed.

The need to review suitability of cover, including on an ongoing basis

Where **we** agree to insure **you**, **we** confirm this by issuing a **policy schedule**. This contains details such as what or who **we** insure, what covers are provided and **your** contact details.

This document, the **policy schedule** and any **endorsements we** agree with **you** will apply (which might change the standard terms of this document) form **your** agreement or contract with **us** (the **policy**).

You need to read them together and keep them in a safe place for future reference. These are the terms on which **we** have agreed to provide insurance to **you**. Check they set out what **you** believe was agreed and that the information in them is accurate and up to date. If not, contact **us** immediately as this may adversely affect **your** right to cover.

Make sure you comply with your obligations under the policy once it is issued

The **policy** terms impose obligations on **you** that **you** need to meet such as:

- notifying **us** if certain things affecting the risk **we** have insured change. For example, **you** require an extension of time for the **insured project** or in circumstances noted in GC1 Alteration of Risk page 33.
- taking certain action when an event that gives rise or may give rise to a claim occurs. For example, notifying **us** of this and taking reasonable care to mitigate any loss. See in particular GC4 Claim page 35.
- seeking **our** consent before taking certain action. For example, before **you** incur legal costs – see GC14 Limiting Insurers Rights to Subrogation page 38 and GC10 Precautions page 37.

If **you** do, it may adversely affect **your** rights to cover under the **policy** and/or allow **us** to cancel the **policy**. Applicable law may restrict **our** rights in certain circumstances. See When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim and GC3 Cancellation for further information.

You must not, without obtaining **our** prior written consent (such consent not to be unreasonably withheld):

- assign any benefits, rights or obligations under **your policy**; or
- enter into any agreement, make any admissions or take any action or step with another party:
  - where **you** are assuming a greater liability than would apply had **you** not done so; or
  - which prevents **you** (or **us**) from taking a recovery action for damages, indemnity or contribution from that other party **you** would have been entitled to.

What happens if you don't meet your obligations or an exclusion applies

If **you** don't meet **your** obligations under the **policy** terms or an exclusion or other limitation applies, **we** may refuse or reduce what **we** pay in relation to a claim and/or cancel **your policy**, subject to applicable law which may restrict **our** rights in certain circumstances.

The result can depend on the circumstances. See When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim on page 10 and GC3 Cancellation on page 34 for further information.

Cooling off period and cancellation rights

You have cooling off rights that allow **you** to return the product for any reason within the cooling-off period see page 10.

You also have cancellation rights see page 34. **We** can cancel where permitted by law see page 34. Make sure **you** understand the **premium** refund terms when the **policy** is returned or cancelled as set out in these provisions.

Making a claim	If **you** want to make a claim under the **policy** contact **us**: PO Box 1813 North Sydney NSW 2059 Phone: 02 9930 9560 claims@sura.com.au If **you** are represented by someone (e.g. a broker) speak with them in the first instance to see what assistance they can provide. Make sure **you** start by reading and complying with the claims conditions on page 35. If **you** don't, it may adversely affect **your** rights to cover under the **policy** and/or allow **us** to cancel the **policy**.
Complaints and Disputes	If **you** need to make a complaint see Complaints and Disputes Resolution Process on page 15.
Premium	This is what **you** need to pay in return for **us** issuing this insurance. **We** agree the **premium** with **you** and how and when it must be paid before **we** issue the insurance. See Your Premium on page 10 for more details.
Impact of acts of other insureds	If there is more than one **insured** on the **policy**, then anything that any of the other **insureds** say, do or omit to advise applies to and affects the rights to all of the **insureds**, unless **we** expressly state this is not the case in a term.
This is not all you need to know	This only provides some important information to be aware of. **You** must read the **policy** for details of what **your** and **our** rights and obligations are under this insurance.

Consumer Insurance Contract Opt In Notice

This insurance is a consumer insurance contract.

Your Duty to Take Reasonable Care Not to Make a Misrepresentation to Us

What is the duty?

All persons who will be an insured covered by the insurance (referred to as **you**, **your**) have a legal duty to take reasonable care not to make a misrepresentation to **us** (i.e., the insurer).

A misrepresentation includes a statement that is in any way false, misleading, dishonest or which does not fairly reflect the truth. e.g., a statement of fact that is not true, a statement of opinion that is not the subject of an honestly held belief or a statement of intent that never existed at the time provided.

We will not treat something as a misrepresentation merely because **you** failed to answer a question or gave an obviously incomplete or irrelevant answer to a question.

Answering our questions

Answers to **our** questions help **us** decide whether to provide **you** with insurance and if so, on what terms. The duty must be complied with when answering them.

When answering **our** questions:

- take reasonable care to make sure **your** answers are true, honest, up to date and complete in all respects. **You** may breach the duty if **you** answer without any care as to its truth or if **you** only guess or suspect the truth. If in doubt, pause the **application** and obtain the true facts before answering; and
- if another person is answering for **you**, **we** will treat their answers as **yours**. In such a case **you** should check the questions have been answered correctly on **your** behalf by them.

When does the duty apply until?

This duty applies until the time **we** agree to issue **you** with insurance for the first time. It also applies where **you** are applying to, extend, vary/change, replace or reinstate **your** insurance, up until the time **we** agree to this.

If **you** have made a statement and this changes before the end of the above relevant time **you** must tell **us** about this change before the time ends.

What happens if you breach the duty?

If **you** do not meet the duty, to the extent permitted by law, **we** may reject or not fully pay **your** claim. **We** may also, or as an alternative, cancel **your** insurance or if the misrepresentation was fraudulent, treat it as if it never existed.

A misrepresentation made knowingly by **you** without belief in its truth or recklessly without caring whether it is true or false can be fraudulent.

How we determine if there has been a breach?

A breach is determined having regard to all relevant circumstances.

Without limiting the above, the following matters may be taken into account in determining whether you have taken reasonable care not to make a misrepresentation:

- the type of this consumer insurance contract and its target market;
- explanatory material or publicity produced or authorised by **us**;
- how clear, and how specific, any questions asked by **us** were;
- how clearly **we** communicated to **you** the importance of answering those questions and the possible consequences of failing to do so;
- whether or not an agent was acting for **you**; and
- whether the contract was a new contract or was being, extended, varied or reinstated.

We must also take account of any particular characteristics or circumstances about **you** which **we** were aware of, or ought reasonably to have been aware of.

If **we** believe the duty is breached, **we** will at least explain why, consider any response to the contrary and provide information on **our** dispute resolution procedures if **we** can't agree.

Need more help?

If any question or guidance provided is not clear or **you** need additional assistance, **you** can contact **your** agent/broker in the first instance and/or contact **us**.

Cooling Off Period and Cancellation Rights

You have a cooling off period of twenty-one (21) days from the date **we** first issue **your policy**.

During this period **you** can return the **policy** and receive a refund of **your premium** provided **you** have not exercised any right or power under the **policy** (e.g. made any claim) and these rights and powers have not ended.

We may deduct any reasonable administrative and transaction costs incurred by **us** that are reasonably related to the acquisition and termination of the **policy** and any amounts in relation to Government taxes or duties **we** cannot recover, from any refund amount.

In addition to **your** cooling off period, **you** can cancel **your policy** at any time (See GC3 Cancellation on page 34).

General Advice Warning

Any advice about this insurance that **we** or SURA Construction gives **you** is of a general nature. **We** do not consider **your** individual objectives, financial situation or needs. It is up to **you** to choose the cover **you** need, and **you** should carefully read this document and any other documents that form part of the **policy** before deciding whether this insurance is right for **you**.

Your Premium

Where **we** have agreed to issue cover, **we** do so in return for **you** paying or agreeing to pay **us** the **premium**. The **premium** and the time it needs to be paid by are specified in the **policy schedule**. It depends on a number of factors (and can change on renewal) such as:

- **your** risk profile which includes where **you** live, the property being insured, the type and amount of cover **you** get, who is covered, the relevant claims experience of those covered;
- any applicable discounts;
- any compulsory government charges and any applicable fire services levy;
- any applicable **excess(es)**;
- other charges **you** are told by **us** of; and
- other factors that **we** consider relevant to the likelihood of a claim being made on **your** policy.

When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim

We may only ever refuse to pay or reduce the amount **we** pay under a claim to the extent permitted by applicable law.

Some situations in which **we** may refuse to pay or reduce the amount **we** pay under a claim under the **policy** (to the extent permitted by applicable law) include (but are not limited to):

- when **you** apply for cover (this includes new business, variations, extensions and reinstatements) and do not comply with Your Duty to Take Reasonable Care Not to Make a Misrepresentation to Us.
- if **you** do not comply with or meet a **policy** term or condition or **we** can rely on an exclusion or other limitation (all referred to as terms when used in the **policy**) – See Our rights regarding the operation of or breach of a term of the **policy**.
- if **you** make a fraudulent claim – See Fraudulent claims for more detail.
- where **you** have not or are not acting in accordance with **your** duty of utmost good faith under the Insurance Contracts Act 1984 (Cth) – See Duty of Utmost Good Faith for more detail.

We may also have cancellation rights in the above circumstances to the extent permitted by applicable law.

Subject to applicable law, the amount of any claim entitlement can also be affected and/or reduced by other things, including any limits (e.g. monetary or time limits) or **excess(es)**, any outstanding **premium** and recoveries **you** or **we** might make relevant to a loss as set out in the **policy** terms.

See Our rights regarding the operation of or breach of a term of the policy for more detail.

Our rights regarding the operation of or breach of a term of the policy

We will only rely on any rights **we** have regarding the operation of or breach of a term of the **policy** to the extent permitted by applicable law (including **our** right to refuse or reduce a claim if **you** do not comply with or meet a **policy** term or condition or where an exclusion or other limitation applies). The law can be complex and **we** provide a high-level summary below of some key examples on how the Insurance Contracts Act 1984 (Cth) may affect matters depending on the circumstances. To the extent of any inconsistency the Insurance Contracts Act 1984 (Cth) will prevail.

Other laws can apply beyond the Insurance Contracts Act 1984 (Cth) such as the Corporations Act 2001 (Cth) and the Australian Securities and Investment Commissions Act 2001 (Cth) and **you** need to seek **your** own advice regarding all relevant legal rights **you** may have.

If you do not comply with or meet any policy term

We will only rely on any rights **we** have regarding the operation of or breach of a **term** of the **policy** to the extent permitted by law (including **our** right to refuse or reduce a claim noted above). **We** provide some key examples below. **You** need to seek **your** own advice regarding all relevant legal rights **you** may have.

Terms allowing us to refuse to pay or reduce a claim (in whole or part) by reason of an act by you or some other person that occurred after the policy was entered into

Subject to **our** rights in relation to fraudulent claims explained below, by reason of section 54 of the Insurance Contracts Act 1984 (Cth), where the effect of the **policy** (this includes all terms or conditions, including any exclusion or other limitation) is to allow **us** to refuse to pay or reduce a claim (in whole or part) by reason of an act by **you** or some other person that occurred after the **policy** was entered into, **we** will exercise **our** rights under the **policy** as explained below.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Under section 54, an act by **you** or some other person includes an omission and inaction and an act or omission that has the effect of altering the state or condition of the subject-matter of the **policy** or of allowing the state or condition of that subject-matter to alter.

How we exercise our rights where section 54 applies (unless there is a fraudulent claim)

- Where:
  - the act was necessary to protect the safety of a person or to preserve property;
  - it was not reasonably possible for **you** or the other person not to do the act; or
  - **you** prove no part of the loss that gave rise to the claim was caused by the act,

  we will not refuse to pay or reduce the claim by reason only of that act.
- Where the act:
  - could not reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the **policy**; or
  - could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the **policy** but **you** prove that some part of the loss that gave rise to the claim was not caused by the act, so far as it concerns that part of the loss,

  we may not refuse to pay the claim, but **we** can reduce **our** liability in respect of the claim by an amount that fairly represents the extent to which **our** interests were prejudiced as a result of that act.
- Otherwise, where the act could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the **policy**, **we** may refuse to pay the claim.

Terms allowing us to refuse to pay or reduce a claim because of pre-existing defects or imperfections existing before the policy was entered into

Only where section 46 of the Insurance Contracts Act 1984 (Cth) is applicable to the **policy**:

- where a claim is made in respect of a loss that occurred as a result, in whole or in part, of a defect or imperfection in a thing; and
- at the time when the contract was entered into **you** were not aware of, and a reasonable person in the circumstances could not be expected to have been aware of, the defect or imperfection,

we may not rely on any provision included in the **policy** that has the effect of limiting or excluding **our** liability under the **policy** by reference to the condition, at a time before the **policy** was entered into, of the thing. This does not apply if the **policy** is in an excluded class to which section 46 does not apply.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Fraudulent claims

In all cases, where a claim is made fraudulently under:

- the **policy**; or
- the Insurance Contracts Act against **us** by a person who is not the **insured**,

we may refuse payment of the claim to the extent permitted by applicable law. Under section 56(2) of the Insurance Contracts Act 1984 (Cth) a court may, if only a minimal or insignificant part of the claim is made fraudulently and non-payment of the remainder of the claim would be harsh and unfair, order **us** to pay, in relation to the claim, such amount (if any) as is just and equitable in the circumstances.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Duty of Utmost Good Faith

The following can also (where applicable) affect **our** and **your** rights and obligations regarding the operation of, reliance on, or breach of a term of the **policy**:

- section 13 of the Insurance Contracts Act 1984 (Cth) requires each party to the **policy** to act towards the other party, in respect of any matter arising under or in relation to it, with the utmost good faith. The obligation also extends to third party beneficiaries as defined in the Act but only applies to them after the contract is entered into.
- section 14 of the Insurance Contracts Act 1984 (Cth) provides that if reliance by a party to the **policy** on a provision of the **policy** would be to fail to act with the utmost good faith, the party may not rely on the provision.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Terms Apply to Extent Enforceable

A term (or part of a term) of the **policy** will be applied to the extent it is not unenforceable under applicable law.

Limits on Assigning Your Rights

You cannot assign any benefits, rights or obligations under **your policy** unless **you** have **our** written permission to do so (such consent not to be unreasonably withheld).

Your and Our Representatives

If **you** want to appoint a representative to act on **your** behalf **you** must provide **us** with reasonable details, including the authority **you** wish to provide to them but **we** need to consent (such consent not to unreasonably be withheld).

If someone is acting as **our** representative and not **yours**, **we** require them to tell **you** this.

Remuneration may be paid by **us** to **our** representatives and referrers and in some cases to **your** representatives who arrange insurance for **you**. **You** can ask **us** and them for details.

Privacy Statement

In this Privacy Statement the use of **we, our, us** means SURA and the insurers unless specified otherwise.

In this Privacy Statement the use of personal information includes sensitive information.

We are committed to protecting the privacy of the personal information that **you** provide to **us**.

The Privacy Act 1988 contains the Australian Privacy Principles which require **us** to tell **you** that **we** collect, handle, store and disclose **your** personal and sensitive information for the specific purpose of:

– deciding whether to issue a policy,
– determining the terms and conditions of **your policy**,
– compiling data to help develop and identify other products and services that may interest clients, and
– handling claims.

Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable:

a) whether the information or opinion is true or not;
b) whether the information or opinion is recorded in a material form or not.

Sensitive information includes, amongst other things, information about an individual's racial or ethnic origin, political opinions, membership of a political organisation, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual orientation or practices, criminal record, health information about an individual, genetic information, biometric information or templates.

You have given **us your** consent to collect, use and disclose **your** personal information in order to provide **you** with the relevant services and/or products.

When **you** give **us** personal information about other individuals, **we** rely on **you** to have made or make the individual aware that **you** will or may provide their personal information to **us** and the types of other parties and service providers **we** may provide it to, the relevant purposes **we** and the other parties and service providers will use it for, and how they can access it. If **you** have not done or will not do either of these things, **you** must tell **us** before **you** provide the relevant personal information to **us**.

We will protect **your** information using physical, technical, and administrative security measures to reduce the risks of loss, misuse, unauthorised access, disclosure and alteration. Some of the safeguards that **we** use are firewalls and data encryption, physical access controls to **our** data centres, and information access authorisation controls.

We disclose personal information to other parties and service providers whom **we** believe are necessary to assist **us** and them in providing the relevant services and/or products. For example, in handling claims, **we** may have to disclose **your** personal information to other parties and service providers such as **our** claim management partner, other insurers, reinsurers, loss adjusters, external claims data collectors, investigators and agents, facilitators, assessors or other parties as required by law. **We** will limit the use and disclosure of any personal information provided by **us** to them to the specific purpose for which **we** supplied it.

We may disclose **your** personal information to **our** insurers, reinsurers, related entities and service providers overseas where it is reasonably necessary for, or directly related to, the functions, services or activities **we** provide to **you**. When **we** transfer **your** information to other countries, including countries which may not have data protection laws that provide the same level of protection that exists in Australia, **we** will protect the information as described in this Privacy Policy.

If **you** do not provide the personal information requested and/or do not provide **us** with **your** consent to the use and disclosure of **your** personal information as set out in this Privacy Statement, **your** insurance **application** may not be accepted, or **we** may not be able to administer **your policy** or **you** may be in breach of **your** duty to take reasonable care not to make a misrepresentation, the consequences of which are set out under the heading Your Duty to Take Reasonable Care Not to Make a Misrepresentation to Us in this document.

We will notify **you** as soon as possible if **your** personal information is involved in a data breach that is likely to result in serious harm to **you**.

If **you** would like a copy of **our** Privacy Policies, would like to seek access to or correct **your** personal information, opt out of receiving materials **we** send, complain about a breach of **your** privacy or **you** have any query on how **your** personal information is collected, stored or used, or any other query relating to **our** handling of **your** personal information, please contact **us**.

General Insurance Code of Practice

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

Lloyd's Australia Limited has adopted the Code on terms agreed with the Insurance Council of Australia.

For further information on the Code, please visit www.codeofpractice.com.au.

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

For more information on the Code Governance Committee (CGC) go to https://insurancecode.org.au.

Complaints and Disputes Resolution Process

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

Complaints Officer
SURA Construction
Level 14, 141 Walker Street
North Sydney NSW 2060
Telephone: (02) 9930 9500
Email: IDR@SURA.com.au

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

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

Lloyd's Australia Limited
Email: idraustralia@lloyds.com
PO Box R1745 Royal Exchange NSW 1225
Telephone: (02) 8298 0700

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

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

Australian Financial Complaints Authority
GPO Box 3, Melbourne, VIC 3001
Telephone: 1800 931 678
Email: info@afca.org.au
Website: www.afca.org.au

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

Service of Suit

The insurers accepting this insurance agree that:

a) if a dispute arises under the **policy**, the **policy** will be subject to Australian law and practice and the insurers will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;

b) any summons to be served upon the insurers may be served upon:

   Lloyd's Underwriters' General Representative in Australia
   PO Box R1745 Royal Exchange NSW 1225
   Email: serviceofsuitaus@lloyds.com

   who has authority to accept service on the insurers' behalf;

c) if a suit is instituted against any of the insurers, all insurers participating in the **policy** will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under the **policy** immediate notice should be given as soon as possible to:

SURA Construction
Level 14, 141 Walker Street
North Sydney NSW 2060
Telephone: (02) 9930 9500
Email: IDR@SURA.com.au

Governing Law

Your policy is governed by the law of the state of Australian State or Territory where the **policy** is issued.

Phoning for More Assistance and Confirmation of Transactions

If **you** need to clarify any of the information contained in this PDS or **your policy** documents, wish to confirm a transaction or **you** have any other queries regarding **your** insurance **policy**, please use the contact details on the back cover.

Notices

You may choose to receive **your policy** documents and notices in relation to the **policy**:

- electronically (by email); or
- in hard copy (by post).

In the event that **you** choose to receive **your** documents electronically, **we** will send them to the email address that **you** provide **us**, not **your** mailing address. Any documents sent by email will be considered to have been received by **you** 24 hours from the time **we** sent them to **your** email address.

If **you** do not tell **us** to send **your** documents to **you** electronically, then **we** will send them to **you** by post to the mailing address that **you** have provided **us**.

It is **your** responsibility to make sure that both the email and mailing address **you** have provided **us** are up to date. This means **you** need to let **us** know if **you** change **your** email or mailing address as soon as reasonably possible.

Any communications to **us**, including notices as provided for or required under the **policy**, must be sent to SURA Construction.

We will send all **policy** documents and notices in relation to the **policy** to:

a) **your** nominated insurance intermediary of the **insured's** specified on the **policy schedule (insured)** until **we** receive written notice to the contrary from the **insured**; or

b) if there is no nominated insurance intermediary, the **insured**, acting on behalf of **you**.

Any notice **we** give the **insured** will be in writing, and it will be effective:

a) if it is delivered to the **insured** or their nominated insurance intermediary personally; or

b) if it is delivered or posted to the **insured's** address or the **insured's** nominated insurance intermediary address last known to **us**.

It is important for the **insured** to tell **us** of any change of address as soon as possible.

Updating this PDS

We may need to update this PDS from time to time if certain changes occur when required and permitted by law. **We** will issue **you** with a new PDS or a supplementary PDS or other compliant document (for example **policy schedules**, and/or **endorsements**) to update the relevant information except in limited cases. Where the information is not something that would be materially adverse from the point of view of a reasonable person considering whether to buy this insurance **we** may issue **you** with notice of this information in other forms or keep an internal record of such changes. A paper copy will be given or an electronic copy made available without charge on request.

Several Liability

The liability of an insurer under this contract is several and not joint with other insurers party to this contract. An insurer is liable only for the proportion of liability it has underwritten. An insurer is not jointly liable for the proportion of liability underwritten by any other insurer. Nor is an insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown in the **policy schedule**.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with any other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various parts in this clause to this contract in the singular, where the circumstances so require this should be read as a reference to contracts in the plural. The insurers named hereon bind themselves each and for their own part and not one for another.

Each insurer's liability under this contract shall not exceed that percentage or amount of the risk shown against that insurer's name.

Sanctions

We shall not be deemed to provide cover and **we** shall not be liable to pay any claim or provide any benefit under this **policy** to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose **us**, **our** parent company or **our** ultimate controlling entity to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the Commonwealth of Australia, United Kingdom or the United States of America.

Taxation Information

We show all taxes and charges as separate items on all Tax Invoices (e.g. stamp duty and **GST**).

When **we** pay a claim, **your GST** status will determine the amount of **GST we** pay on claims. Details are provided in the **policy** wording.

Third Party Beneficiaries

The **named insured** and the insurer are the only parties to the **policy**. No insurance is provided in relation to the interest of any persons not specified as being entitled to benefit under the **policy**.

The benefit of the cover under the **policy** is extended automatically to **additional insureds** as defined see page 25 by reason of the operation of section 48 of the Insurance Contracts Act 1984 (Cth). They are not contracting parties. Other persons who are not contracting parties to the **policy** may be entitled to cover as third party beneficiaries, but only if specified as so entitled and limited only to the extent and interest specified.

Nothing in the **policy** is intended to give any such persons (including **additional insureds**) any right to enforce any term of this **policy** which that person would not have had but for the Insurance Contracts Act 1984 (Cth). Their rights and obligations are subject to the operation of the Insurance Contracts Act 1984 (Cth) as it applies to such persons and other applicable law.

Any person entitled to any benefit under the **policy** that is not the **named insured**:

- has, in relation to their claim, the same obligations to **us** as they would have if they were the **named insured**; and
- may discharge the **named insured's** obligations in relation to the loss.

We also have the same defences to an action by such persons as **we** would have in an action by the **named insured** including, but not limited to, defences relating to the **named insured's** conduct (whether the conduct occurred before or after the contract was entered into).

Such persons have no right to cancel or vary the **policy** or its cover – only the **named insured** (as the contracting party) and **we** can do this. If **we** cancel or vary the **policy** or its cover, **we** do not need to obtain such persons' consent to do so.

We also do not provide any notices in relation to this insurance to such persons as they are not a contracting party to the **policy**. **We** only send notices to the **named insured** which is the only entity **we** have contractual obligations to under the **policy**.

Neither **we** nor the **named insured** hold anything on trust for, or for the benefit or on behalf of any such persons under this insurance arrangement.

The **named insured**:

- does not act on **our** behalf in relation to the insurance;
- is not authorised to provide any financial product advice, recommendations or opinions about the insurance; or
- does not receive any remuneration or other benefits from **us**.

Any third party beneficiary needs to read this document and other documents forming the **policy** carefully to properly understand the benefits they have access to as non-contracting parties. The insurance cover is subject to the terms, conditions, limitations and exclusions of the **policy**.

Any person who may be entitled to a benefit under the **policy** should consider obtaining advice as to whether the benefits are appropriate or useful for their personal needs from a person who is licensed to give such advice. No advice is provided by **us** or SURA Construction that the benefits are appropriate or useful for any person's needs. Nothing prevents such persons from entering into other arrangements regarding insurance.

In some cases the **named insured** may specify loss payees **we** will make payments to (e.g a financier).

This Important Information Section Does Not Tell You All You Need to Know

This Important Information section only provides some important information to be aware of. **You** must read the **policy** for details of what **your** and the insurer's and obligations are under this insurance.

Further PDS Information

This insurance contains cover which may or may not be provided to a retail client as defined under the Corporations Act 2001 (Cth) depending on the circumstances. Only the parts of this document (and any other documents forming part of the **policy**) that apply to cover provided to a retail client, will form the Product Disclosure Statement (PDS) for the purposes of the Corporations Act 2001 (Cth).

We may need to update the PDS from time to time if certain changes occur when required and permitted by law. **We** will issue **you** with a new PDS or a supplementary PDS or other compliant document (for example **policy schedules**, and/or **endorsements**) to update the relevant information except in limited cases. Where the information is not something that would be materially adverse from the point of view of a reasonable person considering whether to buy this insurance **we** may issue **you** with notice of this information in other forms or keep an internal record of such changes. An electronic copy made available without charge by contacting **us** using **our** contact details in this document.

Important Notices

Significant Features And Benefits

This **policy** contains two types of cover.

Cover	Property/Liability Insured	Description of cover provided
Section 1 Material Damage Cover	Construction materials and labour **Pre-existing property**	Covers insured damage to construction works and **pre-existing property** subject to the terms, conditions and exclusions of this **policy**. Details of the cover provided under this section are stated in the **policy** wording under the heading Section 1 – Material Damage on page 39.
Section 2 Third Party Liability	Public Liability	Covers **your** legal liability to compensate others for bodily injury or damage to their property arising from an **occurrence** and subject to the terms, conditions and exclusions of this **policy**. Details of the cover provided under this section are stated in the **policy** wording under the heading Section 2 – Third Party Liability.

With each type of cover, a range of additional benefits may be included.

These additional benefits are shown in the **policy** wording under:

- S1.2 Additional Benefits – Section 1 – Material Damage on page 39; and
- S2.2 Additional Benefits – Section 2 – Third Party Liability on page 46.

You will need to read this **policy** wording the **policy schedule**, and any **endorsement** applicable to **your policy** for a full description of the features and benefits of the **policy**.

Significant Risks

Exclusions and Conditions

Our insurance is designed to provide protection for **you** in the event of something happening which has been insured against.

Under some circumstances, this **policy** will not provide any insurance cover to **you**. For example, **we** do not provide cover for loss, damage or liability arising out of war. In the **policy** wording, **we** state when cover is not provided under:

- S1.5 Exclusions (applying to Section 1 – Material Damage) on pages 41 to 45;
- S2.4 Exclusions (applying to Section 2 – Third Party Liability) on pages 47 to 53; and
- General Exclusions Applicable to Sections 1 and 2 on page 31.

There are things that **you** must do in order for **your** insurance cover to apply.

For example, **you** must take all reasonable precautions to prevent damage. In the **policy** wording **we** state what **you** need to do under:

- General Conditions Applicable to Sections 1 and 2 on page 33; and
- GC4 Claims on page 35.

Average/Underinsurance

In the event of loss or damage covered by this **policy**, if it is found that the declared value for the construction cost or the declared value for **pre-existing property**, is less than 80% of the actual sum required to reinstate in accordance with the terms of this **policy**, then average will apply and the indemnity that **we** will be required to pay will be reduced in the same proportion that 80% of the actual sum required represents to the declared value.

Excesses

If **you** make a claim under the **policy**, **you** may be required to pay one or more **excess(es)**. The descriptions of these **excesses** and the circumstances in which they are applied are shown in the policy wording under General Conditions Applicable to Sections 1 and 2 on pages 33 to 38, S1.2 Additional Benefits on page 39, and on **your policy schedule**.

We take into consideration a number of factors in setting the amount of **your excess**. These include factors relating to:

- the type of construction insured;
- where the project is to be undertaken;
- the type of loss covered; and
- **your** previous insurance and claims history.

At the time of **your** enquiry or **application** for insurance, the amount of all **excess(es)** applicable to **your policy** will be advised to **you**.

Costs of this Insurance

The **premium** payable by **you** will be shown on **your** Tax Invoice.

The key factors that influence the **premium** calculation are reflected in the questions asked, and information sought at the time of **your** enquiry or **application** for this insurance. These include factors relating, but not limited to:

- the type of construction insured;
- where the project is being undertaken;
- the type of loss covered; and
- **your** previous insurance and claims history.

Premiums are subject to Commonwealth and state taxes and/ or charges. These include **GST** and stamp duty. The amount of these taxes and/or charges will be shown on **your** Tax Invoice.

About Your Policy

You should read this document carefully, together with the **policy schedule** and any documents which make up **your policy**, so **you** understand the extent of cover provided and to satisfy yourself that it meets **your** requirements. If **you** wish to vary **your** cover or make further inquiries, please contact **your** broker.

The SURA Construction Owner Builder Construction Insurance Policy consists of:

- this Product Disclosure Statement (PDS);
- each **policy schedule** issued by SURA Construction in connection with this PDS; and
- any other documents which **we** tell **you** form part of **your policy** such as each **endorsement** and Supplementary PDS.

This **policy, policy schedule** and **endorsements** (if any), are to be read together and any word or expression to which a specific meaning has been given in any part of this **policy** shall bear that specific meaning wherever it may appear.

Terms of Policy

In consideration of the payment to **us** of the amounts payable for this insurance, **we** will insure **you** in accordance with this **policy**.

Limiting Insurer's Rights to Subrogation

If **you** have entered into an agreement with another party which prevents **us** from taking a recovery action for **compensation** from that party it may affect **your** rights to cover under this **policy**.

Should **you** now be a party to such agreement or be requested to enter such an agreement in the future please advise SURA Construction immediately in writing.

GST

The amount payable by **you** for this **policy** includes an amount for **GST**.

The **limit of liability** and all other limits applicable to this **policy** are **GST** inclusive.

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

If **you** are:

- not registered for **GST**, the amount **we** pay is the **limit of liability** or the other limits applicable to this **policy** being inclusive of **GST**,
- registered for **GST**, **we** will pay the **limit of liability** or the other limits applicable to this **policy** inclusive of **GST** less **your input tax credit** (ITC) to which **you** are entitled or would be entitled if **you** made a relevant acquisition. This ITC may be claimable within **your** Business Activity Statement (BAS).

You must advise **us** of **your** correct Australian Business Number and Taxable Percentage. Any **GST** liability arising from **your** incorrect advice is payable by **you**.

Where the settlement of a claim is less than the **limit of liability** or the other limits applicable to this **policy we** will only pay the **GST** (less **your** ITC credit) applicable to the settlement. This means that if these amounts are not sufficient to cover the claim, **we** will only pay the **GST** relating to **our** settlement of the claim. **We** will pay the claim by reference to the **GST** exclusive amount of any supply made by any business of **yours** which is relevant to the claim.

GST, ITC, BAS and acquisition all have the same meaning as given to those words or expressions in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and related or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable).

Taxable Percentage is **your** entitlement to an **input tax credit** on **your premium** as a percentage of the total **GST** on that **premium**.

Words With Special Meanings

The following key words and terms used in the **policy** which appear in bold (other than in headings) have a special meaning that appear below. Other words may be specially defined to have a meaning when used in relation to a **policy** section, term or condition.

Abandonment

That point in the **insured project** when all work activities on the **project site** have come to a complete stop and no further activity by the **named insured** can be reasonably expected in the near future on that **project site**.

Additional insureds

Unless stated otherwise in the **policy schedule**:

a) project manager; or

b) contractor,

with whom the **named insured** has entered into a contract for the performance of the works and only to the extent of their interest and involvement in the **insured project**.

Additional insureds does not include:

i) an architect or engineer except in respect of their physical activities whilst on the **project site**;

ii) a manufacturer or supplier except if they carry out work on the **project site** and then in respect of such work only;

iii) any person or entity, not licensed in accordance with applicable legal requirements, to perform the activities in which they were engaged in giving rise to the loss or damage; or

iv) any other person or entity (and their interests) other than as described in a) and b) above.

Aircraft

Anything made or intended to fly or move in or through the air or space other than model aircraft.

Application

The completed document provided to **us** that contains information and statements which, together with any other information or documents provided, **we** rely on in deciding whether to issue a **policy**.

Canada

Canada and its respective territories, protectorates or dependencies.

Compensation

The amount **we** will pay on **your** behalf following a judgment ordered by a court of competent jurisdiction within the Commonwealth of Australia.

Employee

Any person employed under a contract of service or apprenticeship with **you** but does not include a consultant, contractor, subcontractor or agent.

Employee tools

Construction tools and effects owned or in the care, custody and control of the **named insured** or their **employees** up to a maximum new replacement value of $5,000 per item, subject to the total limit shown in the **policy schedule** for any one **insured event**.

Employee tools do not include unmanned aerial vehicles (drones), laptop computers, mobile telephones, two-way radios or other voice transmitters or receivers, or personal organisers or cameras, unless stated otherwise in the **policy schedule**.

Endorsed/endorsement

Documentary evidence issued by **us** of an alteration to the **policy** which forms part of the **policy**.

Excess

The amount, stated in the **policy schedule**, that is the uninsured first portion of an otherwise covered loss which **you** must pay. The excess will be deducted from the amount otherwise payable for each **insured event** in relation to Section 1 – Material Damage of the **policy** or **occurrence** in relation to Section 2 – Third Party Liability of the **policy**.

The excess(es) will be advised to the **named insured** before they enter into a **policy** with **us**.

Geographic limitations

a) Anywhere in the Commonwealth of Australia, and

b) elsewhere in the world but only in respect of the **named insured's business** visits by directors and **employees** of the **named insured** normally resident in the Commonwealth of Australia other than directors or **employees** who are engaged in **manual labour** during such visits.

GST

Goods and Services Tax under the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Hovercraft

Any vessel, craft or thing made to travel over land or water, supported by a cushion of air.

Insured event

A sudden, unforeseen and unintended physical loss of or damage to the **insured property** resulting from any cause not excluded by this **policy**, occurring at and discovered at the **project site** during the **period of insurance**.

Any loss of or damage to the **insured project** during any one period of seventy-two (72) consecutive hours caused by water, subsidence, landslip, cyclone, storm, tempest, earthquake or bushfire will be deemed to be one single insured event. The **named insured** may select the time from which any such period will commence but provided that the selected periods cannot overlap and provided no period commences earlier than the date and time of the happening of the first recorded individual loss to the **named insured**.

Input tax credits

The amount **you** are entitled to claim as a credit against **GST** paid by **you**.

Insured project

The whole of the works as described in the **policy schedule**, whether permanent or temporary, and including consumables and all other materials (inclusive of overheads and profit margins). It includes any material after it is unloaded on the **project site** that is incorporated or to be incorporated for the performance of the insured project.

Insured project does not include **pre-existing property, mobile machinery and equipment**, or **employee tools** unless otherwise agreed by **endorsement**.

Insured property

The **insured project, pre-existing property, mobile machinery and equipment** and **employee tools** provided that a corresponding amount is shown in the **policy schedule**.

Internet operations

a) Use of electronic mail systems by **you** or **your employees**, including part time and temporary staff, for the purpose of communicating with either other insured parties or third parties;

b) access through **your** network to the world wide web or a public internet site by **you** or **your employees**, including part time and temporary staff, and others within the insured parties;

c) access to **your** intranet (internal company information and computing resources) which is made available through the world wide web for **your** customers or others outside the insured parties; and

d) the operation and maintenance of **your** website.

Limit of liability

The amount or amounts specified in the **policy schedule**.

Manual labour

Work primarily involving physical exertion, but does not include activities associated with design, marketing, promotion, demonstration or selling.

Materials stored off-site

Storage away from the **project site** of materials and components intended for incorporation into the works as shown in the **policy schedule**. Provided that such storage occurs after the materials and components are no longer in the care, custody or control of the manufacturer or the supplier.

Mobile machinery and equipment

Hoardings, temporary buildings, scaffolding, false work and re-usable formwork, **vehicles**, hoists, cranes, earth moving equipment, air compressors, welding equipment and other similar plant whether self-propelled or non-self-propelled, used or to be used in the process of executing the works.

Named insured

The person(s) stated as such in the **policy schedule**.

Named insured's business

The carrying out of the **insured project** as shown in the **policy schedule**.

Occurrence

a) An event, including continuous or repeated exposure to substantially the same general conditions, or

b) a series of events consequent upon or attributable to one source or original cause,

which results in either **personal injury** or **property damage** that **you** neither expected nor intended to happen during the **period of insurance**.

Period of insurance

The period of time starting with the date stated in the **policy schedule** and continuing to the earlier of:

a) with respect to any portion of the **insured project**, the time that portion is taken over or put into use (whichever is the earlier) by the **named insured**; or

b) the expiry date as stated in the **policy schedule**, unless varied by **endorsement** or unless ending earlier in accordance with the **policy** terms or applicable law.

Where any part of the **insured project** is required to undergo either testing or commissioning then for the purposes of this **policy** such testing or commissioning will be deemed to occur during the period of insurance.

Personal injury

a) Bodily injury (which expression includes death, disease or illness), disability, shock, fright, mental anguish, mental injury or loss of consortium;

b) false arrest, wrongful detention, false imprisonment or malicious prosecution;

c) wrongful entry or eviction or other invasion of privacy;

d) a publication or utterance of a libel or slander or other defamatory or disparaging material; or

e) assault and battery not committed by **you** or at **your** direction, unless committed for the purpose of preventing or eliminating danger to persons or property.

Policy

The contract of insurance between the insurer and the **named insured**, consisting of this document (except to the extent part of it is expressly excluded), the **policy schedule** and any other documents **we** agree with the **named insured** will form part of the policy that **we** issue. Together they form the insured's contract with **us**. These are all important documents and should be carefully read together and kept in a safe place for future reference.

Policy schedule

The document entitled as such, setting out particular variable terms including **premiums, excess(es)**, declared values, **sums insured** and limits of this **policy**.

Pollutant

Any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste materials. Waste includes material to be recycled, reconditioned or reclaimed.

Pre-existing property

Property, including all installations, services and facilities, described in the **policy schedule** and already existing at the **project site** before the start of the **insured project**.

Pre-existing property does not include any moveable personal property kept on the **project site**, the **project site** itself, or driveways, pathways, outside paving, swimming pools, landscaping, vegetation or fencing, unless specifically stated in the **policy schedule**.

Premium

The amount of money that is charged for insurance cover under this **policy** including all statutory charges, levies and taxes.

Products

Anything (including any component, packaging or container of or for such thing) after it has ceased to be in **your** possession or control which has been manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, altered, serviced, treated, sold, supplied, re-supplied or distributed by **you** in the course of the **named insured's business** (as described in the **policy schedule**). The term includes anything (including any component, packaging or container of or for such thing) which by operation of a law of the Commonwealth of Australia **you** are deemed to have manufactured.

Property damage

a) Physical damage to or loss or destruction of tangible property including any resulting loss of use of that tangible property; or

b) loss of use of tangible property which has not been physically damaged or destroyed provided such loss of use is caused by physical damage to or destruction of other tangible property.

All such loss of use will be deemed to happen at the time of the physical damage to, or destruction of, the tangible property that caused it.

Project site

The address stated in the **policy schedule**, where the construction activity of the **insured project** is to be completed.

Statute

An Act or enactment of the Commonwealth of Australia, an Australian state or territory, or an Australian local authority. The term also includes any statutory instrument made under, or pursuant to, a power conferred by an Act or enactment, including a regulation, order in council, rule, by-law, ordinance, proclamation and notification, standard or guideline of a public nature.

Sum insured

The dollar amount(s) as set out in the **policy schedule**, as applicable.

Supplementary payments

The charges, expenses and legal costs referred to in paragraphs a), b), c) and d) in clause S2.2 Additional Benefits.

Terrorism

An ideologically motivated act or acts or threat of action, or an act in pursuit of political, religious, ideological, or similar purposes to influence or intimidate the public or a section of the public or any government of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any group(s), organisation(s) or government(s), and which:

a) involves the use of violence or force or threat of violence or force against one or more persons;
b) involves damage to property;
c) endangers life other than that of the person(s) committing the action;
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 disrupt an electronic system.

Transit

The transportation by inland conveyance, directly to or from ports or places within mainland Australia and Tasmania only of materials and components intended to be used for the works as shown on the **policy schedule**, such transportation beginning with the loading in an undamaged condition, continuing during transportation, including incidental trans-shipment and ending after the completion of unloading at the **project site**.

United States

The United States of America and its respective territories, protectorates or dependencies.

Vehicle

Any type of machine on wheels or on caterpillar tracks (including any trailer, caravan or other apparatus attached to the machine) made or intended to be propelled other than by manual or animal power.

Watercraft

Anything made or intended to float or travel on or through water other than model boats.

We/our/us

SURA Construction, acting under a binder as an agent of the insurer.

You/your

a) The **named insured**; and
b) **additional insureds**.

General Exclusions Applicable To Sections 1 And 2

The following only apply to the extent relevant and subject to applicable law which may restrict **our** rights in certain circumstances. For more details on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

We will not insure **you** against loss, damage or liability for claims:

GE1 Cessation or Abandonment

a) occurring during a period of cessation of work on the **project site**, which does not follow an **insured event**. This exclusion does not apply to the first 30 consecutive days of such a period; or

b) occurring or arising after **abandonment** of the **project site**.

GE2 Internet Operations

Arising directly or indirectly out of or in connection with **your internet operations** provided that this exclusion does not apply to **personal injury** or **property damage** arising out of any material prepared by the manufacturer in respect of product use, safety instructions or warnings which is reproduced on **your** website.

GE3 Nuclear

Directly or indirectly arising from or in any way connected with nuclear reaction, nuclear radioactivity or radioactive contamination or the use handling or transportation of radioactive materials or of any weapon of war or explosive device employing nuclear fission or fusion. However this exclusion will not apply to physical loss of or damage arising from the use of commercial radioactive isotopes.

GE4 Terrorism

Caused directly or indirectly, in whole or in part, by **terrorism** or by any activity or decision of a government agency or other entity to prevent, respond to or terminate **terrorism**. Such loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

GE5 Underground Services

To, or in relation to, underground services, underground cables or underground pipes of any kind unless before any work is undertaken which may affect underground services, underground cables or underground pipes of any kind, existing before the start of the works, **you** have:

a) made a written request to the relevant public authority or the owner of such services, cables or pipes for documents or information as to the location of such services, cables or pipes;

b) obtained from the public authority or the owner of such services, cables or pipes a written confirmation, or oral but documented confirmation, of the approximate position of such services, cables or pipes;

c) subsequently trace the location of the services, cables, fibre or pipes and indicate the location in situ.

After such services, cables, fibre or pipes have been located, excavate with caution in order to reduce the risk of damage.

GE6 War

Directly or indirectly arising from or in any way connected with war, invasion, act of any foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, mutiny, the use of any military or usurped power, conspiracy, confiscation, commandeering, nationalisation or requisition or destruction of or damage by order of any government or by any public or local authority.

GE7 Demolition

Caused directly or indirectly by the demolition of any structure over 10 metres in height, provided that this exclusion does not apply to any internal non-structural demolition.

GE8 Explosives

Arising directly or indirectly out of or in connection with the use of any explosive material or device.

General Conditions Applicable To Sections 1 And 2

The following only apply to the extent relevant and subject to applicable law which may restrict **our** rights in certain circumstances. For more details on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

The following conditions apply to both Section 1 – Material Damage and Section 2 – Third Party Liability of this **policy** (unless otherwise stated).

GC1 Alteration of Risk

During the **period of insurance** the **named insured** must tell **us** as soon as reasonably possible after the **named insured** becomes aware (or a reasonable person in the **named insured's** circumstances would become aware of) of any changes to:

a) any information contained in the **policy schedule**;

b) the most recent information provided by the **named insured** to **us** in relation to the **policy** which **is known**, or could reasonably be expected to have been known by the **named insured**, may affect the risks insured by **us**.

Except to the extent the **policy** expressly provides otherwise and subject to applicable law, where the change:

a) reduces the risk **we** insure **you** for **we** may (if applicable) provide the **named insured** with a refund of a portion of the **premium** paid by **you** where the change affects the **premium** payable; or

b) increases the risk **we** insure **you** for **we** may:

   i) refuse to accept the change;

   ii) agree to the change in writing subject to terms acceptable to **us**, provided that the **named insured** pays or agree to pay **us** any additional **premium we** may require; or

   iii) cancel the **policy**;

where the **named insured** enters voluntary bankruptcy or is made bankrupt by a court process and/or **named insured's business** is wound up, carried on by an insolvency practitioner or permanently discontinued **we** must be notified as soon as possible.

Where such notice is given, **we** will be entitled to negotiate with the **named insured** the terms for the continuation of this **policy**. In the meantime, **you** must at **your** own expense take all reasonable precautions to minimise the risk of any loss, damage or liability and must comply with any reasonable directions or requirements of **ours**.

We may also be entitled to cancel this **policy** in accordance with the Insurance Contracts Act 1984 (Cth).

GC2 Assignment

No assignment of interest under this **policy** will bind **us** unless **we** have given **our** prior consent and **endorsed** this **policy**.

GC3 Cancellation

Cancellation by you

You may cancel **your policy** at any time by contacting **us** and giving **us** notice of cancellation. Cancellation will take effect from 4:00pm on the day **we** receive **your** notice of cancellation or such other time otherwise agreed between **us** and **you**.

Cancellation by us

Subject to applicable law, **we** may cancel the **policy** as set out in the Insurance Contracts Act 1984 (Cth) by giving **you** written notice to that effect. This includes where:

a) **you** failed to comply with the duty of utmost good faith;

b) made a misrepresentation in breach of the duty to take reasonable care not to make a misrepresentation to **us** before entering into, varying, extending or renewing the **policy**, where this duty applies to **you**;

c) **you** failed to comply with a condition of the **policy**, including a condition with respect to payment of the **premium**;

d) **you** made a fraudulent claim under the **policy** or some other policy of insurance (whether with **us** or some other insurer) that provided insurance cover during any part of the period during which the **policy** provides insurance cover; or

e) **you** failed to notify **us** of any specific act or omission or failure that has occurred after the **policy** is entered into where notification is required under the terms of the **policy**;

f) the effect of the **policy** is to authorise **us** to refuse to pay a claim, either in whole or in part, by reason of an act or omission or failure of **you** or of some other person and, after the **policy** was entered into, such an act or omission or failure has occurred.

When **we** cancel the **policy**, it will have effect from whichever of the following times is the earliest (unless **we** tell **you** otherwise in **our** cancellation notice and subject to applicable law):

a) the time when another policy of insurance replacing the **policy** is entered into by **you** with **us** or another insurer; or

b) 4:00pm of the third (3rd) business day after the day on which notice was given to **you** unless specified otherwise or the **policy** is in force because of section 58 of the Insurance Contracts Act 1984 (Cth), in which case the cancellation will have effect from 4:00pm of the fourteenth (14th) business day after the day on which notice was given to **you**.

Effect of cancellation

Subject to applicable law, the **policy** with **us** ends from the time of cancellation. However, cancellation by **us** or **you** does not affect any rights that **you** had under the **policy** when it was in force. For **your** rights to any **premium** refund in relation to a cancellation see Premium refund section.

Premium refund

Outside the cooling off period if **you** cancel the **policy** there is no **premium** refund applicable. If **we** cancel the **policy we** may deduct:

a) a pro rata proportion of the **premium** for any time for which **you** have been covered. For example, if **your period of insurance** is 12 months and **you** have been covered for six (6) months, the deduction for the time **you** have been covered will be half the annual **premium**; and

b) any government taxes or duties paid by **us** in relation to **your policy we** cannot recover.

Subject always to the minimum **premium** stated in the **policy schedule**, if any.

However, in the event that **you** have made a claim under this **policy** or are aware of an incident that could give rise to a claim no return of **premium** will be made.

GC4 Claims

Following discovery of any loss, damage, or injury that might give rise to a claim under this **policy**:

a) **you** must take reasonable steps or precautions to minimise or prevent further loss, damage, injury or illness. **You** are permitted to take immediate action to avoid injury or loss of life or subsequent loss or damage to property and such action will not prejudice **your** position in respect of a claim;

b) **you** must not admit responsibility or liability to anyone without **our** written consent (such consent not to be unreasonably withheld);

c) **you** must notify **us**, as soon as reasonably possible, of the details of the loss, damage or injury;

d) **you** must take reasonable steps to preserve all property, **products**, plant and all other things that may assist **us** in investigating or defending a claim, and make them available for inspection by **us**, **our** employees or agents including assisting in determining if there are rights of recovery against another entity or person;

e) **we** may appoint legal or other representatives to assist in the conduct of a claim;

f) **you** must not negotiate, pay or settle, or attempt to settle or defend any claim without **our** written consent;

g) **you** must if any legal proceedings are brought against **you** in respect of an **occurrence** as soon as reasonably practicable send details of those legal proceedings to **us** so that **we** may consider if this **policy** will respond;

h) **you** will be required to cooperate with **us** where **we** reasonably require, in any investigation, negotiation, defence or settlement of any claim and permit **us**, **our** employees or agents at a time mutually agreeable to **you** and **us**, to enquire into, investigate and examine the circumstances of any loss, damage or injury. This may include attending court to give evidence;

i) **we** have full discretion on how to conduct the claim including compromising or paying a claim, regardless of whether or not **you** believe it should be defended, and pursuing in **your** name any claims for recovery or contribution in accordance with GC13 Subrogation;

j) **you** must supply all the relevant information and documentation **we** or **our** agents may reasonably require. If **we** reasonably require a statutory declaration verifying the details of the claim and any other matters connected with it, **you** must provide such declaration; and

k) notify the Police as soon as possible of any actual or attempted theft, burglary or malicious damage.

GC5 Further Damage

We will not pay for any further damage to any item caused by the failure to repair that item properly and without delay, except for what is specifically covered under clause S1.4.7 Provisional repairs or alterations.

GC6 GST

GC6.1 GST Liability

This **policy** has a **GST** provision in relation to **premium** and **our** payment to **you** for claims. It may have an impact on how **you** determine the amount of insurance needed. Please read it carefully and seek professional advice if there are any queries about **GST** and this insurance.

GC6.2 Sums Insured/Limit of Liability

All monetary limits in this **policy** do not include an amount for **GST** but may be increased for **GST** in some circumstances (see below). **You** should have regard to the impact of **GST** when calculating how much to insure for and obtain tax advice where required.

GC6.3 Claim Settlement

Where **you** are liable to pay an amount for **GST** in respect of an acquisition relevant to a claim (such as services to repair a damaged item insured under this **policy**) and **we** agree to pay the claim, **we** will pay for the **GST** amount. However, if the **sum insured/limit of liability** is not sufficient to cover the loss, **we** will only pay the **GST** amount that relates to the settlement of the claim. **We** will reduce the **GST** amount payable by any **input tax credits** to which **you** are or would be entitled on a relevant acquisition.

We will pay the **GST** amount less any **input tax credits** in addition to the **sum insured/limit of liability** or other limits shown in the **policy**.

Where **we** make a payment under this **policy** as **compensation** instead of payment for a relevant acquisition, the amount of payment will be reduced by the amount of any **input tax credit** that **you** would have been entitled to, had the payment been applied to a relevant acquisition.

We will (where relevant) pay **your** claim by reference to the **GST** exclusive amount of any supply made by **your** business, which is relevant to the claim.

GC6.4 Disclosure – Input Tax Credit Entitlement

If **you** register, or are registered for **GST**, **you** are required to inform **us** of the entitlement to an **input tax credit** on the **premium**. If **you** fail to disclose or understate the entitlement, **you** may be liable for **GST** on a claim paid. This **policy** does not cover **you** for this **GST** liability, nor for any fine, penalty or charge to which **you** may be liable due to **your** failure to disclose or a misstatement made by **you** in relation to the entitlement to an **input tax credit** for the **premium**.

GC7 Our Right of Inspection and Examination and Audit of Books

We or any of **our** employees or agents will at any reasonable time mutually agreed by **you** and **us** inspect and examine the **project site** as shown on the **policy schedule** and any other location, any work, property, procedure, books or records associated directly or indirectly with the **insured project**, the subject of this **policy**, and **you** must provide to **us**, details and information which **we** reasonably require. Whether or not **we** or any of **our** employees or agents are conducting an inspection or issuing a report following such inspection, such conduct or issuing will not constitute an undertaking to determine that the execution or the operation of any property associated directly or indirectly with the **insured project** the subject of this **policy** is in compliance with any law, rule or regulation.

We or any of **our** employees or agents may examine or audit any book or record of **yours** at any reasonable time mutually agreed by **you** and **us**, after the end of the **period of insurance**, as far as that examination or audit relates to the subject matter of this **policy**.

GC8 Other Insurance

Following any claim being made under the **policy**, **you** must notify **us** of any other insurance covering the same loss, damage or injury of which **you** are aware.

GC9 Policy Construction and Interpretation

Headings are for convenience only and do not affect interpretation; and unless the context indicates a contrary intention:

a) a reference to a **statute** includes its delegated legislation and a reference to a **statute** or delegated legislation or a provision of either includes consolidations, amendments, successors, re-enactments and replacements thereof;

b) a word importing the singular includes the plural (and vice versa);

c) a word indicating a gender includes every other gender;

d) the words include, including, for example, particularly or such as or equivalent are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;

e) any examples provided are subject always to the **policy** terms and applicable law; and

f) a reference to $ or dollar is to Australian currency.

GC10 Precautions

You and **your** agents must, at **your** own expense, take due care and all reasonable precautions to prevent loss, theft, damage or injury and:

a) comply with reasonable recommendations made by **us** to prevent loss, damage or injury;

b) comply with all laws and statutory requirements in respect of loss, damage or injury prevention, recommendations by manufacturers and suppliers, including the responsibility of keeping safety devices, such as load movement and overload devices in place and fully operational at all times;

c) must take immediate action to trace, recall or modify any of **your products** containing any defect or deficiency of which **you** have knowledge or have reason to suspect. This includes any compulsory recall or ban imposed by a government or statutory agency; and

d) in respect of underground services, before any work is undertaken which may affect underground services, underground cables, fibre, or underground pipes of any kind, existing prior to the commencement of the **insured project, you** will:

i) make a written request to the relevant public authority or the owner of such services, cables, fibre, or pipes for documents or information as to the location of such services, cables, fibre or pipes;

ii) obtain from the public authority or the owner of such services, cables, fibre or pipes a written confirmation, or oral but documented confirmation, of the exact position of such services, cables, fibre or pipes; and

iii) subsequently trace the location of the services, cables, fibre or pipes and indicate the location in situ.

After such services, cables, fibre or pipes have been located, excavate with caution in order to reduce the risk of damage.

GC11 Premium

The **premium** is a non-adjustable amount unless **we** agree otherwise by **endorsement**.

GC12 Reinstatement of Sums Insured

Following notification of a claim to **us** under this **policy**, **we** will reinstate the **sums insured**, but only in relation to **insured event** under Section 1 – Material Damage and an **occurrence** covered under clause S2.1.1 Liability, which has not already occurred. Where the **sum insured** is reinstated, the **named insured** will pay the additional **premium** required by us taking the un-expired **period of insurance** into consideration.

GC13 Subrogation

If **you** have a right to recover **your** loss from any other party, then, on accepting liability under this **policy**, **we** will be reasonably entitled to exercise that right in **your** name and to **our** benefit. **You** must fully co-operate with **us** in exercising that right, where reasonably exercised.

If **we** recover an amount greater than the amount that **we** have paid in settlement of **your** claim plus related costs, **we** will pay the remaining balance to **you**.

GC14 Limiting Insurers Right to Subrogation

If **you** have entered into an agreement with another party which prevents **us** from taking a recovery action for compensation from that party it may affect **your** rights to cover under this **policy**.

Should **you** now be a party to such agreement or be requested to enter such an agreement in the future please advise SURA Construction as soon as practicable.

GC15 Limit of Liability

The most **we** will pay is the relevant **limit of liability** less any applicable **excess(es)**, unless **we** expressly state otherwise.

Section 1 – Material Damage

The following only apply to the extent relevant and subject to applicable law which may restrict **our** rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

S1.1 The Cover

We agree, subject to the terms of the **policy** to insure **you** with respect to the **insured project** to the extent and in the manner stated below against **insured events** occurring during the **period of insurance**.

S1.1.1 Transit

We will cover **you** against an **insured event** which causes loss or damage to any materials or items to be incorporated into the works as shown on the **policy schedule**, and belonging to **you** or under **your** care, custody and control whilst in **transit** and/or **materials stored off-site** during the **period of insurance**. The cover will not exceed the sub-limit of liability stated in the **policy schedule** for **transit** and/or **materials stored off-site**, less the applicable **excess**.

S1.2 Additional Benefits

Except as otherwise provided, as a direct consequence of an **insured event** and provided that an amount is stated in the **policy schedule** for the relevant clause S1.1 to S1.1.1 (as applicable), the **policy** is extended to cover necessary and reasonable costs and expenses incurred by the **named insured** that are not otherwise recoverable as provided under the following additional benefits.

The cover provided under these additional benefits is otherwise subject to clause S1.3 Limit of Liability and all other terms, conditions, exclusions, definitions and limits applicable to the **policy**.

S1.2.1 Escalation

Being an allowance for an increase in the cost of the works and the materials or items incorporated that occurs during the **period of insurance** due to the effects of inflation, as well as for variations to the **insured project** happening prior to the time of the **insured event**.

S1.2.2 Removal of debris

Being:

a) the removal and disposal of debris coming onto the **project site**, as a consequence of an **insured event** and necessary to restore or replace damaged **insured property**;

b) the demolition, removal and disposal of damaged **insured property**; or

c) the removal and disposal of undamaged **insured property** from the **project site** necessary to restore or replace damaged **insured property**.

S1.2.3 Professional fees

Being the fees of architects, surveyors, consulting engineers and other professional consultants to restore or replace **insured property**. Professional fees will not include any fees for the preparation of a claim or estimate of fees.

Professional fees will not exceed rates authorised under the scales (if any) of the various institutions regulating such charges at the time of the loss or damage.

S1.3 Limit of Liability

Our total liability under this section of the **policy**, in respect of any **insured event** will not exceed the cost of cover in respect of loss or damage incurred, or the total **limit of liability** any one **insured event** stated in the **policy schedule**, whichever is the lesser, less the highest applicable **excess**, provided that the total **limit of liability** has not been exhausted.

S1.4 Basis of Loss Settlement

Following an **insured event**, the basis of any settlement under this section of the **policy** will be:

S1.4.1 Repair or total loss

a) in the case of damage which can be repaired, the cost of repairs necessary to restore the **insured property** to a condition as good as but not better or more efficient or extensive than its condition immediately before the time when the **insured event** occurred, or

b) in the case of a total loss, the actual value of the **insured property** immediately before the time when the **insured event** occurred. However, only to the extent to which the costs claimed were **your** responsibility and, where relevant, subject to the application of Average/Underinsurance, if applicable (see page 22).

S1.4.2 Requirement to repair

damage that can be repaired must be repaired, but if the cost of repairing any damage equals or exceeds the actual value of the **insured property** immediately before the **insured event** occurred, settlement will be in accordance with clause S1.4.1 Repair or total loss a) or S1.4.1 Repair or total loss b) as applicable.

S1.4.3 Overhead charges

we will pay for an appropriate level of overhead charges and profit in connection with the reinstatement of the loss or damage, in accordance with the **insured project**.

S1.4.4 Recovery or retrieval costs

following an **insured event we** will pay any cost incurred by **you** in the recovery or retrieval of lost or damaged **insured property** as long as the total cost of such recovery or retrieval (or attempted recovery or retrieval), including the cost of repair or replacement of the lost or damaged **insured property**, does not exceed the actual value of the **insured property** immediately before the **insured event** occurred.

S1.4.5 Costs of repeating tests

following an **insured event we** will pay all costs necessarily incurred in order to repeat or carry out subsequent physical tests or trials on the **insured property**, but only where such tests are needed as a direct consequence of the **insured event**.

S1.4.6 Accounts

if **you** arrange for repair or replacement without **our** prior written consent (such consent not to be unreasonably withheld), **we** will not be liable to make any payment under the **policy** for this unless **you** have produced to **our** reasonable satisfaction accounts, invoices, receipts and other documentation stating that repairs have been carried out or replacement has taken place, as the case may be.

S1.4.7 Provisional repairs or alterations

we will not pay for:

a) the cost of any provisional repair unless such repair:
   i) constitutes part of the final repair and does not increase the total repair cost; or
   ii) can be shown to have been necessary in order to prevent further covered physical loss of or damage to the **insured property**, and as long as those costs are proportionate to the cost of the loss or damage prevented; or

b) the cost of any alterations, additions or improvements.

S1.4.8 Application of excess

unless **we** agree otherwise with **you**, **we** will subtract the amount of the **excess** from the amount otherwise payable for each **insured event**. The relevant **limit of liability we** pay up to is less any applicable **excess(es)**, unless **we** expressly state otherwise.

If more than one **excess** is applicable in respect of one and the same **insured event**, only the highest applicable **excess** will be subtracted.

S1.5 Exclusions

Under this section of the **policy**, **we** will not insure **you** against:

S1.5.1 Aircraft, hovercraft or watercraft

loss of or damage to **aircraft, hovercraft or watercraft**.

S1.5.2 Breakdown of second-hand items or pre-existing property

the cost of repairing, replacing or rectifying loss or damage caused by **breakdown** of any second-hand item(s) (being an item that was not new when originally purchased by **you**) or **pre-existing property**. For the purposes of this exclusion **breakdown** shall mean mechanical, hydraulic, electrical or electronic failure from any cause whatsoever.

However, this exclusion is limited to the item itself and will not extend to include other parts of the **insured project** damaged due to, and as a consequence of, such failure.

S1.5.3 Building warranty

the cost of repairing any loss or damage to either the works as shown on the **policy schedule** or **pre-existing property** where the cost of such loss or damage is covered under a Federal, State or Territory law governing home indemnity insurance, builders warranty insurance or statutory warranty as relevantly defined.

S1.5.4 Communicable disease

any loss, damage, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of, or in connection with a **communicable disease** or the fear or threat (whether actual or perceived) of a **communicable disease** regardless of any other cause or event contributing concurrently or in any other sequence thereto.

For the purposes of this exclusion, a **communicable disease** means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

a) the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and

b) the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and

c) the disease, substance or agent can cause or threaten bodily injury, illness, emotional distress, damage to human health, human welfare or property damage.

S1.5.5 Consequential loss

consequential loss of any kind including but not limited to loss of use, penalties, fines, liquidated damages or aggravated, punitive or exemplary damages.

S1.5.6 Faulty material, workmanship or design

S1.5.6.1 Works

loss of or damage to and the cost necessary to replace repair or rectify:

a) that part of the works which is in a defective condition due to defect in design plan specification materials or workmanship of such works or any part;

b) other parts of the works lost or damaged to enable the replacement repair rectification of works excluded by a) above.

Exclusion a) above shall not apply to any other part of the works which is free of the defective condition but is damaged because of it.

S1.5.6.2 Other Insured Property

with respect to **other insured property** loss of or damage due to defective design plan specification materials or workmanship.

For the purpose of the **policy** and not merely this exclusion **insured property** shall not be regarded as lost or damaged solely by virtue of the existence of any defect in design plan specification material or workmanship in the **insured property** or any part thereof.

S1.5.7 Gradual deterioration

the cost of rectifying corrosion, erosion, wasting, wearing away, abrasion, or other gradual deterioration including that caused by atmospheric conditions.

S1.5.8 Inventory loss

loss of or damage discovered only at the time an inventory is taken, unless such loss of or damage can be attributed to burglary.

S1.5.9 Money

loss of or damage to cash, bank notes, treasury notes, cheques, money orders, stamps, deeds, bonds, bills of exchange, promissory notes and securities.

S1.5.10 Mitigation expenses

any mitigation expenses being the cost and expense of containing, reducing, suppressing or preventing any further physical loss or damage to **insured property** except for those costs covered as per clause S1.4.7 Provisional repairs or alterations.

S1.5.11 Normal upkeep

the cost of normal upkeep or routine making good.

S1.5.12 Mobile machinery and equipment and employee tools

loss of or damage to **mobile machinery and equipment** or **employee tools**:

a) for which the supplier or manufacturer or anyone else is responsible either by law or under contract;
b) which are attached to or towed by **watercraft** or **hovercraft**, or are underground;
c) being **vehicles** licensed or registered for general road use, except when being used at the **project site** as a tool of trade;
d) directly caused by the imposition of abnormal conditions by testing, intentional overloading or experiments; or
e) consisting of scratching or discolouration of painted, plated or polished surfaces,

and any cost in respect of repairing or replacing parts, gases, fluids or liquids requiring periodic or frequent replacement, topping up, repair or maintenance including (but not limited to gases, fluids, liquids, fuses, shear-pins, rupture plates or other expendable load limiting devices, bits, drills, knives, saw blades or other cutting devices, dies, moulds, patterns, pulverising and crushing surfaces, screens, sieves, filters, ropes, belts, chains, elevator and conveyor belts, batteries, flexible pipes, jointing and packing material, tyres or tracks, where such costs are as a result of the inherently replaceable nature of such parts.

S1.5.13 Mobile machinery and equipment or employee tools

a) costs in respect of repairing, replacing or rectifying electrical or electronic breakdown, mechanical breakdown, explosion, failure or derangement of any **mobile machinery or equipment** and **employee tools**; or
b) loss of or damage due to theft of either **mobile machinery and equipment** or **employee tools**; or
c) loss of or damage to an item while being hired out to others.

S1.5.14 Property cyber and data

any:

a) **cyber loss**;

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**;

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

Definitions for the purpose of this exclusion:

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

cyber incident means:

a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system**; or

b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system**.

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 **you** or any other party.

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**.

S1.5.15 Records

loss of or damage to:

a) books of accounts, drawings, card index systems and other records, other than as described in b) below, other than for the cost of blank books, blank pages or other materials plus the cost of labour for actually transcribing or copying said records; or

b) media, data storage devices, and programme devices for electronic and electromechanical data processing or for electronically controlled equipment, other than the cost of reproducing such media, data storage devices, and programme devices from duplicates or from originals of the previous generation of the media.

No cover is provided for the cost of gathering or assembling information or data for such reproduction.

S1.5.16 Transit

loss of or damage whilst **insured property** is in **transit**, where such loss of or damage:

a) consists of scratching or discolouration of painted, plated or polished surfaces or breakage of glass, china, porcelain or similar brittle materials; or

b) is occasioned by lawful seizure or other operation of law or arising from any breach of contract, agreement or obligation.

S1.5.17 Dewatering

any costs associated with the installation and operation of any dewatering equipment or any other costs associated with removing water from on or around the **project site**.

S1.5.18 Stabilising fluid

any costs incurred to replace bentonite or any other stabilising medium used for the purposes of preventing collapse of an excavation whilst being used for the purpose it was intended.

S1.5.19 Haul roads

loss of or damage to haul roads, borrow pits, quarries, culverts or causeways.

S1.6 Conditions

The following conditions apply to this section of the **policy**.

S1.6.1 Abandonment of property

All coverage afforded by the **policy** shall cease immediately with respect to the **insured property** or any part thereof from losses occurring after the time that it is **abandoned**.

S1.6.2 Loss payment

Any payment under Section 1 – Material Damage of the **policy** can be paid to any party to whom the **named insured** may direct.

S1.6.3 Sums insured

The **sum insured** for the **insured project** and **pre-existing property**, if applicable, will represent the total cost, labour and materials, of reinstating the **insured project** and/or **pre-existing property** as applicable at the time of completion of the **insured project** to a condition substantially the same as but not better nor more extensive than its condition when new.

Section 2 – Third Party Liability

The following only apply to the extent relevant and subject to applicable law which may restrict **our** rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

This section is operative only if a dollar amount is shown for the **limit of liability** in the **policy schedule**.

S2.1 The Cover

We agree, subject to the terms of the **policy** to cover **you** to the extent and in the manner stated below.

S2.1.1 Liability

Subject to the **limit of liability**, **we** will pay to or on behalf of **you** all sums which **you** become legally liable to pay by way of **compensation** in respect of **personal injury** or **property damage** happening within the **geographic limitations** during the **period of insurance** caused by an **occurrence** in connection with an **insured project**.

S2.1.2 Cross liability

Insurance cover will apply to each person or entity comprising **you**, as if a separate policy has been issued to each of **you** provided that:

a) **our** aggregate liability in respect of all persons or entities comprising **you** for **compensation** will not exceed the **limit of liability** stated in the **policy schedule**; and

b) **our** aggregate liability in respect of all persons or entities comprising **you** for **supplementary payments** is not increased.

We will not exercise any right of subrogation against an **additional insured** where such an **additional insured** is covered under the **policy**.

S2.1.3 Application of excess

Unless **we** agree otherwise with **you**, **we** will subtract the amount of the **excess** from the amount otherwise payable for each **occurrence**. The most **we** will pay is the relevant **limit of liability** less any applicable excess(es), unless **we** expressly state otherwise. Unless otherwise stated, the **excess** does not apply to charges, expenses and legal costs incurred by either **us** or **you** with **our** written consent in the defence or settlement of the claim.

S2.2 Additional Benefits

Where **we** have accepted a claim under this section of the **policy**, and in accordance with the cover provided by this **policy** and in addition to the **limit of liability**, **we** will:

a) pay all charges, expenses and legal costs incurred by either **us** or by **you**, with **our** written consent, in the settlement or defence of any claim for **compensation**;

b) pay expenses incurred by **you** for first aid to others at the time of an **occurrence**;

c) pay expenses incurred for the protection of damaged or undamaged property of any third party including temporary repairs at the time of an **occurrence** covered by this section; and

d) pay expenses incurred for the shoring up and or underpinning of damaged and undamaged property of any person(s), at the time of an **occurrence** covered by this section.

Provided that:

1. if **we** pay the **limit of liability** in respect of any claim or series of claims **we** will not be obliged to defend any further legal action against **you**. **We** will have no further liability under this section with respect to the claim or series of claims (including legal costs) except for **supplementary payments** incurred by **you** with **our** consent prior to the date of the payment.
2. if a payment exceeding the **limit of liability** has to be made to dispose of a claim or legal action against **you**, **our** liability to pay any **supplementary payments** will be limited to that proportion of those **supplementary payments** that the **limit of liability** bears to the amount paid to dispose of the claim or legal action.
3. in the event of a claim with respect to any recognition or enforcement action brought or instituted within the Commonwealth of Australia relating to a judgment obtained against **you** within the **United States** or **Canada** arising from business visits (but not **manual labour**) by travelling directors and **employees** of the **named insured** the **limit of liability** will apply inclusive of any **supplementary payments**.

S2.3 Limit of Liability

We will pay up to the **limit of liability** in the aggregate for all claims for **personal injury** or **property damage** caused by or arising out of any one **occurrence**.

S2.4 Exclusions

Under this section of the **policy**, **we** will not insure **you** against:

S2.4.1 Aircraft landing areas

personal injury or **property damage** arising directly or indirectly out of or caused by, through, or in connection with the use of any land, property or structure as an airport, **aircraft** hangar or **aircraft** landing area.

S2.4.2 Aircraft, hovercraft and watercraft

personal injury or **property damage** arising directly or indirectly out of or caused by, through, or in connection with any **watercraft** exceeding eight (8) metres in length, **aircraft** or **hovercraft**.

S2.4.3 Asbestos

liability directly or indirectly caused by, or alleged to be caused by, or contributed to in whole or in part by or arising from:

a) the existence of or exposure to asbestos or any asbestos containing materials; or

b) any obligation to defend any claim or suit against **you** alleging liability resulting from a) above or for defence costs that result.

S2.4.4 Communicable disease

all actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a **communicable disease** or the fear or threat (whether actual or perceived) of a **communicable disease**.

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

For the purposes of this exclusion, a **communicable disease** means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

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

S2.4.5 Contracts and agreements

any liability assumed under any contract or agreement provided that this exclusion does not apply to:

a) liability which would have been implied or imposed by law in the absence of such contract or agreement;
b) liability assumed under a construction contract in relation to an **insured project**;
c) liability assumed under any written lease of, or agreement for the rental of real property, where such lease or agreement does not include an obligation to insure such property; or
d) liability assumed under a written contract with a company or public authority for the supply to **you** of water, gas, electricity or communication services except where such contract is a contract by which **you** agree to perform work for or on behalf of that company of public authority.

Provided that:

i) paragraphs c) and d) do not apply to liability assumed by **you** under the relevant lease, contract or agreement to cover a party in respect of an act or omission for which the other party is wholly responsible, unless such liability would otherwise have been implied or imposed by law, and
ii) **we** will not provide any cover against any liability caused by, arising out of, or in respect of, or in connection with **personal injury** to any of **your employees**.

S2.4.6 Cyber

any loss, damage, liability, claim, fines, penalties, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:

a) **cyber act** or **cyber incident** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **cyber act** or **cyber incident**; or

b) loss, damage, liability, claim, cost, fines or penalties or 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, reproduction, loss or theft of any **data**, including any amount pertaining to the value of such **data**;

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

Clause a) of this exclusion shall not apply in respect of any actual or alleged liability for and/or arising out of:

c) any ensuing third party bodily injury (other than mental injury, mental anguish or mental disease); or

d) any ensuing physical damage to or destruction of third party property,

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

Definitions for the purposes of this exclusion:

cyber act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **computer system**.

cyber incident means:

a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system**; or

b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system**.

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 **you** or any other party.

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**.

2.4.7 Defective design

personal injury or **property damage** arising directly or indirectly out of, caused by, through, or in connection with any defective or deficient design or error in formula or in specification provided by **you** for a fee.

S2.4.8 Employer's liability

a) **personal injury** to any of **your employees** arising out of or in the course of their employment in **your** business,

b) **personal injury** to any person who is pursuant to any **statute** relating to workers' compensation deemed to be an **employee** of **you** or in respect of which **you** are entitled to seek cover under any policy of insurance required to be taken out pursuant to any **statute** relating to workers' compensation whether or not **you** are a party to such contract of insurance, or

c) any liability imposed by the provisions of any workers' compensation **statute** or any industrial award or agreement or determination.

This exclusion will apply irrespective of whether workers' compensation cover has been taken out or not.

S2.4.9 Employment practice

any liability in connection with any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination relating to the employment or prospective employment by **you** or on **your** behalf of any person.

S2.4.10 Fines, penalties and punitive damages

fines, penalties, liquidated damages, punitive, exemplary or aggravated damages how ever imposed.

S2.4.11 Insured property under Section 1

any liability for expenditure directly or indirectly incurred including any consequential loss thereof in doing or redoing or making good or replacing any property consisting of or forming part of **insured property** under Section 1 – Material Damage of this **policy**.

S2.4.12 Jurisdiction limits

a) any action brought or instituted against **you** or any judgment obtained against **you** (whether or not such judgment is enforced by the courts of the Commonwealth of Australia) in any country other than the Commonwealth of Australia in which **you** are represented by a branch or by an **employee** domiciled in that country or by a company, firm or individual holding **your** power of attorney.

   Provided that this a) does not apply to actions and judgments arising from business visits (but not **manual labour**) by travelling directors and **employees** of the **named insured** to any country other than the **United States** or **Canada**; or

b) any actions brought or instituted against **you** or any judgment obtained against **you** (whether or not such judgment is enforced by the courts of the Commonwealth of Australia) within the **United States** or **Canada**.

   Provided that this b) does not apply to any recognition or enforcement action brought or instituted within the Commonwealth of Australia relating to a judgment obtained against **you** within the **United States** or **Canada** arising from business visits (but not **manual labour**) by travelling directors and **employees** of the **named insured**.

S2.4.13 Known defects

personal injury or **property damage** arising directly or indirectly out of, caused by, though, or in connection with any defect or deficiency in **your products** of which **you** or **your** agents have knowledge or have reason to suspect at the time when the **products** pass from **your** actual physical custody or from the actual physical custody of any person under **your** control.

S2.4.14 Defamation

the publication or utterance of defamatory material:

a) made prior to the commencement of the **period of insurance**;

b) made by **you** or at **your** direction with the knowledge that it is false; or

c) related to advertising, publishing, printing, broadcasting or telecasting activities conducted by or on behalf of **you**.

S2.4.15 Loss of use

the loss of use of tangible property which has not been physically damaged or destroyed resulting from:

a) delay in or lack of performance by **you** or on **your** behalf of any contract or agreement; or

b) the failure of the **products** to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented provided that this paragraph b) does not apply to loss of use of other tangible property resulting from sudden and accidental physical damage to or destruction of the **products** after these **products** have been put to use by any person or organisation.

S2.4.16 Mitigation expenses

any liability directly or indirectly arising out of or in conjunction with any attempt or effort to avoid, reduce or mitigate any potential or real injury or damage, except for those expenses covered under clause S2.2 Additional Benefits b), c), d) of this **policy**.

S2.4.17 Pollution

a) **personal injury** or **property damage** arising directly or indirectly out of, caused by, through, or in connection with the discharge, dispersal, release or escape of **pollutants** into or upon land, the atmosphere or water unless such discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended from **your** standpoint and takes place in its entirety at a specific time and place (such place not being located in the **United States** or **Canada**);

b) the cost of preventing, removing, nullifying or cleaning up any contamination or pollution as a consequence of the discharge, dispersal, release or escape of any **pollutants** provided that this paragraph b) does not apply to removal, nullifying or cleaning up costs which are consequent upon a sudden, identifiable, unexpected and unintended happening which takes place in its entirety at a specific time and place;

c) **personal injury** or **property damage** arising directly or indirectly out of, caused by, through or in connection with the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of **pollutants** caused by any of **your products** that has been discarded, dumped, abandoned or thrown away by others.

S2.4.18 Preventing right of recovery

any amount **you** are unable to recover because of a contract or agreement that **you** have entered into which excludes or limits **your** rights to recover that amount.

S2.4.19 Product defect

damage to **your products** if such damage is attributable to any defect in them or their harmful nature or unsuitability.

S2.4.20 Product recall

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

S2.4.21 Products

any liability directly or indirectly arising out of or in conjunction with any **products**.

S2.4.22 Professional duty

a breach of any professional duty owed by **you** or anyone for whose breaches of such duty **you** may be legally liable provided that this exclusion does not apply to the provision of or failure to provide first aid.

S2.4.23 Property in care, custody, physical or legal control

property damage to or loss of:

a) any land or property (including any contents within) or part of, not owned by **you**, but which is in **your** care, custody, physical or legal control and:
   i) where such damage arises as a direct consequence of **your** failure to take reasonable protective measures; or
   ii) any **vehicle** except where such loss or damage occurs whilst any such **vehicle** is in a car park owned or operated by the **named insured**, provided that the operation of such car park is not forming part of the **named insured's business** and the **named insured** does not operate such car park for reward.

b) **employees'** property, construction plant, scaffolding, site huts, tools, or any other property leased or on loan to **you**, which is used, is to be used, or has been used to execute the **insured project**.

S2.4.24 Subsidence, vibration or the removal or weakening of support(s)

property damage to third party property, land or building caused by subsidence, vibration or the removal or weakening of support(s) unless a dollar amount is shown against the relevant sub-limit of liability in the **policy schedule**.

S2.4.25 Vehicles

personal injury or **property damage** arising directly or indirectly out of, caused by, through, or in connection with **your** ownership, use, legal possession, or legal control of any **vehicle** or any attachment to such **vehicle**:

a) which is registered;

b) in respect of which registration or insurance is required by virtue of any legislation relating to **vehicles**; or

c) in respect of which compulsory liability insurance or statutory cover is required by virtue of any legislation (whether or not insurance is effected).

Provided that this exclusion does not apply to claims in respect of:

i) **personal injury** arising out of an **occurrence** which is partially (to the extent of that part) or totally outside the cover afforded under such compulsory liability insurance or other legislation relating to **vehicles** and where the reason the **occurrence** is outside the cover afforded by compulsory liability insurance or statutory cover does not involve a breach by **you** of legislation relating to **vehicles**.

ii) **property damage** arising out of and during loading and unloading of goods to or from any **vehicle**.

iii) **property damage** caused by the operation or use of any **vehicle** which is designed primarily for lifting, lowering, loading or unloading whilst being operated or used by **you** or on **your** behalf.

iv) **Property damage** caused by the use of any tool or plant forming part of or attached to or used in connection with any **vehicle** other than when travelling to or from any **project site** or transporting or carting goods.

S2.4.26 Transmissible Spongiform Encephalopathy (TSE)

for any liability caused by or arising directly or indirectly out of or in connection with Transmissible Spongiform Encephalopathy (TSE) including but not limited to Bovine Spongiform Encephalopathy (BSE) or new variant Creutzfeldt–Jakob disease (VCJD).

S2.4.27 Fungi, mould, yeast or mildew

liability directly or indirectly caused by or contributed to, in whole or in part, any of the following perils:

a) fungi mould, yeast or mildew resulting directly or indirectly from any cause;

b) the cost to test for, monitor, or assess the existence, concentration, or effects of fungi, mould, yeast or mildew; or

c) the costs to clean up, remove or remediate against fungi, mould, yeast or mildew;

this exclusion shall apply regardless of any other cause or event that contributes concurrently or in any sequence to the damage.

S2.4.28 Silica

any liability of whatsoever nature directly or indirectly caused by, contributed to, or alleged to be caused by or contributed to, in whole or in part arising out of or resulting from exposure to or ingestion, inhalation, absorption or presence of, or contact with silica or any materials or **products** containing silica.

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SURA Construction Pty Ltd ABN 35 147 580 756 acts as an agent for Certain Underwriters at Lloyd's and is authorised to arrange, enter into/bind and administer this insurance on their behalf.

SURA Construction Pty Ltd is an authorised representative of SURA Pty Ltd ABN 36 115 672 350 AFSL294313.

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