



# **NTI LIABILITY**



*Product Disclosure Statement*

14 May 2019



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EMERGENCY  
INFORMATION  
**HAZMAT**



## **INTRODUCTION**

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### **Important Things You Should Know**

Please ensure You read this document thoroughly before You enter into this contract of insurance.

You must also ensure that all details as shown in Your Policy Schedule are correct.

Let us know immediately if You need any changes.

If You do not understand any part of the policy, please ask Us to explain it to You or contact Your insurance broker or Our authorised representative for an explanation.

To properly understand the significant features, benefits and risks of this insurance You need to carefully read:

- about the available type of cover and benefits and exclusions in the Policy (the standard cover provided can be affected by the following);
- the rest of this "Introduction" Section - this sets out how You apply for cover, the basis on which We insure You, the duty of disclosure You need to meet before We insure You, Our privacy information, Our dispute resolution procedures and other important information;
- the "Definitions" - this sets out what We mean by certain words used in the Policy. These words begin with a capital letter throughout this document;
- the "General Conditions" and "General Claims Responsibilities" sections - these set out certain general rights and obligations that You and We have and other cover restrictions;
- the "Exclusions" set out the general exclusions and limitations that apply to the cover and benefits;
- all of the documents that make up the Policy, including the Policy Schedule and any Endorsements or other written changes to the cover We issue You with - these contain specific details relevant to You and can affect the cover. Your Policy Schedule may also specify Policy Excesses and other limitations on Your cover.

Headings are provided for reference only and do not form part of Your Policy for interpretation purposes.

### **1. The Insurer**

Insurance products are provided by NTI, a joint venture of the following insurers in the proportions shown:

- Insurance Australia Limited trading as CGU Insurance (ABN 11 000 016 722) (AFSL 227681) - 50%
- AAI Limited trading as Vero Insurance (ABN 48 005 297 807) (AFSL 230859) - 50%

This means that each insurer is only responsible for its half share.

'NTI', 'We', 'Us', or 'Our' means National Transport Insurance through its manager NTI Limited ABN 84 000 746 109 AFSL 237246.

### **2. National Transport Insurance**

NTI is Australia's transport insurance specialist - with over 45 years of experience in the insurance industry, NTI is the company You can count on to protect Your transport and plant and machinery assets. Two of Australia's leading general insurers - Insurance Australia Limited trading as CGU Insurance and AAI Limited trading as Vero Insurance - back NTI, so You can rest assured that You are in safe hands.

## INTRODUCTION

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### 3. Features

The table below is summary of some of the major coverage benefits available in the Policy.

Exclusions, limits and conditions apply so please refer to the full Policy wording in the following pages for full details.

#### Public and Product Liability

<b>Cover</b>	Cover for Your liability to Third Parties for Personal Injury or Property Damage as a result of an Occurrence in connection with Your Business or caused by Your Products during the Period of Insurance.
<b>Property in Your Care, Custody and Control</b>	Property other than that which belongs to You or held by You for Your customers during the ordinary course of transit, subject to a maximum of \$100,000 (or as noted in Your Policy Schedule) for any one Occurrence and in the aggregate during any one Period Of Insurance. Note : "During the ordinary course of transit" also includes any loading, unloading or temporary storage related to the goods in transit.
<b>Legal Costs</b>	Legal costs and expenses incurred with Our prior written consent, in addition to the Limit of Liability.
<b>Territorial Limits</b>	Anywhere in Australia including its external territories and elsewhere in the world but only in respect of commercial business visits by You. Injury and Damage from Exports of products to North America are excluded.
<b>Extensions of Cover</b>	Vibration limit \$250,000 in any one Period of Insurance (unless another amount is noted in Your Policy Schedule).

### 4. Your Duty of Disclosure

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

You have this duty until we agree to insure You. You have the same duty before You renew, extend, vary or reinstate an insurance contract.

You do not need to tell Us anything that:

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

#### If You do not tell Us something

If You do not tell Us anything You are required to, We may cancel Your contract or reduce the amount We will pay You if You make a claim, or both.

If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

## **INTRODUCTION**

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### **5. Cancelling Your Policy**

You may cancel Your Policy by giving Us notice in writing. We will refund premium for each day of the unexpired Period of Insurance, less a 10% cancellation fee. This fee will not apply if the Cooling Off Period is activated.

The daily premium will be calculated by dividing the premium by the number of days of the Period of Insurance. Some government taxes & duties are not refundable.

Where You represent more than one person or entity, We will only carry out this cancellation where a written notification to cancel is received from all parties named in Your Policy Schedule.

We may cancel only when the law allows Us to do so, and We will allow three business days' notice for You to seek alternative insurance or as otherwise required under the Insurance Contracts Act 1984 (Cth).

### **6. Costs**

#### **How the Premium is calculated**

Your premium may be calculated using all or some of the following:

- The size of Your business and Your Gross Freight Earnings or turnover;
- The types of Cargo You carry or Your Business activities;
- Sum Insured and limit of liability
- The distance You travel from Your base of operations;
- Your claim/incident history and experience;
- Type of cover or extensions of cover chosen;
- Number and types of vehicles in operation;
- Use of subcontractors and labour hire personnel.

### **7. Privacy**

We are bound by the Privacy Act 1988 (Cth) (including the Australian Privacy Principles). We collect Your personal information for the primary purpose of providing Our products and services to You.

You may choose to remain anonymous in your dealings with Us, however, if you do so We may not be able to provide any products or services to You or, depending on the circumstances, We may not be able to process Your request.

We will take reasonable steps to make sure that personal information that We hold about You is accurate, complete, and up to date and that it is protected from misuse, loss or unauthorised access, modification or disclosure.

Our handling of personal information is governed by Our Privacy Policy Statement which is available on the NTI website at [www.nticom.au](http://www.nticom.au).

Our Privacy Policy Statement contains information about:

- The purposes for which We use and disclose personal information.
- How You can access or correct Your personal information that We hold.
- How to complain if You believe We have interfered with Your Privacy.

If You require further information about how We handle personal information You can contact Us on (07) 3292 9800 or by writing to PO Box 13550 George Street QLD 4003.

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### 8. Resolving Your Complaints

#### **What You do and who You contact if You have a complaint or dispute involving us:**

If You have a complaint or dispute about Your insurance policy, decisions on Your claim or the service You have received from Us or one of Our authorised representatives, You may access Our Internal Dispute Resolution process.

The first step is to contact Your closest NTI office. Contact details can be obtained by visiting [www.nticom.au](http://www.nticom.au) and a brochure on Our Dispute Resolution System is available from all NTI offices.

#### **Internal Dispute Resolution - Complaints**

Once You contact Us, Our staff will help You in every way they can.

If You are not satisfied with the outcome Your complaint will be referred to the staff member's supervisor who will deal with it promptly

If You are still not satisfied Your complaint can be handled through Our Internal Dispute Resolution service by a different employee who has appropriate experience, knowledge and authority to conduct a full review. To access that service, ask the Supervisor or Manager You are dealing with to refer Your complaint to Our Dispute Resolution Officer. Your complaint will then be treated as a dispute.

#### **Internal Dispute Resolution - Disputes**

We will notify You of the name and contact details of the employee assigned to liaise with You in relation to Your dispute. That employee will acknowledge receipt of Your dispute in writing, usually within five working days.

Provided that We have all the necessary information and no investigations are in progress, a final decision on Your dispute will be forwarded to You in writing, usually within 15 working days. Where further information or investigation is required, We will endeavour to agree a reasonable time frame extension with You.

We have 45 days to respond from the date that Your complaint is received. Our response will include:

- a. reasons for Our decision;
- b. information about how to access Our External Disputes Resolution (EDR) Scheme; and
- c. notify You of the time frame within which You must register Your dispute with the EDR Scheme, (usually within two years of Our final decision).

#### **External Dispute Resolution**

Our Internal Dispute Resolution Service is designed to seek to resolve any complaints or disputes that may arise. However, if We are unable to resolve Your dispute to Your satisfaction within 45 days, We will inform you of the reasons for the delay and that You can take Your dispute to Our EDR scheme, administered by the Australian Financial Complaints Authority (AFCA), even if We are still considering it (and provided Your dispute is within AFCA Terms of Reference). We are a member of AFCA which is an ASIC approved external dispute resolution scheme and it may be able to resolve Your dispute. You may be entitled to assistance from the AFCA, however this is subject to the claim circumstances and the AFCA eligibility criteria.

Before the end of that 45 day period We will inform You that You have this right and details of how to access Our EDR Scheme.

AFCA is responsible for monitoring compliance with the General Insurance Code of Practice. It is available to customers and third parties who fall within its Terms of Reference and is an impartial body that is completely independent of Us. AFCA will initially determine whether Your dispute falls within its Terms of Reference and will notify You whether it may proceed to review Your dispute.

Your dispute must be lodged with AFCA within two years of the date of Our final decision.

Where AFCA Terms of Reference do not extend to Your dispute We will advise You to seek independent legal advice or give You information about other external dispute resolution options, if any, that are available to You.

The contact details for AFCA are:

#### **Australian Financial Complaints Authority**

National Toll Free number 1800 931 678

GPO Box 3 Melbourne VIC 3001 Email: [info@AFCA.org.au](mailto:info@AFCA.org.au) Web: [www.afca.org.au](http://www.afca.org.au)

A brochure on Our Dispute Resolution Service is available from all NTI offices which includes information about the IDR and EDR Services.

## **INTRODUCTION**

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### **9. General Insurance Code of Practice**

We are a signatory to the General Insurance Code of Practice .

We are committed to raising standards of service to Our customers. This Code sets out the minimum standards We will uphold in the services We provide to You and is a practical demonstration of Our commitment to providing a high level of service to Our customers.

If You are interested in obtaining more information about this important industry initiative, You can contact the Insurance Council of Australia or access the Code directly at: [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

The Code aims to:

- Commit Us to high standards;
- Promote better, more informed relations between Us and You;
- To promote trust and confidence in the general insurance industry;
- To provide fair and effective mechanisms for the resolution of complaints and disputes between Us and You; and
- To promote continuous improvement of the general insurance industry through education and training.

More information about the Code can be obtained from Us directly or Our website [www.nti.com.au](http://www.nti.com.au) or contacting the Insurance Council of Australia (ICA) directly (the ICA has an office in most capital cities) or via their website at [www.insurancecouncil.com.au](http://www.insurancecouncil.com.au).

## THE COVER

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Subject to the following terms and conditions, as well as General Exclusions and General Conditions that apply to this Policy, this Policy provides Cover for Your liability to third parties for Personal Injury or Property Damage as a result of an Occurrence in connection with Your Business or caused by Your Products during the Period of Insurance.

**Section 1** provides indemnity for Your liability for Personal Injury or Property Damage as a result of an Occurrence in connection with Your Business.

**Section 2** provides indemnity for Your liability for Personal Injury or Property Damage as a result of an Occurrence caused by Your Products.

### Our Agreement with You

Based on the information in Your Insurance Proposal, and the statements and declarations that You have made in support of Your application for insurance, and provided that You have paid the premium by the Due Date, We will insure you for the Cover specified in Your Policy Schedule, subject to the terms, conditions and exclusions that are set out in this Policy.

Your Policy consists of:

- a. this Policy document, which sets out the conditions of Cover, exclusions and the terms and conditions that apply to each Policy or level of Cover You have chosen;
- b. the Policy Schedule is a separate document and shows the insurance details that are relevant to Your insurance;
- c. any endorsements noted in Your Policy Schedule or otherwise notified by Us to You in writing;
- d. Your Insurance Proposal, the declarations and statements that were made when You applied for Cover from Us and every other matter which You subsequently declare or state to Us when You, replace, vary, extend or reinstate Your Policy.

They are all to be read as if they are the one document.

### General Definitions That Apply To This Policy

Word	Meaning
<b>Aircraft</b>	means any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.
<b>Business</b>	means that business described in Your Policy Schedule and will also include: <ol style="list-style-type: none"><li>a. the provision of Your own canteen, sports, social and child care facilities or welfare organisations, and Your own fire, first aid, medical and ambulance services;</li><li>b. private work undertaken by any of Your Employees for any of Your directors, partners or senior executives; and</li><li>c. the ownership or occupation of, the carrying out of repairs maintenance alterations or additions to, the premises occupied by You in connection with Your Business specified in Your Policy Schedule.</li></ol>
<b>Computer System</b>	means any computer, hardware, information technology and communications system or electronic device, including any similar system or any configuration of the aforementioned and including any associated input, output or Electronic Data storage device, networking equipment or back up facility.
<b>Cover</b>	means the benefit and protection provided by each type of Policy Product specified in Your Policy Schedule.

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Word	Meaning
<b>Cyber Incident</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a. unauthorised or malicious acts regardless of time and place, or the threat or hoax thereof;</li> <li>b. Malware or Similar Mechanism;</li> <li>c. programming or operator error whether by the insured or any other person or persons; any unintentional or unplanned - whole or partial - outage of the insured's Computer System not directly caused by physical loss or damage,</li> </ul> <p>affecting access to, use of or operation of any Computer System or access to, use of, disclosure of, or processing of any Electronic Data by any person or group(s) of persons.</p>
<b>Dry Hire</b>	means when You hire out Your Insured Property without providing Your employee or any person under Your direct control who is engaged or involved in the operation of Your Insured Property.
<b>Electronic Data</b>	means facts, concepts and information converted to a form useable for display, communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.
<b>Employee</b>	means any person engaged in the Business under a contract of service or apprenticeship with You (other than with a person insured by the Principal's Liabilities clause or so deemed by any law).
<b>Excess</b>	means the amount specified in Your Policy Schedule You must pay as the first part of any claim unless otherwise stated under the provisions of any applicable product.
<b>GST</b>	has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999.
<b>Headings</b>	when used in Your Policy, are purely descriptive in nature and are not intended to be used for interpretative purposes.
<b>Information Technology</b>	means and includes data or part of data, computer hardware, operating system, computer network, equipment, web sites, servers, extranet, software, applications software, computer chip including microprocessor chip and coded instructions as well as any new technology, product or service replacing existing information technology.
<b>Input Tax Credit</b>	has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999.
<b>Insurance Proposal</b>	means the particulars of insurance completed by You, as Your application for insurance, and submitted to Us either in writing or electronically on which We rely to determine whether to provide You with a Policy, and if so, upon what terms and conditions.
<b>Insured Property</b>	means Mobile Plant, Motor Vehicles and stationary items of plant and equipment.
<b>Internet Activity</b>	means activity involving the transfer of electronic data over the internet and includes but is not limited to: <ul style="list-style-type: none"> <li>a. sending and receiving email;</li> <li>b. accessing or using world wide web sites.</li> </ul>
<b>Limit of Indemnity</b>	means the amount(s) specified in Your Policy Schedule as the maximum amount up to which We will protect You for Your liabilities, subject to the application of any Excess.

## THE COVER

Word	Meaning
<b>Malware or Similar Mechanism</b>	means any programme code, programming instruction or other set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programmes, data files or operations (whether involving self-replication or not), including but not limited to "Virus", "Trojan Horses", "Worms", "Logic Bombs" or "Denial of Service Attack".
<b>Mobile Plant</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a. a backhoe, bulldozer, endloader, forklift, industrial crane or hoist, other mobile machinery/equipment, agricultural implement; or</li> <li>b. a non-motorised machine or implement,</li> </ul> <p>described in Your Policy Schedule and is not a Motor Vehicle.</p>
<b>Motor Vehicle(s)</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a. any type of machine designed for use on land only, but not a tramway vehicle, locomotive and rolling stock (but this does not exclude a road going Motor Vehicle with 'wind down' rail wheels that may traverse railway lines); or</li> <li>b. a trailer,</li> </ul> <p>described in Your Policy Schedule and is not Mobile Plant.</p>
<b>National Transport Insurance</b>	means National Transport Insurance, a joint venture of the insurers Insurance Australia Limited trading as CGU Insurance ABN 11 000 016 722 AFSL 227681 and AAI Limited Trading as Vero Insurance ABN 48 005 297 807 AFSL 230859 each holding a 50% share.
<b>Occurrence</b>	means any event, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury or Property Damage neither expected nor intended by You. All events of a series consequent on or attributable to one source or original cause will be deemed one Occurrence.
<b>Period of Insurance</b>	<p>means the period between and includes the dates in Your Policy Schedule shown as 'Insured From/To' during which We provide insurance under Your Policy.</p> <p>Your Policy expires on the date specified in Your Policy Schedule as the 'to' date at 4.00pm Local Standard Time (L.ST) of the State or Territory within the Commonwealth of Australia in which Our office issuing Your Policy is located.</p>
<b>Personal Injury</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a. bodily injury, death, sickness, disability, disease, shock, fright, mental injury, mental anguish or loss of consortium resulting from any of them; and</li> <li>b. <ul style="list-style-type: none"> <li>i. false arrest, false imprisonment, malicious prosecution, wrongful eviction, wrongful detention and humiliation;</li> <li>ii. libel, slander, defamation of character;</li> <li>iii. invasion of right of privacy; or</li> <li>iv. assault and battery committed by You for the purpose of preventing or eliminating danger to persons or property to the extent permitted by law.</li> </ul> </li> </ul>
<b>Policy</b>	means this document, Your Policy Schedule, the Insurance Proposal, any declarations and statements You make to Us and any other notice We give You in writing, all to be read together.

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Word	Meaning
<b>Policy Schedule</b>	means the most current insurance details and attachments to them, issued to You by Us. It sets out Your Policy number, the Policy applying, Excess and any special conditions, endorsements and limits which apply to Your Policy.
<b>Products</b>	means any goods, product or property (including any components, packaging or container) described in Your Policy Schedule (after they have ceased to be in Your possession or under Your control) manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed in or from Australia or its external territories by You, or are deemed by Australian law to have manufactured, in the course of the Business, and includes directions, markings, instructions, warnings or given or omitted advice in connection with such Products, but does not include the design, formula or specification of such Products.
<b>Property Damage</b>	means: <ul style="list-style-type: none"> <li>a. physical damage to or destruction of tangible property including the loss of use thereof at any time resulting therefrom; or</li> <li>b. loss of use of tangible property which has not been physically damaged or destroyed provided such loss of use is caused by an Occurrence.</li> </ul>
<b>Territorial Limits</b>	means: <ul style="list-style-type: none"> <li>a. anywhere in Australia including its external territories</li> <li>b. elsewhere in the world but only in respect of: <ul style="list-style-type: none"> <li>i. commercial visits by directors and non-manual work carried out by You provided that at the time of carrying out that work such directors or You were normally resident in Australia or its external territories; and</li> <li>ii. Products supplied from or originating in Australia or its external territories (subject to Exclusion 7 of the Specific Exclusions that apply to Section 2 – Product Liability of this Policy).</li> </ul> </li> </ul>
<b>Terrorism</b>	means an act, including but not limited to the use of force or violence (or the threat of force or violence), of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological ethnic or similar purposes including the intention to influence any government and/or to put the public, or any Section of the public in fear.
<b>Use as a Tool of Trade</b>	means use for excavating, digging, grading, scraping, drilling, lifting, pumping, spraying, vacuuming, suction, or like circumstance. It does not include: <ul style="list-style-type: none"> <li>a. use for loading and unloading goods onto or off a goods carrying vehicle (or use of a crane arm mounted on the vehicle to do so);</li> <li>b. transit on a designated road to or from a work site; or</li> <li>c. use for road transport or road haulage.</li> </ul>
<b>Watercraft</b>	means any vessel, craft or thing made or intended to float on or travel on, over or through water.
<b>We/Our/Ours/Us/ NTI</b>	means National Transport Insurance administered on behalf of the Insurers by its manager NTI Limited: ABN 84 000 746 109; AFSL 237246.

## THE COVER

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Word	Meaning
<b>Wet Hire</b>	means when You hire out Your Insured Property and provide Your employee or any person under Your direct control who is engaged or involved in the operation of Your Insured Property.
<b>You/Your/Yours</b>	for the purposes of this policy means: <ol style="list-style-type: none"><li>a. the client named in Your Policy Schedule whose place of residence or if a company, whose place of incorporation, is within Australia or its external territories;</li><li>b. any personal representatives in the event of the death of a client but only in respect of liability incurred by the client;</li><li>c. any office-bearer committee or member of the client's own canteen sports social and child care facilities or welfare organisations and any member (not being a qualified medical practitioner) of the client's own fire, first aid medical or ambulance service;</li><li>d. any director, partner, executive officer or shareholder of the client or any Employee but only for liability in respect of which the client would have been entitled to indemnity if the claim had been made against the client; or</li><li>e. any director, partner or senior executive of the client in respect of private work undertaken by any Employee for such director or senior executive.</li></ol>

## **SECTION 1**

### **PUBLIC LIABILITY**

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#### **What You are insured for in Section 1**

##### **1. Compensation**

Subject to the Limit of Indemnity specified in Your Policy Schedule for Public Liability, We will indemnify You for all amounts which You become legally liable to pay as compensation for:

- a. Personal Injury; and
- b. Property Damage,

as a result of an Occurrence happening in the Period of Insurance within the Territorial Limits and in connection with the Business less the Excess amount specified in Your Policy Schedule as applicable to Section 1 of this Policy.

##### **2. Legal Costs/Solicitors Fees/ Claimants Costs**

In addition We will pay:

- a. all charges, expenses and legal costs incurred by Us and/or You provided that such charges, expenses and legal costs were incurred with Our written consent in the settlement or defence of any claim for compensation for which You may be liable under Section 1 of this Policy;
- b. Your legal costs of representation at any coroner's inquest or inquiry incurred with Our prior written consent;
- c. all charges, expenses and legal costs recoverable from You resulting from any Occurrence giving rise to legal liability under Section 1 of this Policy ; and
- d. all expenses incurred by You for first aid to others at the time of Personal Injury (other than payment of medical expenses which are prohibited by law).

All of these costs, expenses or charges must be incurred in connection with claims for compensation which if sustained would be indemnified under Section 1 of this Policy.

Provided that, in relation to any claim in respect of Personal Injury or Property Damage occurring in any country on the continent of North America or in states or territories incorporated in or administered from or by those countries, Our liability to pay any of the costs, expenses or charges set out in Section 1 of this Policy will be included within the Limits of Indemnity specified in Your Policy Schedule under Section 1 of this Policy.

#### **Specific Exclusions That Apply Only to Section 1 - Public Liability of this Policy**

We will not be liable for:

##### **1. Property Damage**

Property Damage to property:

- a. which belongs to You;
- b. held on behalf of any customer for or during transit (including loading/unloading and temporary storage in the ordinary course of transit) in the course of Your Business; or
- c. of any third party entity held, administered, used or otherwise in Your possession or control (including property attached by a securing device to, or being lifted by, any such property), except for the first \$100,000 incurred as a result of any one Occurrence and in the aggregate in any one Period of Insurance; and subject to a deductible of the first 10% of any claim or the first \$500, whichever is the greater, but this entire Exclusion 1.c. will not apply to:
  - i. personal possessions of directors, partners, Employees or visitors;
  - ii. premises (and their contents) not owned or rented by You but which are temporarily occupied by You for the purpose of carrying out work in connection with the Business;

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# PUBLIC LIABILITY

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- iii. premises (including fixtures and fittings) leased or rented to You provided that You will be responsible for the first \$500 in respect of loss or damage caused (other than by fire or explosion) in addition to any Excess specified in Your Policy Schedule; or
- iv. Motor Vehicles, not owned by You nor used in conjunction with the Business, whilst within a free car park provided by You for the use of customers visitors or Employees.

### **2. Liability Under Agreement**

Liability assumed by You under any contract, warranty, undertaking or agreement unless that liability would have attached in the absence of the contract, warranty, undertaking or agreement.

However, this Exclusion will not apply to liability assumed by You under:

- a. a lease or agreement for tenancy of premises (or property) occupied by You in connection with Your Business unless any terms or conditions contained in such a lease or tenancy agreement require You to:
  - i. insure such premises (or property); or
  - ii. indemnify the lessor for Personal Injury or Property Damage regardless of fault; or
- b. any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities.

### **3. Aircraft & Watercraft**

Personal Injury or Property Damage caused by or in connection with the operation, ownership, possession or use of any Aircraft or Watercraft by You or on Your behalf.

### **4. Motor Vehicles / Mobile Plant**

Personal Injury or Property Damage caused by or arising directly or indirectly out of or in any way connected with the ownership, possession, operation, driving or use by You of any Mobile Plant or Motor Vehicle:

- a. which is registered;
- b. which is required under any legislation to be registered; or
- c. in respect of which insurance is required to be effected by You or on Your behalf by or under any legislation, including legislation of any state or territory of Australia, whether or not such insurance is effected;

However this Exclusion will not apply to Personal Injury or Property Damage which arises out of:

- i. delivering goods away from, or collecting goods to convey to, any Motor Vehicle where such Personal Injury or Property Damage occurs beyond the limits of any carriageway or thoroughfare, and such liability does not arise out of the operation of loading or unloading the goods directly onto or off the Motor Vehicle;
- ii. the loading or unloading of, or the delivery or collection of goods to or from, any Motor Vehicle not in Your physical or legal control but which is used in work undertaken by You or on Your behalf; or
- iii. use as a Tool of Trade either on any site where You are undertaking work or at Your premises,

but not for such liability that arises in circumstances for which indemnity would be provided under any form of insurance which is required to be effected by You or on Your behalf by or under any legislation, including legislation of any state or territory of Australia, whether or not such insurance is effected.

### **5. Products**

Personal Injury or Property Damage caused by Products, other than Personal Injury or Property Damage caused by food or beverages sold or supplied by You as a service to Employees or visitors for consumption on Your premises.

## **SECTION 1**

# **PUBLIC LIABILITY**

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### **6. Professional Duty**

Claims arising out of any breach of duty owed in a professional capacity by You, but this Exclusion 6 does not apply to:

- a. the rendering of or failure to render advice or services by members of Your own first aid, medical or ambulance services referred to in the Specific Definitions that apply to this Policy; or
- b. claims where such breach is in relation to advice or services given gratuitously.

### **7. Property Change / Demolition**

Claims in respect of Personal Injury or Property Damage arising directly or indirectly out of or caused by or in connection with the:

- a. erection;
- b. demolition; or
- c. alteration of or additions,

to buildings by You or on Your behalf, except for paragraph a. and c. above, to buildings owned or occupied by You, for works not exceeding in total cost \$500,000.

### **8. Defamation**

Claims arising out of the publication or utterance of a libel or slander or defamation of character:

- a. made prior to the commencement of the Period of Insurance or following its ceasing;
- b. made by You or at Your direction with knowledge of the falsity thereof; or
- c. related to advertising, broadcasting or telecasting activities, or publication of newspapers, journals, books or periodicals, conducted by or on Your behalf.

### **9. Blasting**

Any liability whatsoever arising out of or from the event of blasting, using explosives or explosive devices of any type.

## **SECTION 2**

### **PRODUCTS LIABILITY**

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#### **What You are insured for in Section 2**

##### **1. Compensation**

Subject to the Limit of Indemnity specified in Your Policy Schedule for Products liability We will indemnify You for all amounts which You become legally liable to pay as compensation for:

- a. Personal Injury; and
- b. Property Damage;

as a result of an Occurrence happening in the Period of Insurance within the Territorial Limits and caused by Your Products less the Excess amount specified in Your Policy Schedule applicable to Section 2 of this Policy.

##### **2. Legal Costs/Solicitors Fees/ Claimants Costs**

In addition We will pay:

- a. all charges, expenses and legal costs incurred by Us and/or You, provided that such charges, expenses and legal costs were incurred with Our written consent in the settlement or defence of any claim for compensation for which You may be liable under Section 2 of this Policy;
- b. Your legal costs of representation at any coroner's inquest or inquiry incurred with Our prior written consent;
- c. all charges, expenses and legal costs recoverable from You resulting from any Occurrence giving rise to legal liability under Section 2 of this Policy; and
- d. all expenses incurred by You for first aid to others at the time of Personal Injury (other than payment of medical expenses which is prohibited by law).

All of these costs, expenses and charges must be incurred in connection with claims for compensation which if sustained would be indemnified under Section 2 of this Policy.

Our liability to pay any of the costs, expenses or charges set out in this Section 2 of this Policy will be included within the Limit of Indemnity specified in Your Policy Schedule under Section 2 of this Policy.

Our total liability to You under the above clauses 1 and 2 of Section 2 of this Policy for all Occurrences occurring in the Period of Insurance is the Limit of Indemnity specified in Your Policy Schedule under Section 2 of this Policy. This means that We will not indemnify You for more than this amount, either for one claim or for a series of claims that together add up to more than the Limit of Indemnity specified in Your Policy Schedule for Section 2 of this Policy.

#### **Specific Exclusions That Apply Only to Section 2 - Products Liability of This Policy**

We will not be liable for:

##### **1. Property Damage**

Property Damage to property:

- a. which belongs to You;
- b. held on behalf of any client or customer for or during transit (including loading/unloading and temporary storage in the ordinary course of transit) in the course of Your Business; or
- c. of any third party entity held, administered, used or otherwise in Your possession or control (including property attached by a securing device to or being lifted by any such property), but this entire Exclusion 1.c. will not apply to:
  - i. personal possessions of directors, partners, Employees or visitors;
  - ii. premises (and their contents) not owned or rented by You but which are temporarily occupied by You for the purpose of carrying out work in connection with the Business;

## SECTION 2

# PRODUCTS LIABILITY

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- iii. premises (including fixtures and fittings) leased or rented to You provided that You will be responsible for the first \$500 in respect of loss or damage caused (other than by fire or explosion) in addition to any Excess specified in Your Policy Schedule; or
- iv. Motor Vehicles, not owned by You nor used in conjunction with the Business, whilst within a free car park provided by You for the use of customers, visitors or Employees.

### 2. Aircraft Products

Personal Injury or Property Damage caused by or arising out of Products intended specifically for, and installed in or on, an Aircraft or other aerial device, or caused by or arising out of Products which You know would be so installed, where such Products are essential to the operation or navigation of an Aircraft or other aerial device.

### 3. Liability Under Agreement

Liability accepted by You solely under a contract, warranty, undertaking or agreement unless that liability:

- a. would have attached in the absence of such contract, warranty, undertaking or agreement; or
- b. is assumed by You under a warranty of fitness or quality, or is implied by law, in respect of Products.

### 4. Repair or Replacement

The cost of recalling, withdrawing, replacing or repairing Products or of making any refund of the price paid for Products, provided that:

- a. this Exclusion 4. does not apply to liability for physical damage to or destruction of Products caused by other Products if they were physically independent at the time of such physical damage or destruction; and
- b. We will contribute seventy-five percent of the costs in excess of the first \$2,000 of each and every claim for physically withdrawing or recalling from use Products which have already given rise to claims for damages which are indemnifiable under Section 2 of this Policy, if We agree that such withdrawal is necessary for the purpose of preventing similar claims arising. This is subject to a maximum contribution by Us of \$50,000 in respect of all such costs incurred in relation to all such withdrawals or recalls in any one Period of Insurance.

### 5. Known Defects

Claims arising from or related to any defect or deficiency in any of the Products where You or any of Your responsible officers has knowledge or has reason to suspect such defect or deficiency at the time when the said Products pass from Your physical custody or of any person under Your control.

### 6. 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 any formula or in specification by You.

### 7. North American Exports

Personal Injury or Property Damage:

- a. occurring in any country on the continent of North America, or in states or territories incorporated in or administered from or by such country; and
- b. caused by Products exported by You to any such country.

### 8. Public Liability

Any claim indemnified under Section 1 of this Policy.

### 9. Product Defect

Any Property Damage to Products if the Property Damage is attributed to any defect in those Products or those Products' harmful nature or their unsuitability for the purpose for which they were intended.

### 10. Import or Manufacture of Motor Vehicles or Mobile Plant or Component Parts

Any Personal Injury or Property Damage caused by or arising out of the manufacture or import of Motor Vehicles or Mobile Plant (or their components or parts). However this exclusion shall not apply where You are importing or manufacturing such Motor Vehicles or Mobile Plant (or their components or parts) solely for Your own use.

## AUTOMATIC EXTENSIONS OF COVER

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### 1. Cross Liability

Where more than one person or party comprises You as defined in this Policy, each person or party will be treated as if a separate Policy had been issued to each of them. Any such person or party making a claim will be treated as though they are insured separately under this Policy. The Limit of Indemnity is not affected or increased as a consequence of this clause.

### 2. Principal's Liability

Where a named principal is specified in Your Policy Schedule the Policy extends Cover to that principal for claims in respect of Personal Injury or Property Damage arising solely out of Your Business provided that:

- a. the principal will comply with and be subject to the terms and conditions and limitations of Your Policy as though the principal were You; and
- b. the Limit of Indemnity specified in Your Policy Schedule will apply.

### 3. Wrongful Delivery of Concrete

Notwithstanding the exclusion regarding liability arising out of goods in the physical and legal control, and express warranty, contract or agreement and the liability arising out of the use of a registered Motor Vehicle, the Policy is extended to Cover Your legal liability for Property Damage arising out of the wrongful delivery of concrete or cement aggregate to a site and/or portion of a site, for which the delivery was not to be made.

No Indemnity will apply where liability arises out of or is caused by delay in delivery or by wrongful delivery where the act of such delivery was wilful and/or malicious. Our limit of liability in regard to this extension is limited to the Limit of Indemnity shown in Your Policy Schedule.

### 4. Roads and Maritime Services (RMS)

This Automatic Extension of Cover extends Cover to You for work undertaken for and on behalf of the Roads and Maritime Services of New South Wales (RMS).

#### Cover

Subject to the standard Policy terms and conditions and exclusions this Policy extension:

- a. Covers:
  - i. Your liability arising out of an Occurrence for Personal Injury or Property Damage caused by You or Your employees and includes Your vicarious liability for subcontractors and agents;
  - ii. liability arising out of the use of fixed hoists or fixed cranes and those unregistered Vehicles not required to be indemnified under Your Motor Vehicle or Mobile Plant type Policy, boilers and pressure vessels; and
  - iii. property of RMS whilst in Your legal and physical control limited to \$500,000 any one Occurrence;
- b. includes RMS as an additional named Insured for liability arising out of Your activities including liability:
  - i. for injury caused by You to any RMS employee not protected by any worker compensation cover or like;
  - ii. arising from work undertaken at and away from Your premises; and
  - iii. for damage caused by You to RMS property not in Your physical or legal control;
- c. includes a cross liability for You and RMS, but for the purpose of this extension, it is agreed that the RMS is not an insured person for the purpose of the issue of a Notice of Expiry as required pursuant to the Insurance Contracts Act 1984 (Cth) (Expiration, Renewal, and Cancellation);
- d. provides a Limit of Indemnity as specified in Your Policy Schedule for:
  - i. Public Liability: for any one single Occurrence and unlimited in the aggregate to the number of Occurrences; and
  - ii. Products Liability: for any one single Occurrence and total aggregate liability during any one Period of Insurance for all legal Liability arising out of Your Products;

## AUTOMATIC EXTENSIONS OF COVER

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- e. protects Your interest for the Business activity stated in Your Policy Schedule and no other for the purpose of this insurance; and
- f. agrees to a waiver of the subrogation clause against any party where they are indemnified by the Policy.

### **Other important features**

- a. This Policy extension of Cover:
  - i. excludes indemnity for Your subcontractors; and
  - ii. is subject to an excess of \$5,000 for each and every Occurrence or series of Occurrences arising out of the one event which You are required to pay.
- b. Your liability to indemnify RMS is reduced proportionally to the extent that any negligent act or omission of RMS or employees or agents (other than You) of RMS may have contributed to the injury, damage or loss.

### **5. Movement of other machines - Property Damage**

Notwithstanding Exclusion 4. of Section 1 – Public Liability, We will indemnify You under Section 1 of this Policy- Public Liability for sums You become legally liable to pay as compensation for Property Damage occurring during the Period of Insurance caused by You having moved or attempted to move any other third party's Mobile Plant or Motor Vehicle that was parked in a position which prevented or impeded the loading, unloading or lawful passage of Your Mobile Plant or Motor Vehicle. However You must at all times be suitably licensed and competent in the operation of such third party Mobile Plant or Motor Vehicle, exercise reasonable care and not deliberately damage any such Mobile Plant or Motor Vehicle.

# **GENERAL CONDITIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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## **1. Your Duty of Disclosure**

Before You enter into an insurance contract, You have a duty to tell Us anything that You know, or could reasonably be expected to know, which 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 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 do not tell Us anything you are required to, We may cancel your contract or reduce the amount We will pay You if You make a claim, or both.

If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

## **2. Due Observance**

If You fail to comply with any provision of Your Policy, We may reduce or refuse to pay a claim, but in any event Our rights will be subject to the Insurance Contracts Act 1984 (Cth).

## **3. Cancellation**

- a. You may cancel Your Policy (or any individual product within Your Policy) at any time by giving Us written notification;
- b. Where You represent more than one person or entity, We will only carry out this cancellation where a written notification to cancel is received from all parties named in Your Policy Schedule;
- c. Where You request cancellation, We will deduct a 10% cancellation fee unless that cancellation is made in accordance with the requirements of the Cooling Off clause;
- d. We may cancel only when the law allows Us to do so, and We will allow three business days' notice for You to seek alternative insurance or as otherwise required under the Insurance Contracts Act 1984 (Cth);
- e. We will refund premium for each day of the unexpired Period of Insurance;
- f. The daily premium will be calculated by dividing the premium by the number of days of the Period of Insurance. Some government taxes & duties are not refundable.

## **4. Goods and Services Tax**

- a. The amount of premium paid by You for Your Policy includes an amount for GST on the premium. As You are a commercial entity, You must inform Us of the extent to which You are entitled to an Input Tax Credit for that GST amount each time that You make a claim under Your Policy;
- b. No payment will be made to You for any GST liability that You may incur on the settlement of a claim if you do not inform Us of Your entitlement or correct entitlement to any Input Tax Credit;
- c. Despite the other provisions of this insurance (including provisions in the wordings, Your Policy Schedule or any endorsement) Our liability to You will be calculated taking into account any Input Tax Credit to which You are entitled for any acquisition which is relevant to Your claim, or to which You would have been entitled were You to have made a relevant acquisition; and If the Sum Insured is not sufficient to Cover Your loss, We will only pay any GST (less any relevant Input Tax Credit) that relates to Our proportion of Your loss.

## **5. Government Taxes and Duties**

You must pay all levies, taxes, imposts and/or charges, including but not limited to stamp duty and other similar charges which may be payable to or required to be paid to any government in Australia whether acting through any agency, instrumentality or otherwise in relation to Your Policy.

## **GENERAL CONDITIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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### **6. Change of Circumstances**

During the Period of Insurance, You must give immediate written notice to Us of any change in circumstances from those which existed at the time Your Policy of Insurance was accepted. We will not be liable for any claims after such a change, unless We previously agreed to the change in writing.

### **7. Law & Jurisdiction**

Your Policy is governed by and is construed in accordance with the laws of the Commonwealth of Australia. Any dispute relating to Your Policy must be submitted to the state or territory in which Your Policy was issued.

### **8. Notices**

Where there is more than one of You, any notice given by Us under Your Policy to any one of You will be deemed to be notice given to all of You.

### **9. Other Insurances**

You must give Us written notice of any policies of insurance already effected, or which may be subsequently effected covering, whether in whole or in part, the subject matter of the various parts of the Policy.

### **10. Causing Or Contributing To Loss**

We may refuse to pay a claim, or may reduce the amount payable under a claim to the extent that Your breach of any condition of Your Policy causes or contributes to loss, damage or liability or prejudices Our interests or rights, in respect of that claim.

### **11. Reasonable Care**

At Your own expense You and any person acting for You or on Your behalf must exercise reasonable care and take precautions and use all due diligence to:

- a. prevent:
  - i. loss or damage to and ensure the safety and security of any item or thing which is the subject of the Cover provided under Your Policy; and
  - ii. Personal Injury or Damage to Property;
- b. employ only competent employees;
- c. comply with all statutory obligations and by-laws or regulations and recognised standards imposed by any public authority;
- d. employ safe work practices; and
- e. maintain Your Mobile Plant, Motor Vehicle, Extras, Working Accessories, equipment, machinery, implements and everything used in Your business in proper repair and sound condition.

### **12. Subrogation**

Upon the payment of any claim under this Policy and subject to any restrictions imposed by the Insurance Contracts Act 1984 (Cth). We will be subrogated to all Your rights and remedies arising out of such claim against any person or corporation whatsoever. If there is any recovery by way of subrogation that includes both Our loss and Your loss, then We and You will be entitled to our individual pro rata proportions of the recovered amount (that includes any interest component). For the purposes of this clause, loss includes any legal and administrative costs incurred by either party in the recovery.

### **13. Right of Recovery**

Where another person other than a person exempted by law, is liable to compensate You for any loss or damage covered by the Policy, but You have agreed with, or given an undertaking to, that person without Our written authority, either before or after the loss or damage occurred that You would not seek to recover any moneys from that person, We will not cover You under Your Policy for any such loss or damage.

### **14. Other Interested Parties**

- a. Your Policy does not provide insurance in respect of the interest of any person or entity not named in Your Policy Schedule. We will recognise a government agency or Your personal representative in the event of Your death or (temporary or permanent) incapacity.
- b. All persons entitled to any benefit under Your Policy will be bound by the terms of Your Policy.

## **GENERAL CONDITIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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### **15. Fraudulent disclosure or misrepresentation**

You must not make any disclosures or misrepresentations that are fraudulent when proposing Your insurance to Us. In certain circumstances, We may cancel the Policy or declare it never existed because it was not properly entered into due to Your fraudulent misrepresentation or disclosure. If We are not entitled to avoid the contract from the beginning, We may be entitled to reduce Our liability under the contract in respect of a claim.

### **16. Adjustment**

If the premiums are calculated on statements and estimates provided by You, within a reasonable period of the expiry of each Period of Insurance You will provide to Us the information that We may require for that expired period and the premium for that period will thereupon be adjusted by Us and the difference be paid by or allowed to You as the case may be subject to any minimum premium applicable.

### **17. Prohibited By Law**

Where this Policy provides any indemnity to You which is prohibited by law, this Policy will be varied by operation of this clause so that this Policy does not respond to the extent that the indemnity is prohibited by law.

### **18. Payment of Limit of Indemnity**

We may at any time pay to You the appropriate Limit of Indemnity (after deducting any sum or sums already paid) or any lesser amount for which a claim or claims may be settled and thereupon We will relinquish the conduct and control of and will be under no further liability in connection with such claim or claims except for those costs and expenses incurred prior to the date of such payment.

### **19. Contribution to Costs**

If We have not exercised Our rights under Claims Condition 18 above of the Conditions that apply to all Sections of this Policy, Our liability to pay costs and expenses, where any sum or sums exceeding the appropriate Limit of Indemnity have to be paid to dispose of a claim or claims, will be limited to such proportion of the said costs and expenses as such Limit of Indemnity bears to the amount actually so paid, or to be paid.

### **20. Medicare Notification**

We will notify Medicare under the Health and Other Services (Compensation) Act 1995, where any payment is due or claim for compensation is lodged under that Act. If a Commonwealth issued 'Notice of Charge' deems an amount is due to the Commonwealth, that amount will be paid to the Commonwealth prior to and nett of any further compensation payment being made.

## **GENERAL CLAIMS RESPONSIBILITIES THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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When You suffer loss, damage, liability or expense claimable under all Products, You, or anyone acting for You or on Your behalf at Your own expense must:

- a. take all reasonable measures to avoid or minimise any further loss, damage, liability or expense;
- b. not make any admission, offer, promise, payment or indemnity without Our written consent;
- c. tell Us all the details of the loss immediately either by submission of a claim form or by providing the information required by NTI ACCIDENT ASSIST, and in no case more than 30 days after the loss damage, liability or expense occurred. This information should be provided to Us with any written documentation, for example, a letter of demand from a claimant, a writ, summons or process received from any third party claimant. The obligation to provide this information is ongoing;
- d. pay the Excess to Us at the time of lodgement of claim;
- e. give Us all information and assistance We require in the prosecution, defence or settlement of any claim or any action or any claim made by You for benefits under Your Policy;
- f. notify Us of any other insurance that also provides insurance for any claim under Your Policy;
- g. in the event of loss caused by burglary, Theft and/ or malicious damage, notify the police immediately and provide to them all assistance to apprehend the offending party;
- h. not make any false declaration or statement in support of any claim under Your Policy; and
- i. allow Us to exercise our rights to possession of the damaged or recovered property where We have paid Your claim.

When You claim under this Policy:

- i. We may take over any right that You may otherwise have had against any person who may be held responsible for the loss, damage, liability or expense, to take recovery action in Your name against those responsible; and
- ii. We may take over and conduct in Your name the defence or settlement of any claim or prosecute in Your name for Our benefit, any claim for indemnity or damages or otherwise and will have full discretion in the conduct of any proceedings and in the settlement of any claim.

## **EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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We will not be liable for:

### **1. Pollution**

- a. Personal Injury or Property Damage caused by or arising directly or indirectly out of the actual, alleged or threatened discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon any property, land, the atmosphere or any watercourse or body of water (including groundwater) unless such discharge, dispersal, release or escape:
  - i. is neither reasonably expected nor intended by You;
  - ii. is the consequence of a sudden and instantaneous cause, which cause takes place at one clearly identifiable point in time during the Period of Insurance; and
  - iii. is not the consequence of a failure to maintain plant and equipment in sound functional order (unless such condition could not be readily detectable by You), or the consequence of prolonged wear and tear; or
- b. any costs or expenses incurred in preventing, removing, nullifying or cleaning-up any discharge, dispersal, release or escape as described in Exclusion 1.a. above, unless such costs or expenses are consequent upon an unexpected, unintended sudden and instantaneous cause which takes place at a clearly identifiable point in time during the Period of Insurance and results in Personal Injury or Property Damage neither of which is otherwise excluded by Your Policy.

Provided that Our total aggregate liability during any one Period of Insurance in respect of:

- i. all claims arising from such Personal Injury or Property Damage;
- ii. all claims for such costs or expenses; and
- iii. all other claims indemnifiable under this Policy as a result of that same Occurrence,

regardless of which Section of this Policy under which they are indemnifiable, will not exceed the Limit of Indemnity specified in Your Policy Schedule under Pollution limit.

### **2. Contaminants**

Any legal liability of whatsoever nature arising out of, by, through or from the removal or disposal of contaminants (including those things so affected thereby), whether such thing is known or not known to be so contaminated, suspected of being contaminated, or declared contaminated, unless the cause of such contamination occurs as described in Pollution Exclusion 1.a. of this Policy for which You are held legally liable.

Provided that Our total aggregate liability during any one Period of Insurance in respect of:

- a. all claims arising from such Personal Injury or Property Damage;
- b. all claims arising from such Personal Injury or Property Damage;
- c. all other claims indemnifiable under this Policy Product 2 as a result of that same Occurrence,

regardless of which Section of this Policy under which they are indemnifiable, will not exceed the same Limit of Indemnity specified in Your Policy Schedule under Pollution limit.

### **3. Asbestos**

Loss or damage or liability arising out of any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from or in consequence of, contributed to or aggravated by or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity.

## **EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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### **4. Loss of Use**

Claims in respect of the loss of use of tangible property, not physically damaged or destroyed, resulting from:

- a. a delay in or lack of performance (by You or on Your behalf) of any contract or agreement; or
- b. the failure of Products or work performed by You, for You, or on Your behalf to meet performance, quality, fitness or durability levels warranted or represented by You, but this Exclusion 4.b. does not apply to loss of use of other tangible property resulting from the sudden and accidental physical damage to or destruction of Products or work performed by You, for You, or on Your behalf after such Products or work have been put to their intended use by any person or organisation other than You.

### **5. Injury to Family**

Personal Injury to and Property Damage of any member of Your family ordinarily residing with You or with whom You ordinarily reside.

### **6. Welding**

claims arising directly or indirectly out of or caused by, through, or in connection with arc or flame cutting, flame heating, arc or gas welding or similar operation in which welding or cutting equipment is used, unless such use is carried out in strict compliance with the prevailing Australian Standards (Safety in Welding and Allied Processes) issued by the Standards Association of Australia.

### **7. Internet Operations**

Personal Injury or Property Damage directly or indirectly caused by, contributed to by, resulting from, arising from, or in connection with any Internet Activity by You or Your Employees.

### **8. Underground Services**

Loss or damage to underground services being existing electric or optic or telecommunication wire or cables or their supports, sewers, water, gas, and/or any other pipes or other services or to any land or fixed property whatsoever and/or the contents thereof unless You have procured and acted upon written plans prepared by an appropriate authority about the location of any such underground services.

Where a claim is indemnified under such circumstances, You will be liable to pay an excess of \$5,000 for each and every claim (unless a higher excess is noted in the Policy Schedule).

### **9. Vibration and removal of support**

Liability for Property Damage in connection with:

- a. vibration; or
- b. removal or weakening of, or interference with, support to land, buildings or any other property,

except for the first \$250,000 incurred (unless a higher amount is noted in Your Policy Schedule) including legal costs and expenses as a result of any one Occurrence and in the aggregate in any one Period of Insurance; and subject to a deductible of the first \$2,500 of any claim.

### **10. Advertising**

Liability for advertising arising out of:

- a. misappropriation of advertising ideas under an implied contract;
- b. the wrong description on the price of Your Product; or
- c. the failure of Your Product to conform with advertised performance or quality.

## **EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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### **11. Types of Work**

Personal Injury or Property Damage caused by or arising from:

- a. excavation exceeding 10 metres in depth;
- b. rail works on rail tracks, rail beds, rail trestles or rail signals;
- c. wholly underground operations;
- d. any works in oil, gas, chemical or petro-chemicals plants;
- e. the structural maintenance of dams, reservoirs or weirs; or
- f. ship building or structural ship repairing activities.

### **12. Organic Growths**

Personal Injury or Property Damage, caused by or arising out of, any moulds, fungi, spores or other similar growth including but not limited to aspergillums', penicillium, or any strain or type or stachybotris.

### **13. E-Commerce**

Personal Injury or Property Damage directly or indirectly caused by, contributed to by, resulting from, or arising out of, or in connection with any:

- a. communication, display, distribution or publication of Information Technology;
- b. total or partial destruction, distortion, erasure, corruption, alteration, misuse, misinterpretation, misappropriation or other use of Information Technology;
- c. error in creating, amending, entering, directing, deleting or using Information Technology equipment; or
- d. total or partial inability or failure to receive, send, access or use Information Technology for any time or at all.

### **14. Defective Work**

The cost of performing, completing, correcting or improving any defective work done or undertaken by You or Your contractors or their sub-contractors.

### **15. Aviation Activities**

Any claims arising directly or indirectly by, through or from any aviation activity and/or any activity either within or on airport taxi-ways, Aircraft parking stations, landing grounds, tarmac or the like, all known as Airside, or any temporary landing ground.

### **16. Employers Liability**

- a. Any liability for Personal Injury for which insurance against such liability (whether the insurance is limited in amount or not) is required pursuant to any workers' compensation, accident compensation or similar legislation in respect of Personal Injury to an Employee, or a person deemed to be Your Employee by such legislation, arising out of or sustained in the course of the employment of such person by You; or
- b. Any other liability imposed by the provisions of:
  - i. any workers' compensation, accident compensation or similar legislation; or
  - ii. any industrial award or agreement or determination or any contract of employment or workplace agreement.

## **EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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### **17. Avian Influenza and Infectious Disease**

Loss, damage, liability or expense arising directly or indirectly or caused by or arising from:

- a. Avian Influenza, including all virus sub-types;
- b. Bird Flu and/or Avian Flu;
- c. any disease directly or indirectly caused by or in connection with negatively stranded RNA virus or viruses belonging to the Influenza A genus of the family: Orthomyxoviridae;
- d. the infection of property, humans, animals or other living creatures by infectious matter or parasite, or the spreading or releasing thereof, by You, whether accidentally, knowingly, wilfully, maliciously or otherwise; or
- e. any losses caused by quarantinable disease listed in the Australian Quarantine Act 1908 or similar.

### **18. Dry Hire**

Any liability arising directly or indirectly from any Mobile Plant or Motor Vehicle hired out under a Dry Hire arrangement and caused by the actions of the hirer or any person acting on their behalf, however We will pay for Your vicarious liability and We will Cover You for Your legal liability arising out of mechanical, electrical or servicing defects caused by You in such hired equipment not arising as a result of the actions of the hirer.

### **19. Waste Management/ Disposal Condition and Exclusion**

Any liability arising directly or indirectly from:

- a. activities relating to inappropriate sale, use or disposal of waste which should be disposed of at a council or suitably authorised waste or landfill centre; or
- b. where a council or relevant authority permit is required to be obtained and You fail to do so; or
- c. any activities or occupation relating to products and/or services involving recycling, waste, tip or landfill activities, ownership or management and the like.

### **20. War**

Loss or damage or liability or expense is directly or indirectly caused by, contributed to by or arises from war, invasion, act of foreign enemy, hostilities (whether war has been declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

### **21. Nuclear Fuel, Waste and Contamination Therefrom**

Loss or damage or liability or expense is directly or indirectly caused by, contributed to by or arises 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, and radioactive isotopes of nuclear fuel.

### **22. Electromagnetic Weapon**

Loss or damage or liability or expense is directly or indirectly caused by, contributed to by or arises from any electromagnetic weapon.

## **EXCLUSIONS THAT APPLY TO ALL SECTIONS OF THIS POLICY**

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### **23. Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons**

Loss, damage, liability or expense that is 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; or
- e. any chemical, biological, bio-chemical, or electromagnetic weapon.

### **24. Terrorism**

For loss or damage or liability or expense that is directly or indirectly caused by, contributed to by or arises from:

- a. Terrorism; or
- b. steps taken to prevent, suppress, control or reduce the consequences of any actual, attempted, anticipated, threatened, suspected or perceived Terrorism.

### **25. Fines & Penalties**

Any amount of aggravated exemplary or punitive damages or fines or liquidated damages awarded against You or imposed on You or incurred under a penalty clause, or in respect of infringement of copyright or patent, or any other penalty of whatsoever nature imposed on You or awarded against You.

### **26. Fraudulent, Wilful & Deliberate Acts**

For any loss, damage, liability or expense that arises out of:

- a. a fraudulent or illegal act;
- b. a wilful, deliberate or malicious act; or
- c. a wilful breach of any statute, contract or duty; or
- d. misconduct, by You or with Your consent or anyone acting on Your behalf that:
  - i. contributes to; or
  - ii. results in,

any loss or damage or liability.

### **27. Silica**

Any liability directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by or in any way involving the inhalation of, or exposure to, silica or any materials containing silica in whatever form or quantity.

### **28. Cyber Incident**

Personal Injury or Property Damage directly or indirectly caused by, contributed to, resulting from, arising out of or in connection with a Cyber Incident.





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