SURA CONSTRUCTION



Single Construction Policy

Policy Wording

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Part 1 – 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 General Definitions section page for details regarding of terms that have special meaning. In some cases, a word with special meaning may be defined in a specific part of the Policy.

In this Part 1 – Important Information only, the reference to You and Your is limited to the Named Insured.

What You Need to Read and Understand

This document contains:

- this Part 1 – Important Information section which contains certain important notices, terms and other information;
- Part 2 – Policy Cover Sections which sets out the covers this insurance can provide (subject to eligibility) and the other standard terms and conditions which will apply to the covers (including any applicable limits and exclusions). It includes General Definitions which sets out the special meaning We give to certain words used in the Policy. Other words may be specially defined in a Policy section, term or condition.

If We issue You with a Policy, You will be given a Policy Schedule. The Policy Schedule sets out certain additional terms applicable to Your Policy and other matters specific to You such as the cover You have been issued and the Policy sums insured and Limits of Liability.

The Policy Schedule must be read together with this document and any other documents We agree with You will form part of the Policy that We issue. Where We agree, documents other than this document and the Policy Schedule will form part of the Policy (often called Endorsements), any such documents will be dated and will include a statement identifying them as part of the Policy.

Together they form Your Policy/contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.

About SURA Construction

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

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 No. 419873) of SURA Pty Ltd ABN 36 115 672 350 AFSL 294 313.

Our contact details are:
Level 14, 141 Walker Street
North Sydney NSW 2060
PO Box 1813 North Sydney 2059
Telephone: (02) 9930 9500

About the Insurer

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

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

Your Duty of Disclosure

Before the contracting insured (Named Insured) enters into an insurance contract (referred to as You and Your in this notice), You have a duty to tell Us of anything that You know, or could reasonably be expected to know, may affect Our decision to insure You and on what terms. You have this duty until We agree to insure You.

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

You do not need to tell Us anything that:

- reduces the risk We insure You for;
- is of common knowledge;
- We know or should know as an insurer; or
- We waive Your duty to tell Us about.

If You do not tell Us something

If You fail to comply with Your Duty of Disclosure, and We would not have entered into the contract, for the same premium and on the same terms and conditions, had the failure not occurred, We may, subject to applicable law:

- be entitled to cancel Your contract or reduce the amount We will pay You if You make a claim, or both; or
- if Your failure to tell Us is fraudulent, refuse to pay a claim and treat the contract as if it never existed.

Subject to applicable law or unless We state otherwise, a breach of the duty by one insured affects all insureds in these ways.

Avoiding misrepresentations

Under the Insurance Contracts Act 1984 (Cth) if You make a misrepresentation to Us before the insurance contract is entered into (this includes before each renewal, extension, variation, replacement or reinstatement of an insurance contract) and We would not have entered into the contract, for the same premium and on the same terms and conditions, had the misrepresentation not occurred, We may, subject to applicable law:

- be entitled to cancel Your contract or reduce the amount We will pay You if You make a claim, or both; or
- if Your misrepresentation was fraudulent, refuse to pay a claim and treat the contract as if it never existed.

Subject to applicable law or unless We state otherwise, a breach of the duty by one insured affects all insureds in these ways.

A misrepresentation includes a statement that is in any way false, misleading, dishonest or which does not fairly reflect the truth. For example, 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.

Refer to the Insurance Contracts Act 1984 (Cth) for full details as this is only a summary.

Answering Our questions

Answers to Our questions help Us decide whether to provide You with insurance and if so, on what terms. 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.

Please note that You have obligations beyond these pre contractual duty of disclosure and avoiding misrepresentation obligations once the contract is entered into, which are set out in the contract terms and applicable law.

Who We Cover

The Policy covers the Named Insured as defined in the General Definitions section on page 18. They are the persons who enter into the contract with the insurer.

The Policy also extends cover to Additional Insureds as defined in the General Definitions section. They are third party beneficiaries entitled to access cover by reason of section 48 of the Insurance Contracts Act 1984 (Cth) and not contracting parties.

No insurance is provided in relation to the interest of any persons not specified as being entitled to benefit under the Policy.

For details on the rights and obligations of such Third Party Beneficiaries see Third Party Beneficiaries on page 16.

General Insurance Code of Practice

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

Lloyd's 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.

Privacy Statement

In this Privacy Statement the use of We, Our or 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 of disclosure, the consequences of which are set out under the heading Your Duty of Disclosure 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.

A copy of SURA's full Privacy Policy is located at www.sura.com.au.

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.

How to Make a Claim

To make a claim, contact SURA Construction by email claims@sura.com.au or by phone on (02) 9930 9500. Details about making a claim are shown in the Policy wording under GC4 Claims on page 30.

Significant Features and Benefits

This Policy contains two types of cover.

Cover	Property/Liability Insured	Description of cover provided
Section 1 Material Damage Cover	Contract Works Pre-Existing Property Insured Property	Covers Insured Events that result in damage to the Contract Works, Pre-Existing Property, or Insured 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 on page 35.
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 on page 45.

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 36; and
- S2.2 Additional Benefits – Section 2 – Third Party Liability on page 45.

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.

Some Important Things to Understand About the Cover

The standard cover We provide is set out in Part 2 – Policy Cover Sections starting page 18 (subject to eligibility and acceptance by Us). We may apply additional terms that affect this cover if agreed 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. See for example exclusions applying to Section 1 – Material Damage on pages 40 to 43; exclusions applying to Section 2 – Third Party Liability on pages 46 to 52, and General Exclusions Applicable to Section 1 and 2 on page 26;
- compliance with any terms/conditions which impose obligations on You and others who may be covered. See for example conditions applying to Section 1 – Material Damage on page 44 and General Conditions Applicable to Sections 1 and 2 on page 28.

Note some conditions require You to notify Us of certain matters. See for example GC1 Alteration of risk on page 28. Others require You to seek Our consent before taking certain action. See for example S2.2 Additional Benefits on page 45 and GC2 Assignment on page 28;

- limits (including time limits) applied to the cover. See for example S1.3 Limit of Liability on page 37 and S2.3 Limit of Liability on page 46;
- any Excess(es) You have to pay or bear in relation to a claim. See for example S1.4.10 Application of Excess on page 39;
- recovery You or We may make in relation to the relevant loss. See for example S2.4.18 Preventing right of recovery on page 50.

You need to consider these things to see if the cover is right for You personally as We and SURA Construction do not do this. You should seek advice to help when needed.

If You do not meet Your obligations under the Policy terms (including if an exclusion applies) We may refuse or reduce what We pay in relation to a claim and/or cancel the Policy, subject to relevant law.

See When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim on page 11 and GC3 Cancellation on page 28 for further information.

Cancellation Rights

You and We have cancellation rights see page 28.

Average/Underinsurance

In the event of loss or damage covered by this Policy, if it is found that the Declared Value for Mobile Machinery and Equipment and Employee Tools, 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 amount 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.

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.

The 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 and renewals) and You do not comply with Your Duty of Disclosure or obligations not to make a misrepresentation; or
- if You do not comply with or meet a term or condition We can rely on an exclusions 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 noted above). 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). 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 by reason only of that act, 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.

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

Terms allowing Us to refuse 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 1984 (Cth) against Us by a person who is not You,

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.

- 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 is not unenforceable under applicable law.

Complaints and Disputes Resolution Process

Internal Dispute 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
Email: IDR@SURA.com.au
Telephone: (02) 9930 9500

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
PO Box R1745 Royal Exchange NSW 1225
Email: idraustralia@lloyds.com
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

In accepting this insurance We agree that:

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

b) any summons to be served upon Us 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 Our 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 this insurance 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

Cost of this Insurance

In consideration of Premium paid to Us, We will cover You with respect to Your pecuniary interest in an Insured Project and the Named Insured in accordance with this Policy during the Period of Insurance.

The cost of the Policy will be shown on the quotation provided once all required information has been received. The cost of the Policy is calculated based on a number of considerations including the Limit of Liability or sub-limit of liability, nature, breadth and extent of Your business activities, including the type of products You produce, Your insurance history, Your risk management practices and procedures in managing Your potential liability. These factors and the degree to which they affect Your Premium will depend on the information You provide to Us.

The cost of Your Policy is made up of Premium, government taxes such as goods and services tax (GST) and stamp duty, where applicable.

You must pay Your Premium by the due date shown in Your invoice or Policy Schedule. If We do not receive Your Premium by this date or Your payment is dishonoured We may refuse to pay or reduce Your claim and/or cancel the Policy, to the extent permitted by law.

Liability Assumed Under Agreement

Liability cover provided by this Policy does not cover liability which You have agreed to accept, unless You would have been so liable in the absence of such agreement.

Providing Proof

So that Your claim can be assessed quickly You should keep the following:

– receipts or other confirmation of the purchase of Your Insured Property; and

– all service and repair records.

We may ask You for these if You make a claim.

Third Party Beneficiaries

The contracting insureds (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 on page 18 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.

The Named Insured must inform Us of the interests of all such third parties (e.g. financiers, lessors) they want to be covered by this insurance and if We agree, We will specify them and the interest to be covered in the Policy Schedule.

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, damage or liability.

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). Any exclusions applying to You also apply to a Third Party Beneficiary claiming under the Policy.

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 Part 1 – 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 obligations are under this insurance.

Part 2 – Policy Cover Sections

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.

General Definitions

Some key words and terms used in the Policy have a special meaning that appear below when the word starts with a capital letter in this document. Other words may be specially defined to have a meaning when used in relation to a Policy section, term or condition.

D1 Abandonment

That point in the Contract Works when all work activities on the Contract Site have come to a complete stop and no further activity by the Named Insured can be reasonably expected by You and Us in the near future on that Contract Site.

D2 Additional Insureds

Any of the following, unless stated otherwise in the Policy Schedule:

a) any:
   i. principal or owner of the Contract Site;
   ii. project manager; or
   iii. contractor or subcontractor (for Section 1 – Material Damage only unless otherwise required by the construction contract);

   with whom the Named Insured has entered into a contract for the performance of the Insured Project, or part thereof, and only to the extent of their interest and involvement in the Insured Project;

b) all subsidiary companies or related companies (as defined by the relevant legislation) of the Named Insured which are parties to the Insured Project or otherwise have an interest in the Insured Project, whose places of incorporation are within Australia, including its mandated territories and protectorates;

c) any officers, committee members and members (not being a qualified medical practitioner) of the Named Insured or of a covered related or subsidiary company's canteen, social, sports, medical, welfare or firefighting organisations, but only in their respective capacities as such; and

d) any director, executive officer, Employee or partner of the Named Insured or persons or entities falling within a), b), and c), above, but only whilst acting within the scope of such capacity.

Additional Insureds does not include:

a) an architect or engineer except in respect of their physical activities whilst on the Contract Site;

b) a manufacturer or supplier except if they carry out Contract Works on the Contract Site and then in respect of such Contract Works only;

c) 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

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

D3 Aircraft

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

D4 Application

The completed document provided to Us that contains information and statements which, together with any other information or documents provided, that We rely on in deciding whether to issue a Policy.

D5 Canada

Canada and its respective territories, protectorates or dependencies.

D6 Compensation

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

D7 Construction Period

The period of time starting with the date of legal possession of the Contract Site by the contractor or from the date of the start of the Contract Works at the Contract Site but no earlier than the date stated in the Policy Schedule and continuing to the earlier of (unless amended by Endorsement):

a) the time a certificate of practical completion is issued;

b) with respect to any portion of the Contract Works and subject to clause S1.1.3 Contract Works that have been taken over, the time that portion is taken over or put into use (whichever is the earlier) by the purchaser or principal; and

c) the expiry date of the construction period as stated in the Policy Schedule.

Where the construction contract specifies that the Contract Works or any part thereof is required to undergo either testing or commissioning then for the purposes of the Policy such testing and commissioning will be deemed to occur during the construction period.

D8 Contract Site

a) The location of the Contract Works, where the construction activity of the Insured Project is to be completed and handed over to the principal;

b) any temporary site within Australia specifically set up and used by You in overseeing the Insured Project; and

c) any temporary site within Australia specifically set up and used by You for assembly or pre-fabrication of specific components to be used solely in the Insured Project.

For the purpose of the definition of Insured Event in relation to Transit only, the term **Contract Site** will mean anywhere in Australia.

D9 Contract Value

The final value of the Contract Works, declared by the Named Insured and as stated in the Policy Schedule. This value will be based on the commercial cost of materials and labour to be incorporated in the Contract Works.

D10 Contract Works

The whole of the works, whether permanent or temporary, and including consumables and all other materials, as described in the construction contract (inclusive of overheads and profit margins). It includes any material after it is unloaded on the Contract Site that is incorporated or to be incorporated therein for the performance of the Insured Project.

Contract Works do not include:

a) materials or items supplied by the principal to the Named Insured unless stated otherwise in the Policy Schedule; or

b) Pre-Existing Property, Mobile Machinery and Equipment, or Employee Tools and Other Property, except for buildings temporally erected on the Contract Site for the purposes of executing the project.

Contract Works includes formwork, falsework, temporary buildings, scaffolding, security fencing, hoardings belonging to the Named Insured or in the Named Insured's care, custody and control, unless stated otherwise in the Policy Schedule.

D11 Declared Value

The dollar amount(s) specified in the Policy Schedule, as applicable.

D12 Defects Liability Period

The period of time commencing at the end of the Construction Period and continuing for the maximum period stated to be such in the Policy Schedule, or any lesser period where specified in the construction contract (if applicable).

D13 Employee

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

D14 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 and provided that We will not pay more than the sub-limit of liability 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.

D15 Endorsement

Documentary evidence issued by Us of an alteration to the Policy which forms part of the Policy.

D16 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.

D17 Flood

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

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

D18 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.

D19 GST

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

D20 Hovercraft

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

D21 Input Tax Credits

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

D22 Insured Event

The sudden, unforeseen and unintended physical loss of, or damage to, Insured Property resulting from any cause not excluded by the Policy, occurring at and discovered at the Contract 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.

D23 Insured Project

The individual project specified in the Policy Schedule.

D24 Insured Property

The Contract Works, Pre-Existing Property, Mobile Machinery and Equipment and Employee Tools provided that a corresponding amount is shown in the Policy Schedule.

D25 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.

D26 Limit of Liability

The amount or amounts specified in the Policy Schedule, in respect of cover under Section 2 – Third Party Liability.

D27 Major Perils

Earthquake, Flood, named cyclone and associated rain depression, storm, fire, water, subsidence, or collapse.

D28 Major Perils Excess

The amount, stated in the Policy Schedule, that is the uninsured first portion of an otherwise covered loss which You must pay that is caused by a Major Peril. The major perils 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 major perils excess will be advised to the Named Insured before they enter into a Policy with Us.

D29 Manual Labour

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

D30 Market Value

The cost to buy an item equivalent to the insured item being of the same age, condition, model and make, including any tools supplied with the insured item and any accessories fitted to the insured item and any signwriting applied to the insured item.

D31 Materials Stored Off-site

Storage away from the Contract Site of materials and components intended for incorporation into the Contract Works, 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.

D32 Mobile Machinery and Equipment

Includes 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 Contract Works.

D33 Named Insured

The person(s) stated as such in the Policy Schedule. They are the contracting insured(s).

D34 Named Insured's Business

The carrying out of the Insured Project as shown in the Policy Schedule.

D35 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 occurs during the Period of Insurance and results in either Personal Injury or Property Damage that You neither expected nor intended to happen.

D36 Period of Insurance

The period from commencement of the Construction Period to expiry of the Defects Liability Period, (if applicable), or unless ending earlier in accordance with the Policy terms or applicable law.

D37 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;

e) assault and battery not committed by or at Your direction, unless committed for the purpose of preventing or eliminating danger to persons or property; or

f) infringement of copyright or title or slogan, piracy, unfair competition or idea misappropriation, invasion of privacy in any advertisement, public article, broadcast or telecast.

D38 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.

D39 Policy Schedule

The document issued by Us and entitled as such, setting out the particular variable terms including Premiums, Excess(es), Declared Values, Contract Values and limits of the Policy.

D40 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.

D41 Pre-Existing Property

Property, including all installations, services, etc., described in the Policy Schedule and already existing at the Contract Site before the start of the Contract Works, in respect of which a Declared Value is stated in the Policy Schedule.

Pre-Existing Property does not include any moveable personal property kept on the Contract Site, the Contract Site itself, or driveways, pathways, outside paving, swimming pools, landscaping, vegetation or fencing, unless specifically stated in the Policy Schedule.

D42 Premium

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

D43 Products

Anything (including any component, packaging or container of or for such thing) after it has ceased to be in the Insured's 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.

D44 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.

D45 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.

D46 Supplementary Payments

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

D47 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 de jure or de facto 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) de jure or de facto, 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.

D48 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 Contract Works, such transportation beginning with the loading in an undamaged condition, continuing during transportation, including trans-shipment incidental thereto and ending after the completion of unloading at the Contract Site.

D49 United States

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

D50 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.

D51 Watercraft

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

D52 We, Our, Us

The insurer acting through its agent SURA Construction.

D53 You, Your

a) The Named Insured; or
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 detail 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 after the cessation of work on the Contract Site for a period of more than 60 consecutive days (or such other period of time agreed by Us in writing), where the cessation of work is not caused by, following, or as a result of an Insured Event; or

b) occurring or arising after Abandonment of the Contract Site.

The 60 consecutive days period may be extended upon request by You subject to Our agreement.

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 Radioactive contamination, chemical, biological, bio-chemical and electromagnetic weapons

in no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from:

a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;

b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;

c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;

d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes;

e) any chemical, biological, bio-chemical, or electromagnetic weapon.

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 Contract 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.

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 detail 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 become aware (or a reasonable person in the Named Insureds 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 the Named Insured knows, or could reasonably be expected to know, 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 the You for We may (if applicable) provide the Named Insured with a refund of a portion of the Premium paid by the Named Insured 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; or

   iv. choose not the renew the Policy.

GC2 Assignment

No assignment of interest under this Policy will bind Us until its consent is given and endorsed by Us.

GC3 Cancellation

Cancellation by the Named Insured

The Named Insured may cancel the Policy at any time by contacting Us in writing at the address provided in About SURA Construction on page 4. Cancellation will take effect from 4:00pm on the day We receive the Named Insureds notice of cancellation or such other time otherwise agreed between Us and the Named Insured.

Cancellation by Us

Subject to applicable law, We may cancel the Policy as set out in the Insurance Contracts Act 1984 (Cth) by giving the Named Insured written notice to that effect. This can include where:

a) a person who is or was at any time a Named Insured failed to comply with the duty of the utmost good faith;

b) a person who was a Named Insured at the time when the contract was entered into failed to comply with the duty of disclosure where that duty applies to the Named Insured, or made a misrepresentation to Us during the negotiations for the Policy, before entering into, varying, extending or renewing the Policy;

c) a person who is or was at any time a Named Insured failed to comply with a provision of the Policy, including a provision with respect to payment of the Premium;

d) the Named Insured have made a fraudulent claim under the Policy or under some other contract of insurance (whether with Us or with some other insurer) that provides insurance cover during any part of the period during which the Policy provides insurance cover;

e) the Named Insured 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; or

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 the Named Insured or of some other person and, after the Policy was entered into, such an act or omission or failure has occurred.

Where We cancel the Policy, it will have effect from whichever of the following times is the earliest (unless We tell the Named Insured 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 the Named Insured with Us or another insurer; or

b) 4:00pm of the third (3rd) business day after the day on which notice was given to the Named Insured 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 on the fourteenth (14th) business day after the day on which notice was given to the Named Insured.

We may also refuse to pay any claim for an incident occurring after the cancellation date, subject to applicable law.

Effect of cancellation

Subject to applicable law, the Policy with Us ends from the time of cancellation. However, cancellation by Us or the Named Insured does not affect any rights that You had under the Policy when it was in force. For the Named Insureds rights to any Premium refund in relation to a cancellation see Premium refund section.

Premium refund

If the Policy is cancelled by either the Named Insured or Us, We will refund the Premium for the Policy less a pro-rata proportion of the Premium for the unused portion of the estimated value of Contract Works less any government fees, taxes and duties We cannot recover. However, We will not refund any Premium if We have paid a claim or benefit to You or on Your behalf under the Policy.

The Named Insured must provide all relevant information necessary to enable adjustment of the Premium as per clause GC13 Premium.

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 hereunder;

b) You must not admit responsibility or liability to anyone without Our written consent;

c) You must notify Us, as soon as reasonably possible, of the details of the loss, damage or injury;

d) You must do whatever can be reasonably done 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 (such consent not to be unreasonably withheld);

g) You must if any legal proceedings are brought against You in respect of an Occurrence as soon as possible send details of those legal proceedings to Us so that We may consider if this Policy will respond;

h) You must cooperate with Us where reasonably required in any investigation, negotiation, defence or settlement of any claim and at all times permit Us, Our employees or agents 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 the Named Insured believe it should be defended;

j) You will be required to supply all the information and documentation requested by Us, Our employees or agents. If We require a statutory declaration verifying the details of the claim and any other matters connected with it, You must provide such declaration; and

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

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 S1.4.9 Provisional repairs or alterations.

GC6 Outstanding Premium

If any portion of the Premium, including any final adjustment, is still outstanding and a claim has occurred which is otherwise to be settled, the outstanding Premium must be paid before the claim becomes due and payable. If the actual Premium has still not been received after 90 days from expiry date, Our liability in respect of any claim is limited to the proportion of the cover, which would otherwise be payable, which the Premium paid represents of the actual Premium payable.

GC7 GST

GC7.1 GST Liability

This Policy has a GST provision in relation to Premium and Our payment to the Named Insured for claims. It may have an impact on how the Named Insured determines the amount of insurance needed. Please read it carefully and seek professional advice if there are any queries about GST and this insurance.

GC7.2 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). The Named Insured should have regard to the impact of GST when calculating how much to insure for and obtain tax advice where required.

GC7.3 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 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 Credit in addition to the 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.

GC7.4 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.

GC8 Our right of inspection and examination and audit of books

We or any of Our employees or agents will at any reasonable time and place the Named Insured and We agree to, be entitled but not obliged to inspect and examine, at the Contract Site 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 the Named Insured must provide to Us, all details and information which they 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 time and place The Named Insured and We agree after the end of the Period of Insurance, as far as that examination or audit relates to the subject matter of this Policy.

GC9 Notices

Any notice under the Policy given to the Named Insured will be deemed a notice given to You.

We will send all notices in relation to the Policy to:

a) the Named Insured's nominated insurance representative until We receive written notice to the contrary from the Named Insured; or

b) if there is no nominated representative, the Named Insured.

Any notice We give the Named Insured will be in writing, and it will be effective:

a) if it is delivered to the Named Insured or their nominated representative personally; or

b) if it is delivered or posted to the Named Insured's address or the Named Insured's representative's address last known to Us.

It is important for the Named Insured to tell Us of any change of address as soon as possible.

Any notice under this Policy given to the Named Insured will be deemed a notice given to You.

GC10 Other insurance

Following any claim being made under the Policy, the Named Insured must notify Us of any other insurance covering the same loss, damage or injury of which the Named Insured is aware.

We agree that this Policy will, in respect of the Contract Works where the principal, owner, or head contractor has effected Contract Works insurance or Liability insurance (the primary insurance), provide to the Named Insured only coverage to pay all amounts in excess of that recoverable under the primary insurance and to pay the difference (if any) between excess or deductible (if any) under the primary insurance and the Excess that would have been applicable under this Policy.

Provided such payments would but for the existence of the primary insurance specified above be eligible to be made under this Policy and are subject to the Limits of Liability stated in the Policy Schedule.

GC11 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.

GC12 Precautions

You and Your agents must, at Your own expense, take due care and 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; and

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

GC13 Premium

GC13.1 Provisional Premium

The Provisional Premium is the provisional cost of this insurance and may be a deposit Premium, calculated by applying the agreed Premium rate(s) to the estimated value of Contract Works covered under this Policy and will be adjusted as shown below.

GC13.2 Premium adjustment

Within one month of the expiry of the Construction Period or date of cancellation, You will declare the actual value of the Contract Works, as at that date.

The actual Premium will be determined by applying the agreed Premium rate to the final value of Contract Works declared and comparing this amount with the provisional Premium. You will pay or We will refund the difference as the case may be, provided always that We will be entitled to retain 100% of the deposit Premium.

See also clause GC6 Outstanding Premium in respect of claims payment if there is an outstanding Premium.

GC14 Reinstatement of Limit of Liability

Following notification of a claim to Us under the Policy, We will reinstate the Limit of Liability, but only in relation to an Insured Event under Section 1 – Material Damage and an Occurrence covered under clause S2.1.1 Public liability, which has not already occurred. Where agreed by the Named Insured and Us that the Limit of Liability is to be reinstated, the Named Insured will pay the additional Premium reasonably required by Us taking the un-expired Period of Insurance into consideration where the reinstatement amount exceeds $250,000.

GC15 Subrogation

If You have a right to recover Your loss from any other party, then, on accepting liability under this Policy, We will be 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 required by Us.

If You have agreed not to seek compensation from another person who is liable to compensate You for any loss, damage or liability covered by this Policy, We will not cover You under this Policy for that loss, damage or liability except where otherwise stated in this Policy.

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.

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 During the Construction Period

We will cover You, subject to clause S1.3 Limit of Liability, against an Insured Event which causes loss or damage to either the Contract Works or Pre-Existing Property, occurring and discovered during the Construction Period.

S1.1.2 During the Defects Liability Period

Where a Defects Liability Period is required by the terms and conditions of the construction contract, We will cover You, subject to clause S1.3 Limit of Liability, for any Insured Event affecting the Contract Works, occurring and discovered during the Defects Liability Period and which originates from:

a) a cause occurring during the Construction Period and arising out of the Contract Works carried out by You on the Contract Site; or

b) a cause arising out of and occurring during the operations carried out by the contractor or their sub-contractor(s) in order to comply with the requirements of the defects liability clause(s) for the Insured Project.

All cover under Section 1 – Material Damage of the Policy shall cease to attach to the whole or any separable portion of the Insured Project for any Insured Event which occurs following expiry of the applicable Defects Liability Period.

S1.1.3 Contract Works that have been taken over

We will cover the Named Insured against sudden and unforeseen physical loss or damage, not excluded by the Policy, to any portion of the Contract Works previously insured under clause S1.1.1 During the Construction Period, after it has been taken over or put into use by the purchaser or the principal and which is subsequently damaged during the Period of Insurance; provided always that such damage arises out of the ongoing performance of not yet fully completed Contract Works, still covered under clause S1.1.1 During the Construction Period at the time of the loss or damage and subject to the Limit of Liability.

S1.1.4 Transit or Materials Stored Off Site

We will cover You against an Insured Event which causes loss or damage to any materials or items to be incorporated into the Contract Works, and belonging to You or under Your care, custody and control whilst in Transit and/or Materials Stored Off-site during the Construction Period. 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.

S1.1.5 Mobile Machinery and Equipment and Employee Tools

We will cover the Named Insured or their Employees against an Insured Event which causes loss or damage to Mobile Machinery and Equipment or Employee Tools during the Period of Insurance in respect of such property:

a) belonging to the Named Insured, or

b) under the care, custody or control of the Named Insured and where the Named Insured is held legally liable for such property. Provided that this clause b) does not apply to items hired in by the Named Insured from others.

Mobile Machinery and Equipment or Employee Tools are insured whilst on the Contract Site only.

The cover will not exceed the applicable sub-limit of liability stated in the Policy Schedule less the applicable Excess.

S1.1.6 Other Property

We will cover the Named Insured against an Insured Event to Other Property as stated in the Policy Schedule and belonging to the Named Insured during the Construction Period.

The cover will not exceed the applicable sub-limit of liability stated in the Policy Schedule less the applicable Excess.

S1.2 Additional Benefits

Except as otherwise provided, as a direct consequence of a Insured Event covered under any of the clauses S1.1.1 to S1.1.4 above inclusive, and provided that a sub-limit of liability is stated in the Policy Schedule for the relevant clause S1.1.1 to S1.1.4 (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 up to the sub-limits of liability stated for the Additional Benefits in the Policy Schedule.

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 Contract Works and the materials or items supplied to the Named Insured by the principal that occurs during the Construction Period due to the effects of inflation, as well as for variations to the Insured Project approved by the principal 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 Contract 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 Contract 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.

S1.2.4 Expediting expenses

Being express delivery within Australia, overtime rates of wages, the hire of additional labour, equipment and the costs of purchasing resources to urgently restore or replace Insured Property. Expediting expenses will not include reimbursement of costs to compensate for delay in completion of the works or any other consequential loss or the cost associated with specifically chartered Aircraft.

S1.2.5 Mitigation expenses

Being the cost and expenses of containing, reducing, suppressing or preventing any further physical loss or damage to Insured Property, provided such further physical loss or damage would not be excluded from cover under the Policy.

S1.2.6 Miscellaneous expenses

Being:

a) the cost incurred to comply with the requirements of any act of parliament or regulation made there under or by any by-law or regulation of any municipal or other statutory authority with which the Named Insured has been required to comply;

b) the cost incurred for the attendance of the police force, fire brigade or any other emergency service or authority;

c) the cost that arises from the application of the maritime conditions of general average and salvage charges following Transit; and

d) re-writing or re-drawing or re-creating plans and drawings or other contract documents or Data including computer Data as a result of damage.

Miscellaneous expenses does not include those costs to comply with the requirements of any act of parliament or regulation known to the Named Insured prior to the loss or damage occurring.

S1.2.7 Claim preparation costs

Being for preparing, collating, auditing or qualifying information reasonably required by Us for the purposes of determining cover under the Policy provided that such costs and expenses do not include legal advice or legal fees of any type whatsoever.

S1.3 Limit of Liability

Our total liability for the Insured Project 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, plus the total of the applicable sub-limits of liability stated for the Additional Benefits in the Policy Schedule, less the highest applicable Excess, provided that the Total Limit of Liability has not been exhausted.

Our maximum liability, for any one Insured Event (including any additional benefits payable) is the Total Limit of Liability stated in the Policy Schedule, less the highest applicable Excess.

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 Contract Works, principal supplied material, other property and Pre-Existing Property

S1.4.1.1 Repair or total loss

a) in the case of damage which can be repaired, the cost of repairs necessary to restore the 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 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 (see Average/Underinsurance on page 11).

S1.4.2 Employee Tools, Mobile Machinery and Equipment

S1.4.2.1 Repair or total loss

a) in the case of damage which can be repaired, the cost of repairs necessary to restore the 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 but not exceeding the lesser of the Limit of Liability or current Market Value of the insured item,

b) in the case where We accept that there has been a total loss, the Limit of Liability or current Market Value of the insured item, at the time of the Insured Event, whichever is the lesser, but only to the extent to which the costs claimed were borne by You and, where relevant, subject to the application of average (see Average/Underinsurance on page 11). However, if the insured item at the time of the Insured Event was under 2 years of age from the date of original commissioning when new, We will pay You the new replacement cost of that item subject to the Limit of Liability.

S1.4.3 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 property immediately before the Insured Event occurred, settlement will be in accordance with clause S1.4.1.1 Repair or total loss b) or S1.4.2.1 Repair or total loss b) as applicable.

S1.4.4 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.

S1.4.5 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 property, does not exceed the actual value of the Insured Property immediately before the Insured Event occurred.

S1.4.6 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.

S1.4.7 Salvage

any salvage proceeds retained by You will be deducted from the coverage otherwise paid. However, where Insured Property is lost or damaged as a consequence of an Insured Event, but the foundations of the Contract Works or the Pre-Existing Property are not and, due to the exercising of statutory powers or legislation or authority by a government department, local government or any statutory authority, the reinstatement of the Insured Property is required to be carried out upon another site, then the abandoned foundations will be considered as included in a total loss and settlement will be made on the basis provided for in clause S1.4.1.1 Repair or total loss b).

S1.4.8 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.

S1.4.9 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.

S1.4.10 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. If more than one Excess is applicable in respect of one and the same Insured Event, the highest applicable Excess only will be subtracted.

S1.4.11 Customs excise and others duties

We will pay for any customs excise and other duties that the Named Insured becomes liable for in relation to replacement of Insured Property due to damage insured by this Policy.

S1.4.12 Minor repairs

Upon notification of any loss or damage being given to Us, You may carry out repairs or make good any minor damage, reasonably estimated at less than $10,000, but in all other cases You must at a time and place reasonably agreed by You and Us, give Us, Our employees or agents an opportunity to inspect the loss or damage before any repairs or alterations are effected. If no inspection is carried out by or on behalf of Us within a period of time which is reasonable having regard to the location of the risk and weather conditions and any other relevant factors, You may proceed with such repairs or replacement.

Provided that this clause does not apply to any loss or damage claimable under Section 2 – Third Party Liability of this Policy.

S1.5 Exclusions

Under this section of the Policy, We will not cover 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 Contract Works 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.

For the purpose of the exclusion **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, damage to human health, human welfare or property.

S1.5.5 Consequential loss

except as otherwise specified in this section, 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 Contract Works

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

a) any component part or individual item of the Contract Works which is defective in design plan specification materials or workmanship; or

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

Exclusion a) above shall not apply to any other part of the Contract 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 except for those specific costs covered as per clauses S1.2.5 Mitigation expenses and S1.4.9 Additional 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 Contract 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 and Equipment and Employee Tools;

b) 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 Contract Site.

However, We will cover the Named Insured against the cost of dewatering necessary to provide initial access to, and to allow repairs to be effected to previously completed sections of the Insured Project whether damaged or undamaged following an Insured Event but not exceeding the cost of dewatering which was being incurred immediately prior to the Insured Event.

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, or quarries.

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 and Declared Values

S1.6.3.1 Contract Works

the Limit of Liability will represent the total cost, labour and materials, of reinstating the Contract Works at the time of completion of the Contract Works, including the cost of installations and materials or items supplied by the principal to a condition substantially the same as but not better nor more extensive than its condition when new.

S1.6.3.2 Mobile Machinery and Equipment or Employee Tools

the Declared Value will represent the cost of reinstating the Mobile Machinery or Equipment and Employee Tools to a condition substantially the same as but not better nor more extensive than its current condition, including transport and erection costs and customs dues or other impost if levied.

If subsequent to loss or damage covered by the Policy it is found that the Declared Value for Mobile Machinery and Equipment or Employee Tools, is less than 80% of the actual sum required to reinstate, then We may apply average (see Average/Underinsurance on page 11).

S1.6.3.3 Pre-Existing Property

the Declared Value will represent the total cost of reinstating the Pre-Existing Property to a condition substantially the same as but not better or more extensive than its condition at the commencement of the Construction Period.

Where it is found subsequent to loss or damage covered by the Policy:

a) that the Declared Value for Pre-Existing Property respectively, is less than 80% of the actual sum required to reinstate, then We may apply average (see Average/Underinsurance on page 11); or

b) that You have elected, and We have agreed to cover Pre-Existing Property for an amount that represents a value less than its Declared Value then no average will apply.

See also clause GC6 Outstanding Premium in respect of claims payment if there is an outstanding Premium.

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 Public 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 the Insured Project shown in the Policy Schedule.

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. Unless otherwise stated, the Excess does not include 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 the Policy, 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 (such consent not to be unreasonably withheld), 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:

i. 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.

ii. 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.

iii. 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.

The cover provided under these additional benefits is otherwise subject to all other terms, conditions, exclusions, definitions and limits applicable to the Policy.

S2.3 Limit of Liability

S2.3.1 Public 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 cover 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 the Named Insured 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 the 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 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.

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.

S2.4.7 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 financial consequences 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 the 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 exclusion clause 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 exclusion clause 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, through, 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 a libel, slander or defamation:

a) made prior to the commencement of the Period of Insurance; or

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 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 clauses 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. Provided that this clause shall not apply to a construction contract.

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 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.

S2.4.22 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.

S2.4.23 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.

S2.4.24 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 Contract Site or transporting or carting goods.

S2.4.25 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 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.

S2.4.26 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.

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