

# 5Star

## Industrial Special Risks Product Disclosure Statement and policy wording



The insurer is Suncorp Metway Insurance Limited  
ABN 83 075 695 966.

This product is distributed by 5 Star Underwriting Agency Pty Ltd  
ABN 85 076 884 181



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# Product Disclosure Statement

We are required to give You a Product Disclosure Statement (PDS) if You are insuring Vehicles under policy section 1 and You are:

- an individual; or
- a small business, having:
  - in the case of a non-manufacturing business, less than 20 employees; or
  - in the case of a manufacturing business, less than 100 employees.

This PDS and policy wording has three different parts, Part A, Part B and Part C:

- Part A contains important information about Your rights and responsibilities, the General Insurance Code of Practice and how to contact Us if You have a complaint. Part B applies to all policy sections and should be read by all people who take out this policy.
- Part B contains information that only applies to section 1 of the policy. This part only applies to You if You are insuring Vehicles under policy section 1 and You are an individual or a small business.
- Part C contains Your 5Star Industrial Special Risks policy terms and conditions.

To understand the full terms and conditions of your Policy, You must read parts A and C. If you are insuring Vehicles under policy section 1 and You are an individual or a small business, You should also read Part B.

In this PDS, all terms defined in Part C have the same meaning in Parts A and B.

# Part A: Your rights and responsibilities

This section applies to all Sections in the policy terms and conditions in Part C of your PDS. All policyholders need to read this part B.

## Duty of disclosure

You must comply with Your duty of disclosure when You apply for insurance with Us and each time You renew or alter Your cover.

You have a duty of disclosure to tell Us everything You know or should know, that is relevant to Our decision to insure anyone under the policy, including You, and on what terms.

It includes matters We specifically ask and about when You apply for a policy, or renew or alter Your policy, and any other matters which might affect whether We insure You and on what terms.

The information You tell us can affect:

- the amount of Your premium and Your Excess;
- if we will insure You; or
- if special conditions will apply to Your policy.

You do not need to tell Us of anything which:

- reduces the chances of You making a claim;
- We should know about because of the business We are in; or
- We tell You We do not want to know.

If You are unsure it is better to tell Us. If You do not tell Us something which You know or should know is relevant, We might reduce the claim, refuse to pay a claim, cancel Your policy or, if fraud is involved We can treat the policy as if it had never existed.

Please see general condition 1 on page 43 of the policy terms and conditions in Part C of your PDS. This clause may limit Our rights arising from Your non-disclosure or misrepresentation of certain information.

## Cooling-off period

You have 21 days to consider the information in Your policy. This is the cooling off period. If You wish, You can cancel Your insurance within 21 days from the day cover begins. If You have not made a claim in this period, We will refund any premium You have paid.

## Paying your premiums

We will tell You how much You have to pay and how much time You have for payment. You must pay the premium by the due date to get this insurance cover.

If You do not pay the premium and other charges in full, We will reduce the Period of Insurance so it is in line with the amount You paid.

## Cancellations

You can cancel Your insurance at any time. The cancellation takes effect on the date We receive Your request.

If You cancel this policy We will refund the proportion of Your premium for the unused period but We will retain (or recover) Our usual short period premium. We will not refund any non-refundable government taxes or charges.

We can cancel Your insurance at any time according to law. We will refund any money We owe You for the unused period less any non-refundable government taxes or charges.

## Renewals

If We offer to renew Your policy and then, before Your policy is renewed, We learn of any change in circumstances that might affect our decision to insure You, we can:

- Withdraw Our offer; or
- Offer You renewal on different terms.

If, after Your renewal has come into force, We learn of any change in circumstances that You knew about or should have known about, We can:

- Refuse to pay a claim; or
- Reduce the amount We pay;
- Cancel Your policy. If We cancel Your policy, We might offer You a new policy on different terms; or
- If fraud is involved, We can treat Your policy as if it has never existed.

## GST and your Sum Insured

If You make a claim under your policy, any payment or supply We make to You in respect of the acquisition of goods or services or other supply, monetary compensation (instead of good or services) or other settlement of a claim will be calculated on the GST inclusive basis.

The Sums Insured, Limits and/or Sub Limits of Liability, or any other monetary limitations are inclusive of any taxes, levies, duties or charges that the payment would be affected by or subject to.

## Co-insurance

If at the time of Damage, Insured Property was insured for less than 85% of its actual value, then in the event of a claim We will pay the same proportion of the loss which the amount insured bears to 85% of the market value of Your Insured Property. This does not apply where the Damage does not exceed 5% of Your declaration of the value of the Insured Property.

This applies to section 1 of the policy only.

## Questions or complaints

If You have a complaint concerning the service You have received, please tell the people who provided the service to You.

If You have a complaint concerning this insurance You can:

- phone Us on 1800 689 762 (FREE CALL)
- fax Us on 1300 767 337
- write to Us on at Reply Paid 1453  
Customer Relations Unit RE058  
GPO Box 1453  
BRISBANE QLD 4001 or
- email Us on [customerrelations@suncorp.com.au](mailto:customerrelations@suncorp.com.au)

We will try to settle Your complaint within 1 working day. If We can't, We will tell You within 3 working days that We have received Your complaint and try to settle it within 21 days. For more information on Our complaints handling process, please contact Us.

If You are dissatisfied with Our decision or the way We handled Your complaint, please let Us know.

Otherwise, You can contact the Financial Ombudsman Service. You need to do this within 3 months of receiving Our final decision.

You can contact the Financial Ombudsman Service by:

- phoning 1300 780 808 for the cost of a local call
- writing to GPO Box 3  
Melbourne Victoria 3001
- faxing (03) 9613 6399 or
- visiting [www.fos.com.au](http://www.fos.com.au)
- email [info@fos.org.au](mailto:info@fos.org.au)

The Financial Ombudsman Service provides a free service and is a totally independent and impartial body. They will tell You if they can help You, as their services are not available to all customers. If You want more information on the Financial Ombudsman Service, please ask Us for a brochure.

## General Insurance Code of Practice

We support and adhere to the General Insurance Code of Practice. A copy of the Code can be obtained from the Insurance Council by visiting [www.insurancecouncil.com.au](http://www.insurancecouncil.com.au) or phoning (02) 9253 5100.

# Part B: Information if you are insuring Vehicles under section 1

This part of Your PDS only applies if you are insuring Vehicles under policy section 1.

## How we calculate premiums

We calculate the total premium to be collected by policyholders by considering:

- The total cost of current and future claims; and
- Our business expenses, including administration and profit margins.

The amount You pay for this insurance (including cover under section 1), is calculated using a wide range of factors called rating factors. For policy section 1, these are:

- The occupation or type of Business carried on at the Premises.
- The type, amount and value of Insured Property, including the type, amount and value of Vehicles, covered under section 1.
- The location, condition, construction and security of the Premises.
- The Limits of Liability and any sub Limits of Liability You selected.
- Your claims history.

## Premium adjustment

The premium charged by Us at the commencement of Your Period of Insurance is provisional, based on information declared to Us by You before the policy commences. This premium will be adjusted at the end of the Period of Insurance based on actual figures for the value of Property Insured, Gross Profit and Payroll. In accordance with clause 12 on page 42 of the policy, depending on the difference between the information declared before the Period of Insurance and the actual figures, this may result in additional premium being charged to You or Us returning some of the paid premium to You.

## Premium discounts

We might advertise special offers and benefits from time to time. If We have a special offer available that is not in this PDS, We can give You a separate terms and conditions brochure about the offer if You ask Us. The offers might be short term and We can withdraw them at any time.

## Other reasons why the cost of insurance can change

Each time You renew Your insurance Your premium is likely to change, even if Your personal or business circumstances or insurance history has not changed. This is because premiums are affected by:

- The cost of claims We have paid to other customers.
- Any changes in government taxes or charges.
- The cost of claims We expect to pay in the future.
- Our expense of doing business.

## Paying your premium

Please contact your insurance broker to get a quote based on Your individual circumstances.

If You decide to buy insurance from Us, the price will include any discount, compulsory government charges, GST and Fire Services Levy (FSL) if applicable. These will be included in the amount payable, which is shown on Your Certificate of Insurance.

## Other costs, fees and charges

The other costs, fees and charges that You might have to pay are listed in the table below.

Type of fee or charge	Details
Excess	This is the amount You will have to pay if you make a claim. The excess that applies will be set out in Your Certificate of Insurance.
Cancellation fees	If you cancel this policy We will refund the proportion of Your premium for the unused period but We will retain (or recover) Our usual short period premium. We will not refund any non-refundable government taxes or charges.
Contribution/depreciation	In the event of a claim under this Policy You might have to contribute to the cost of repairing tyres, engines, accessories, paintwork, bodywork, radiators, batteries, interior trims or caravan annexes affected by wear & tear or rust and corrosion. How much You pay depends on how worn these items were when the damage happened.

## Vehicle Repairs

If We accept a claim under this Policy and an insured Vehicle is to be repaired, We will arrange for it to be repaired by one of Our recommended repairers or You can choose Your own repairer.

We will:

- Repair the insured Vehicle to its condition immediately before the loss or damage occurred
- Use parts suitable for the insured Vehicle's age and condition
- Use only manufacturer's approved parts if the insured Vehicle is under warranty (but not an extended warranty)
- Only pay the Market Value of damaged parts We consider obsolete
- If You supply any parts We will only pay the cost to You plus 15% for those parts
- Replace damaged windscreens or window glass with glass that meets original standards and Australian Design Rules but which might be different from the original glass.

We are not responsible for costs that occur because of delays in delivery of parts.

You are responsible for the cost of any air-conditioning refit, re-gas or modification required by law.

You might have to contribute to the cost of repairing tyres, engines, accessories, paintwork, bodywork, radiators, batteries, interior trims or caravan annexes affected by wear and tear or rust and corrosion.

How much You pay depends on how worn these items were when the loss or damages happened.

## Lifetime Guarantee

We will guarantee the quality of the material and labour used in repairs We authorise for the life of the insured Vehicle, even if You no longer own it. This means that We will fix problems that might arise from faulty materials or workmanship. However, this guarantee does not extend to repairs that You perform or any parts or accessories supplied by You.

# Part C: Your 5Star Industrial Special Risks Insurance policy

## Definitions (applicable to Sections 1, 2 and 3)

**Accidental Damage:** Accidental Damage (Unspecified Peril or Event) when mentioned under "Sub Limits of Liability" and/or "Excesses" in the Certificate of Insurance shall mean physical loss, destruction or damage caused other than by:

Fire, lightning, aircraft and/or aerial devices and/or articles dropped therefrom, explosion, implosion, spontaneous combustion and/or overheating, smoke and/or steam, earthquake, subterranean fire and/or volcanic eruption, subsidence, collapse, landslide, tidal wave, or action by the sea, storm, tempest, wind, rainwater, flood, hail, water and/or other liquids discharged, overflowing and/or leaking from apparatus, appliances, pipes, sprinkler and/or any other systems, riots, strikers, civil commotion, malicious persons, impact, burglary, theft, fraudulent or dishonest acts and fusion.

**Act of Fraud or Dishonesty:** All losses (arising directly or indirectly from any one Employee or any number of Employees in collusion) in respect of the one Event or series of Events arising from the one source or original cause, irrespective of whether the acts of fraud or dishonesty were committed during more than one Period of Insurance, shall be deemed one act of fraud or dishonesty.

**Actual Cash Value:** the cost of replacing damaged property with property of similar kind, capacity, size, quality and function less depreciation for the age, condition, and normal life expectancy of the property.

**Adjustments:** In respect of Shortage in Turnover, Rate of Gross Profit, Rate of Payroll, Standard Turnover and Annual Turnover only the following clause applies:

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

**Annual Turnover:** The Turnover of the Business (subject to any Adjustments) during the 12 months immediately before the date of the Damage.

**Breakdown:** A sudden and accidental failure of equipment or a part thereof, resulting in physical damage to the equipment which requires the repair or replacement of the equipment or a part of the equipment.

But Breakdown does not mean:

- a) depletion, deterioration, corrosion or erosion of material;
- b) wear and tear;
- c) leakage at any valve, fitting, shaft seal, gland packing, joint or connection;
- d) vibration or misalignment;
- e) the functioning of any safety device or protective device;
- f) the failure of a structure or foundation supporting the Insured Property or a part thereof; or
- g) the cracking of any part of a gas turbine exposed to the products of combustion.

**Business:** means the business or occupation of the Insured stated in the Certificate of Insurance.

**Certificate of Insurance:** The current certificate issued by Suncorp which forms part of this policy and shows:

- the policy number, the Period of Insurance and the details of the policy;
- any change to the standard policy wording contained in this booklet; and
- that Suncorp is prepared to accept, alter or renew the policy.

**Consignment/Customer Stock:** Includes, motor vehicles, trailers, caravans, boats, motor cycles, motorised homes, motor propelled machinery all of every kind and description whether registered or unregistered not belonging to the Insured but left in the custody of the Insured for sale and/or repair and/or garaging and/or servicing and/or any other purpose in the course of the Insured's Business.

**Customers' Property:** Vehicles owned by your customers and left in your care, custody, or control for servicing, repair, road testing, or garaging while held in the Premises or in the open air at the Premises.

**Damage:** (with Damaged having a corresponding meaning) means physical loss, damage or destruction.

**Dealer Floor Plan Agreement:** means the agreement by which Vehicles at the Premises are held on bailment by You and which are financed by a financial provider.

**Debris:**

- a) the residue of damaged Insured Property; or
- b) material deposited on the insured Premises as a result of the operation of an insured peril. Excluding any material which can cause Pollution or contamination and which is deposited beyond the boundaries of the insured Premises.

**Employee:** shall mean:

- a) any person while employed under a contract of service with, or apprenticeship to, the Insured;
- b) any person while hired or seconded from any other party into the service of the Insured including any agency furnished personnel whom the Insured has the right at all times to govern, control and direct in the performance of his/her work in the course of the Business of the Insured, but shall not include:
  - i) any broker, factor, commission agent, consignee, contractor or other agent; and
  - ii) any partner in or of or any director of the Insured other than executives and directors:  
unless such person is also an Employee of the Insured or has been seconded into the employ of the Insured.
- c) any person employed in the finance and insurance section(s) of the Insured's Business even though they may not be an Employee of the Insured.

**Excess:** The amount stated on the Certificate of Insurance that is payable by You when a claim is made under this policy.

**Glass:** means fixed external glass, fixed internal glass, fixed and hanging mirrors, washbasins, lavatory pans and cisterns, and tiled shop fronts, belonging to You or for which You are legally responsible or have assumed responsibility before the Damage.

But Glass does not mean glass forming part of Vehicles and /or stock in trade.

**Gross Profit:** the amount by which:

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

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

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

**Hail:** means precipitation (falling) of particles of ice (hailstones) from clouds either separately or collected into irregular lumps.

**Hazardous Goods:**

- a) any pollutant, contaminant or other substance declared by a government authority to be hazardous to health or the environment; or
- b) any mould, yeast, fungus or mildew including any spores or toxins created or produced by or emanating from such mould, yeast, fungus or mildew, whether or not allergic, pathogenic or toxicogenic.

**Holdback:** The Vehicle cost retained by any other dealers/suppliers who provide replacement Vehicles as is normal procedure in the Vehicle industry, where replacements cannot be sourced from the manufacturer to satisfy customer orders, subject to a limit of \$20,000 any one claim.

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

**Indemnity Value:** The replacement value less an allowance for wear and tear and depreciation.

**Insured:** means the Insured entities named in the Certificate of Insurance and shall be deemed to include any superannuation or pension scheme, welfare, social and/or sporting club formed for the benefit of Employees and with the knowledge and consent of the Insured with (where applicable) the Other Interested Parties for their respective rights and interests. Insured in this policy is also referred to as You/Your.

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

Insured Property is deemed to include:

- a) Customer's Property and Property on consignment (including Vehicles) while in the custody or control of the Insured or authorised persons acting on behalf of the Insured, subject to the Sub Limit stated in the Certificate of Insurance against Consignment/Customer Stock.
- b) Vehicles financed under the Insured's Dealer Floor Plan Agreements excluding Damage recovered or recoverable under the provisions of such Insured's Dealer Floor Plan Agreement.

**Insurer:** Suncorp Metway Insurance Limited (ABN 83 075 695 966), also referred to in this policy as We/Us/Our.

**Limit of Liability:** means the amount specified in the Certificate of Insurance.

**Market Value:** means the amount the market would pay for the Vehicle taking into account the age, make, model, kilometres travelled and condition of the Vehicle immediately before any Damage.

**Money:** means current coin, bank notes, currency notes, cheques, credit card sales/service vouchers, postal orders, money orders, negotiable and non-negotiable securities and valuable documents, promissory notes, the unused value of postage stamps, revenue stamps, instant lottery tickets, metropolitan transport tickets, phone cards, credit cards, stored value cards, travellers cheques and the contents of franking machines and all other negotiable instruments.

**Other Interested Parties:** The other interested parties named in the Certificate of Insurance.

**Payroll:** salaries, wages, commissions, bonuses, holiday pay, long service leave, workers compensation, accident compensation levies, insurance, superannuation, payroll tax, value of fringe benefits and all other payroll related additives.

**Period of Insurance:** The period of time stated in the Certificate of Insurance being the period during which the insurance is in force.

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

**Premises:** means the premises owned, leased, used and/or occupied by the Insured for the purposes of the Business.

**Rate of Gross Profit:** The rate of Gross Profit earned on the Turnover (subject to any Adjustments) during the financial year immediately before the date of the Damage.

**Rate of Payroll:** The rate of Payroll to Turnover (subject to any Adjustments) during the 12 months immediately before the date of the Damage.

**Salvage value:** The estimated amount that would be received if Damaged Insured Property were to be sold.

**Shortage in Turnover:** The amount by which the Turnover during a period shall, in consequence of the Damage, fall short of the part of the Standard Turnover which relates to that period.

**Standard Turnover:** The Turnover (subject to any Adjustments) during that period in the 12 months immediately before the date of the Damage which corresponds with the Indemnity Period.

**Total Loss:** Means where We decide that Your Vehicle is damaged beyond economical repair.

**Turnover:** The Money (less discounts, if any allowed) paid or payable to the Insured for goods sold and delivered and for services rendered in the course of the Business at the Premises.

**Vehicle(s):** Includes motor vehicles, trailers, caravans, boats, motor cycles, motorised homes, motor propelled machinery of every kind and description whether registered or unregistered belonging to or being purchased, financed or otherwise acquired or left in the custody of the Insured for sale and/or repair and/or garaging and/or servicing and/or any other purpose in the course of the Insured's Business.

# Section 1: Material Loss or Damage:

## 1. The Indemnity

In the event of any Damage not otherwise excluded happening at the Premises to the Insured Property, the Insurer will, subject to the provisions of the policy including the limitations on the Insurer's liability, indemnify the Insured in accordance with the applicable basis of settlement.

Subject to the liability of the Insurer not being increased beyond the Limit(s) of Liability already stated herein, the Insurer will also indemnify the Insured for:

- a) architects', surveyors', consulting engineers', legal and other fees and clerks of works' salaries for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in reinstatement consequent upon Damage to Insured Property but not such costs, fees and salaries for preparing any claim hereunder;
- b) any fee, contribution or other impost payable to any government, local government or other statutory authority, where payment of such fees, contribution or impost is a condition precedent to the obtaining of consent to reinstate any building(s) insured hereunder. Provided that the Insurer shall not be liable for payment of any fines and/or penalties imposed upon the Insured by such authorities;
- c) costs and expenses necessarily and reasonably incurred for the purpose of extinguishing fire at or in the vicinity of Insured Property or threatening to involve such property or for the purpose of preventing or diminishing imminent Damage to Insured Property by any peril insured against by this policy, including Damage to gain access and the cost of replenishment of fire fighting appliances and charges incurred for the purpose of shutting off the supply of water or other substance following accidental discharge from any fire protective equipment or otherwise escaping from intended confines;
- d) costs and expenses necessarily and reasonably incurred for the temporary protection and safety of Insured Property pending repair or replacement consequent upon Damage recoverable hereunder.
- e) costs and expenses necessarily and reasonably incurred in respect of:
  - i) the removal, storage and/or disposal of Debris or the demolition, dismantling, shoring up, propping, underpinning or other temporary repairs consequent upon Damage to Insured Property by this policy and occasioned by any peril Insured against;
  - ii) the Insured's legal liability in respect of removal, storage and/or disposal of Debris, notwithstanding excluded peril 6, in relation to premises, roadways, services, railway or waterways of others, for such costs together with the cost of cleaning provided that such liability was not assumed by the Insured under an agreement entered into after the commencement of the Period of Insurance or any renewal thereof unless liability would have attached in the absence of such agreement.

Provided that the insurance under this section does not extend to any liability that the Insured may incur as a consequence of Pollution of any kind;

- iii) the demolition and removal of any Insured Property which is no longer useful for the purpose it was intended, providing such demolition and removal is necessary for the purpose of the reinstatement or replacement of Insured Property under this section and is consequent upon Damage to the Insured Property by a peril hereby insured against.

- f) i) loss of or Damage to personal property of directors/Employees of the Insured whilst on the Premises.
- ii) loss of or Damage to tools of trade belonging to Employees/directors of the Insured away from the Premises.
- g) costs of clearance of drains including expenses necessarily incurred in clearing and/or repairing drains, gutters, sewers and the like, at or in the vicinity of Insured Property, consequent upon Damage to Insured Property by a peril insured against.
- h) exploratory costs incurred in locating the source of any Damage insured by this policy.
- i) the Insured's liability for customs, excise and other duties which the Insured becomes liable to pay in the event of Damage to Insured Property.
- j) costs and expenses incurred by the Insured for express carriage rates and extra payments for overtime, night, Sunday or holiday working incurred in connection with the repair or reinstatement of the Insured Property directly or indirectly arising from a peril insured by the policy and subject to the Sub Limit stated in the Certificate of Insurance against Expediting Expenses.
- k) costs and expenses incurred by the Insured in respect of any legal liability to make enquiries consequent upon Damage Insured by this policy, but not exceeding the Sub Limit stated in the Certificate of Insurance.

Provided that Clauses (a) to (k) above shall not be subject to any co-insurance clause or memorandum contained in this policy.

## Basis of Settlement (applicable to Section 1 only)

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

- a) On buildings, machinery, plant and all other property and contents including Landscaping (other than (e) to (r) specified below): the cost of reinstatement, replacement or repair in accordance with the provisions of the reinstatement and replacement and extra cost of reinstatement memoranda as set out herein.  
Landscaping, means lawns, gardens, ornamental plants, shrubs and trees. Subject to the Sub Limit stated in the Certificate of Insurance against "Landscaping".
- b) On raw materials, supplies and other merchandise not manufactured by the Insured: the replacement cost at the time and the place of replacement or, if such property is not replaced, the market value thereof at the time and place of the Damage.
- c) On material in process of manufacture: the replacement value of the raw materials and the value of labour and other overhead charges expended thereon at the time and the place of the Damage.
- d) On finished goods: the replacement value of the raw materials and the value of labour and other overhead charges expended thereon without any allowance for profit, or the cost of re-stocking such goods, whichever is the lesser.
- e) On computer systems, records, documents, manuscripts, securities, deeds, specifications, plans, drawings, designs, business books and other records of every description: the cost of reinstating, replacing, reproducing or restoring same, including information contained therein or thereon but excluding the

value to the Insured of the said information; or, if such is not required, the replacement cost of materials as blank stationery at the time and place of Damage.

- f) On patterns, models, moulds, dies or casts: the cost of repair or replacement (if actually replaced) otherwise the indemnity value to the Insured of such property.
- g) On Glass: the cost of repairing or replacing broken Glass, including:
  - 1. temporary shuttering and/or hiring of security service pending replacement of broken Glass;
  - 2. sign-writing and ornamentation on Glass;
  - 3. replacement burglar alarm tapes on Glass;
  - 4. removing and re-fixing of windows and show-case frames and fittings;
  - 5. heat reflecting material or process on Glass.
- h) On personal property and tools of trade of directors and Employees: the replacement cost at the time and place of replacement.
- i) On empty Premises awaiting demolition: the Salvage Value of the building materials and landlords fixtures and fittings.
- j) On Stock of NEW Vehicles in respect of which loss or Damage is not recoverable under the Insured's Dealer Floor Plan Agreements:
  - 1. Total Loss – The replacement cost of the Vehicle at the time of replacement, (including options, accessories, tools and spare parts) or if not replaced, the Market Value of the Vehicle at the time of loss, with no allowance for dealer margin or profit.
  - 2. Partial Loss – The cost of repairs based on the Insurer's recognised labour rates plus parts and accessories. If the Insured supplies the parts and accessories the basis of settlement for such parts and accessories will be the cost to the Insured plus 15%.
  - 3. At the Insured's option, in respect of Vehicles which have travelled less than 10,000 km at the date of the Damage, the following Basis of Settlement will apply:
    - On Vehicles with a prescribed pre-loss or Damage value of \$50,000 or less incurring 30% or more Damage the Vehicle will be treated as a constructive Total Loss.
    - On Vehicles with a prescribed pre-loss or Damage value greater than \$50,000 and up to and including \$100,000 and incurring 25% or more Damage the Vehicle will be treated as a constructive Total Loss.
    - On Vehicles having a prescribed pre-loss or Damage value of greater than \$100,000 and incurring 20% or more Damage the Vehicle will be treated as a constructive Total Loss.
- k) On NEW Vehicles subject to the Insured's Dealer Floor Plan Agreements: the difference between the amount recoverable under such agreement and any improved value at the time of the Damage including the Insured's equity in such Vehicles.
- l) On Spare Parts and Accessories of NEW Vehicles: the cost of repair or replacement provided that in the event that such parts and/or accessories are supplied from the Insured's own stock, the basis of settlement shall be the value of the parts at the Insured's cost plus 15%, plus the reasonable cost of fitting.

- m) On Stock of USED Vehicles in respect of which loss or Damage is not recoverable under the Insured's Dealer Floor Plan Agreements:
1. Total Loss – The sum of the actual price paid by the Insured plus all direct expenditure subsequently incurred in the preparation and improvement of the Vehicle for resale with no allowance for profit or other expenses.
  2. Partial Loss – The cost of repairs based on the Insurer's recognised labour rates plus parts and accessories. If the Insured supplies the parts and accessories the Basis of Settlement for such parts and accessories will be the cost to the Insured plus 15%.
- n) On USED Vehicles subject to the Insured's Dealer Floor Plan Agreements: the difference between the amount recoverable under such agreement and any Improved Value at the time of the Damage including the Insured's equity in such Vehicles.

For the purposes of this basis of settlement, the term Improved Value means the amount expended by the Insured in preparing a Vehicle for sale including repair costs and the cost of replacement parts and accessories.

- o) On Spare Parts and Accessories of USED Vehicles: the cost of repair or replacement provided that in the event that such parts and/or accessories are supplied from the Insured's own stock, the basis of settlement shall be the value of the parts at Insured's cost plus 15%, plus the reasonable cost of fitting.
- p) Leased Vehicles (Residual Value):  
On Vehicles under a lease agreement becoming a Total Loss, the payout sum under the lease agreement if it is greater than the amount determined by the other basis of settlement clauses.  
Provided that liability under this clause to indemnify in addition to the amount determined by the other basis of settlement clause will not exceed ten percent (10%) of the amount determined by such basis of settlement clauses.
- q) Customers' Vehicles (Including Consignment Stock);  
basis of settlement at Insurer's option will be to:
1. repair, reinstate or replace the Vehicle as far as circumstances permit and in a reasonably sufficient manner, to a condition equal to but not better or more extensive than its condition immediately prior to the Damage occurring with allowance for wear, tear and depreciation; or
  2. pay the amount of the Damage to the Vehicle not exceeding its Market Value subject also to the Sub Limits of liability, stated in the Certificate of Insurance.
- r) Leased Equipment (Residual Value):

On machinery, plant and equipment leased on a Residual Value basis (other than Leased Vehicles): in the event of actual or constructive Total Loss, the amount for which the lessee is contractually liable to the lessor, but not exceeding the sum represented by rent payable under such lease(s) for the period commencing on the date of the Damage and ending on the retirement date(s), plus the current Market Value of the property immediately before its loss or Damage or the Residual Value, whichever is the greater, less any Salvage Value. In the event of Damage which does not amount to a constructive Total Loss, the cost of repair in accordance with the provisions of the reinstatement or replacement and extra cost of reinstatement memoranda as set out herein.

For the purpose of this basis of settlement, the term "Residual Value" shall mean the minimum amount which the lessee has guaranteed that the leased property will realise, being the same amount which the lessee has agreed would be payable to acquire such property upon the retirement date of the lease.

- s) Hail Nets, Textile Canopies, Awnings and Blinds:  
On hail nets, textile canopies, awnings and blinds: reinstatement and replacement value for the first 24 months following installation as new. Thereafter the reinstatement and replacement value less 10% for each subsequent twelve (12) month period or part thereof.

## Memoranda to Section 1

### 1. Boiler and Pressure Vessels Explosion

Notwithstanding the provisions of Property Exclusion 16 this policy is extended to include Damage to Boiler and Pressure Vessel Plant caused by its own Explosion or Collapse.

Explosion shall mean the sudden and violent rending of the permanent structure of the plant by force of internal steam or fluid pressure or bodily displacement of any part of such structure together with forcible ejection of its contents. Except in the case of a steam test at a pressure not exceeding the maximum pressure permitted by the inspecting authority, the term Explosion shall not mean failure under any test. Collapse shall mean the sudden and dangerous distortion of any part of the permanent structure of plant by bending or crushing caused by force of steam or fluid pressure whether attended by rupture or not. Except in the case of a steam test at a pressure not exceeding the maximum pressure permitted by the inspecting authority, the term collapse shall not mean failure under any test. The following defects do not constitute Explosion or Collapse even though repair or replacement may be necessary:

- a) wearing away or wasting of the material of the plant whether by leakage, corrosion or by the action of the fuel or otherwise;
- b) slowly developing deformation or distortion of any part of the plant;
- c) cracks, fractures, blisters, laminations, flaws or grooving even when accompanied by leakage or Damage to tubes, headers or other parts of the plant caused by over-heating or leakage at seams, tubes or other parts of the plant;
- d) failure of joints;

but Explosion or Collapse arising from any such defects is not excluded hereby.

The term Boiler and Pressure Vessel Plant includes any connected super-heaters, economisers, mountings, fittings, valves and steam piping.

#### Specific Exclusions to this Memorandum:

- i) Damage arising during the application of an hydraulic test of the plant and occasioned thereby.
- ii) If at the time of Explosion or Collapse or other Damage Insured by this memorandum:
  - a) the load on the safety valve or safety valves upon the particular item of plant was in excess of that permitted by the latest certificate issued in accordance with boiler inspection regulations applicable thereto, or
  - b) if any safety valve limiting the pressure is removed or rendered inoperative, or
  - c) where certificates of inspection are issued by a government department, if the particular item of plant was not so certified then the Insured shall not be entitled to any indemnity under this memorandum.

then the Insured shall not be entitled to any indemnity under this memorandum.

The undernoted "Exclusions - Applicable to sections 1 and 2 shall not apply to the cover granted by this memorandum.

Exclusion	Number
Property	16
Perils	2(c)
Perils	2(e)

The liability of the Insurer shall not exceed the amount of the Sub Limit of Liability stated in the Certificate of Insurance against Boiler and Pressure Vessel Explosion.

## 2. **Fusion**

Notwithstanding the provisions of Property Exclusion 16, this policy is extended to include Damage to any part or parts of the electrical, electromechanical machines, switchboards, installations or apparatus forming part of the Insured Property (excluding rectifiers radio, television, amplifying or electronic equipment of any description) caused by the actual burning out of such part or parts by electric current therein.

Provided always that the Insurer shall not be liable under this memorandum for:

- a) Loss of use, depreciation, wear and tear.
- b) Damage to:
  - i) lighting or heating elements, fuses or protective devices;
  - ii) electrical contacts at which sparking or arcing occurs in ordinary working.

The liability of the Insurer shall not exceed the Sub Limit of Liability stated in the Certificate of Insurance in respect of fusion.

## 3. **Co-Insurance:**

Unless otherwise stated herein to the contrary, this section 1 is subject to the following co-Insurance memorandum:

In the event of Damage to Insured Property hereunder at any Premises caused by any peril hereby insured against, the Insurer shall be liable for no greater proportion of such Damage than the amount of the Insured's declaration of value of such property on the day of the commencement of the Period of Insurance bears to the sum representing eighty-five per cent (85%) of the actual value of Insured Property at such Premises on the day of commencement of the Period of Insurance but not exceeding the Limit of Liability expressed in the Certificate of Insurance.

Provided that this clause shall not apply if the amount of the Damage does not exceed 5% of the amount of the Insured's declaration aforementioned.

It is expressly understood and agreed that the provisions of this co-insurance memorandum shall not apply in respect of that part of any claim, which is made under the provisions of the extra cost of reinstatement and replacement memorandum.

# Section 2: Consequential Loss:

## **The Indemnity**

In the event of any building or any other property or any part thereof used by the Insured at the Premises for the purpose of the Business being Damaged by any cause or peril not hereinafter excluded and the Business carried on by the Insured being in consequence thereof interrupted or interfered with, the Insurer will, subject to the provisions of this policy including the limitation on the Insurer's liability, pay to the Insured the amount of the loss resulting from such interruption or interference in accordance with the applicable basis of settlement.

Provided that the Insurer will not be liable for any loss under this section unless the Insured's property Damaged is insured for perils covered under section 1 and/or section 3 of this policy against such Damage and the Insurer shall have paid or, admitted liability in respect of, such Damage unless no such payment shall have been made or liability shall not have been admitted therefore solely owing to the operation of a provision in such insurance excluding liability for loss below a specific amount.

## **Basis of Settlement (applicable to Section 2 only)**

### **ITEM 1**

#### **GROSS PROFIT:**

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

- a) **In respect of Reduction in Turnover:**  
the sum produced by applying the Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period shall, in consequence of the Damage, fall short of the Standard Turnover.
- b) **In respect of Increase in Cost of Working:**
  - i) the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in Turnover which, but for that expenditure, would have taken place during the Indemnity Period in consequence of the Damage, but not exceeding the sum produced by applying the Rate of Gross Profit to the amount of the reduction thereby avoided;
  - ii) less any sum saved during the Indemnity Period in respect of such of the charges and expenses of the Business payable out of Gross Profit as may cease or be reduced in consequence of the Damage.

Provided that if the declared value of Gross Profit at the commencement of each Period of Insurance be less than eighty five percent (85%) of the sum produced by applying the Rate of Gross Profit to the Annual Turnover, (or its proportionately increased multiple thereof, where the Indemnity Period exceeds 12 months) but not exceeding the Limit of Liability expressed in the Certificate of Insurance, the amount payable hereunder shall be proportionately reduced.

## ITEM 2

### CLAIM PREPARATION COSTS:

The insurance under this item is to cover such reasonable professional fees payable by the Insured to their financial advisers (including fees of accountants, loss adjusters and/or valuers appointed by the Insured), and such other reasonable expenses necessarily incurred by the Insured and not otherwise recoverable, for preparation of claims and (notwithstanding general condition 6) proving the loss under sections 1, 2 and/or 3 of the policy and the Insurer shall indemnify the Insured for such reasonable fees and expenses.

The liability of the Insurer under this item shall not exceed the amount of the Sub Limit stated in the Certificate of Insurance against "Claim Preparation Costs".

## ITEM 3

### PAYROLL:

The insurance under this item is limited to loss in respect of Payroll and the amount payable as indemnity thereunder shall be:-

#### a) In respect of Reduction of Turnover:

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

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

#### b) In respect of Increase in Cost of Working:

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

Provided that, if the declared value of Insured Payroll at the commencement of each Period of Insurance be less than eighty five percent (85%) the sum produced by applying the Insured Payroll limits to the sum produced by applying the Rate of Payroll to the Annual Turnover (or its proportionately increased multiple thereof, where the Indemnity Period exceeds 12 months), the amount payable shall be proportionately reduced.

## ITEM 4

### **ADDITIONAL INCREASE IN COST OF WORKING:**

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

The liability of the Insurer under this Item shall not exceed the amount of the applicable Sub Limit in respect of this Item shown on the Certificate of Insurance, against "Additional Increase in Cost of Working".

## Memoranda to Section 2

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

**Turnover, where cover is limited in the Certificate of Insurance to parts and service activities only:** The basis of settlement for Item(s) No. 1 and Item No. 4 only: the Money (less discounts, if any) paid or payable to the Insured for goods sold and delivered and for services rendered other than for the sale of Vehicles in the course of the Business at the Premises.

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

**Departmental Clause:** If the Business is conducted in departments the independent trading results of which are ascertainable, the provisions of clauses (a) and (b) of Items Nos. 1 and 3, of the basis of settlement applicable to section 2 shall apply separately to each department affected by the Damage.

**New Business:** In the event of Damage occurring at the Premises before the completion of the first year's trading of the Business the terms 'Rate of Gross Profit', 'Annual Turnover', 'Standard Turnover' and 'Rate of Payroll' shall bear the following meanings and not as stated within the Definitions Applicable to sections 1,2 &3:

**Rate of Gross Profit:** The rate of Gross Profit earned on the Turnover during the period between the date of the commencement of the Business and the date of the Damage (subject to any Adjustments).

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

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

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

**Annual Turnover:** The proportional equivalent, for a period of 12 months of the Turnover realised during the period between the commencement of the Business and the date of the Damage.

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

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

**Closure:** Notwithstanding anything contained in this policy to the contrary including the material damage proviso in the indemnity to section 2, the policy is extended under section 2 to include loss directly or indirectly resulting from interruption of or interference with the Business carried on by the Insured at the Premises, in consequence of closing of the whole or part of the Premises by order of a public authority as a result of an outbreak of a notifiable human infectious or contagious disease or bacterial infection, or consequent upon defects in the drains and/or other sanitary arrangements at the Premises.

Provided that the liability of the Insurer in respect of this closure clause is limited to \$250,000 in respect of any one loss at any one location.

**Turnover/Output Alternative:** At the option of the Insured the term 'Output' may be substituted for the term 'Turnover' and, for the purpose of this policy, 'Output' shall mean the sale and/or invoice value of goods manufactured and/or processed by the Insured in course of the Business at the Premises. Provided that only one such meaning shall be operative in connection with any one peril involving Damage.

If the meaning set out above be used, the memorandum 'Turnover Elsewhere After Damage' shall be altered to read as follows:

"If during the Indemnity Period goods shall be manufactured and/or processed other than at the Premises for the benefit of the Business either by the Insured or by others on the Insured's behalf the sale and/or invoice value of the goods so manufactured and/or processed shall be brought into account in arriving at the Output during the Indemnity Period."

**Turnover/Diminished Value Alternative (Vehicle Stock):**

It is hereby declared and agreed that the term 'Diminished Value Allowance' (DVA) may at the option of the Insured be substituted for the basis of settlement of Items 1 and 3 of section 2 of the policy in respect of Vehicle stock. Provided that this alternative basis remains subject to the full terms and conditions of the policy. For the purpose of this policy, DVA shall have the following meaning in respect of claims under Items 1 and 3 of section 2.

**New Vehicles:**

- A. If the selling price is \$60,000 or greater.  
If Damage is \$800 or less, then allow cost of repairs as DVA.  
If Damage exceeds \$800 then allow cost of repairs as DVA but limited to \$10,000.
- B. If the selling price is \$40,000 or greater but less than \$60,000 allow DVA of \$2,000 if the Damage exceeds \$800.  
If Damage is \$800 or less then allow cost of repairs as DVA.
- C. If the selling price is \$30,000 or greater but less than \$40,000 allow DVA of \$1,500 if the Damage exceeds \$800.  
If Damage is \$800 or less allow cost of repairs as DVA.

D. If the selling price is less than \$30,000 allow DVA of \$1,200 if Damage exceeds \$800.

If Damage is \$800 or less then allow cost of repairs as DVA.

Selling price is the inward cost of the Vehicle plus the actual average margin for Gross Profit, not inclusive of Holdback.

**Used Vehicles:**

A. If the selling price is \$12,500 or less allow nil DVA, unless still covered by the manufacturer's warranty then allow cost of repairs as DVA or \$1,200, whichever is the lesser.

B. If the selling price is greater than \$12,500 but \$25,000 or less allow the cost of repairs or \$1,500, as DVA whichever is the lesser.

C. If the selling price is greater than \$25,000 allow the cost of repairs or \$2,000, as DVA whichever is the lesser.

Selling price is calculated from the actual cost of the Vehicle, free from loadings plus outlays expended thereon and the average margin for Gross Profit.

**Advertising Costs:**

The Insurer will pay the reasonable advertising costs incurred to facilitate the sale of Damaged Vehicles subject to a maximum payment of \$250 per Vehicle.

**Utilities Extension:** Any loss resulting from interruption of or interference with the Business directly or indirectly in consequence of Damage anywhere in Australia to any communication link, subterranean or undersea pipe or cable, and/or electric power station or sub-station, gas works, water works or supply line of the supply undertaking from which the Insured obtains electric current, gas or water, shall be deemed to be loss resulting from Damage to Insured Property used by the Insured at the Premises. This will not apply to any consequential loss during the forty-eight (48) hours immediately following the Damage.

**Computer:** Section 2 extends to include loss (not otherwise recoverable) resulting from interruption of or interference with the Business occasioned by Damage to computer installations, including ancillary equipment and data processing media utilised by the Insured anywhere in Australia.

**Salvage Sale:** If, following Damage giving rise to a claim under this policy, the Insured holds a salvage sale during the Indemnity Period:

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

a) In respect of Reduction in Turnover

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

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

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

**Premises in the Vicinity (Prevention of Access):** Loss as Insured by this policy resulting from interruption of or interference with the Business in consequence of Damage to property in the vicinity of the Premises caused by a peril, Damage as a result of which is insurable hereunder, which shall prevent or hinder the use thereof or access thereto, whether the Premises or property of the Insured therein shall be Damaged or not, shall be deemed to be loss resulting from Damage to property used by the Insured at the Premises.

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

**Customers Premises including Prevention of Access:** Loss resulting from interruption to or interference with the Business in consequence of Damage to property at the Premises, anywhere in Australia, of any spare parts or accessories customer (or in the vicinity of such Premises, which prevents or hinders access to such Premises) shall be deemed to be loss resulting from Damage to property used by the Insured at the Premises.

Provided that the Insurer's liability under this memorandum in respect of section 2 of this policy shall not exceed the applicable Sub Limit of Liability stated in the Certificate of Insurance.

**Suppliers Dependency Clause:** Loss as Insured by section 2 of this policy resulting from interruption of or interference with the Business in consequence of Damage to property at the Supplier's Premises described in the Certificate of Insurance shall be deemed to be loss resulting from Damage to property used by the Insured at the Premises.

Provided that the Insurer's liability under this memorandum in respect of section 2 of this policy shall not exceed the applicable Sub Limit of Liability stated in the Certificate of Insurance.

**Rent Receivable:** Loss of rent receivable (including amounts due for services rendered and recoverable expenses) is insured by section 2 of this policy and the amount payable as indemnity hereunder shall be the amount by which rent (including amounts for services rendered and recoverable expenses) received or receivable during the Indemnity Period shall fall short of the amount which it may be reasonably estimated would have been received during that period had the Damage not occurred including the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the loss of rent (including amounts for services rendered and recoverable expenses), less any sum saved during that period in respect of the charges or expenses payable out of rent as may cease or be reduced in consequence of the Damage. The liability of the Insurer under this memorandum shall not exceed the Sub Limit stated in the Certificate of Insurance against Rent Receivable.

**Accounts Receivable:** The insurance under this memorandum is limited to the loss sustained by the Insured in respect of all outstanding debit balances if the Insured is unable to effect collection thereof as a direct result of Damage to records of accounts receivable. The Insurer will also pay:

- a) interest charges at ruling bank rates on any loan to offset impaired collections pending repayment of such amounts rendered uncollectible in consequence of the Damage;
- b) interest lost by the Insured in consequence of such impaired collections;

- c) additional expenditure necessarily and reasonably incurred in tracing and establishing the amounts of accounts receivable;
- d) collection of expenses in excess of normal collection costs, incurred in consequence of the Damage.

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

- a) Determine the total amount of accounts receivable outstanding on the last working day of the fiscal month which ended twelve months before the beginning of the month in which the Damage occurs;
- b) Calculate the average increase or decrease in the monthly total amounts of accounts receivable outstanding on the last working day of each of the twelve months immediately preceding the month in which Damage occurs;
- c) The amount determined under paragraph (a), increased or decreased by the percentage calculated in accordance with paragraph (b) shall be deemed to be the total amount of accounts receivable outstanding at the time and date of the Damage;
- d) The amount determined under paragraph (c) shall be adjusted as may be necessary to provide for any demonstrable variance from the amount so determined occurring before but during the month in which the Damage occurs; due consideration also being given to normal monthly trends in receipts.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or Damaged, or otherwise established or collected by the Insured, and an equitable amount to provide for doubtful debts. The Insurer's liability under this memorandum shall not exceed the Sub Limit stated in the Certificate of Insurance against Accounts Receivable.

It is a condition of cover that computer records are backed up at least weekly and a copy of the relevant back up is kept at a different Premises to the computer.

## Property Exclusions (applicable to Sections 1 and 2)

This policy does not cover Damage to the following property or loss under section 1 and/or 2 resulting therefrom:

1. Property whilst in transit other than the incidental movement of such property within Premises occupied by the Insured.  
This exclusion shall not apply:
  - a) during temporary removal of Insured Property (other than stock and/or merchandise and motor vehicles) to any Premises in the Commonwealth of Australia; and
  - b) for Damage to tools of trade away from the Premises where these tools are owned by the Insured's director's and/or Employee's. Subject to the applicable Sub Limit of Liability shown on the Certificate of Insurance.
2. Money, and other Insured Property to the extent that it is covered by policy section 3, Crime and Contingencies. However, this exclusion does not apply in respect of cover otherwise provided by policy section 2, Consequential Loss.

3. Jewellery, furs, bullion, precious metals or precious stones other than as stock and/or merchandise of the Business.
4.
  - a) Any locomotive or rolling stock or watercraft other than as stock or merchandise of the Business; provided always that cover in respect of watercraft whilst on water will only apply to stock whilst being used for demonstration purposes and subject to the Sub Limit stated in the Certificate of Insurance against Watercraft (demonstration only).
  - b) Any aircraft (including its accessories and/or spare parts) other than as stock or merchandise of the Business; provided always that no cover shall apply hereunder during taxiing, take off, flight or landing.
5. Any stock Vehicles or Customers' Property other than whilst in, or on about the Premises.
6. Livestock, animals, birds or fish.
7. Standing timber, growing crops and pasture, other than Landscaping.
8. Land, provided that this exclusion shall not apply to structural improvements on or in the land if such structural improvements are not otherwise excluded in this policy.
9. Bridges, canals, tunnels, railway tracks (other than on the Premises), dams and reservoirs (other than tanks) and their contents.
10. Docks, wharves and piers not forming part of any building.
11. Mining property located beneath the surface of the ground unless otherwise expressly stated in this policy.
12. Property during the course of, and as a result of, its processing.
13.
  - a) Property in the open air (other than stock Vehicles, Customers' Property, hail nets, textile canopies, awnings and blinds) unless such property comprises or forms part of a permanent structure designed to function without protection of walls or roof caused by wind, rainwater or Hail.
  - b) Vehicles in the open air caused by Hail.
14.
  - a) Property undergoing construction, erection, alteration or addition when the value of work completed at any one premises at the time of the Damage exceeds 10% of the Limit of Liability for section 1 of the policy or \$500,000, whichever is the lesser.  
Provided that this Exclusion 14(a) shall apply only to the works comprising such construction, erection, alteration or addition and not to any original or existing structures.
  - b) Empty Premises undergoing demolition.
15. Oil and gas drilling and/or production rigs whilst off shore.
16. All Equipment, being:
  - a) any mechanical or electrical equipment that generates, transmits or utilises mechanical or electrical power, BUT excluding:
    - i) any Vehicle or mobile equipment;
    - ii) any watercraft or aircraft; or
    - iii) any elevator or escalator but not excluding any electrical or electronic equipment used with such apparatus;

- b) any electronic machine, device or instrument used for research, diagnosis, treatment, communication, work processing, data processing, duplicating, monitoring or scanning but only where such Damage is caused by a Breakdown of the equipment and for which You are insured under an equipment breakdown insurance policy.

## Perils Exclusions (applicable to Sections 1 and 2)

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

- 1. Damage occasioned by or happening through or in connection with:
  - a) flood, which shall mean the inundation of normally dry land by water overflowing from the normal confines of any natural watercourse or lake (whether or not altered or modified), reservoir, canal or dam. This exclusion shall not apply where a Sub Limit of Liability has been included on the Certificate of Insurance forming part of this policy and subject to the Insurer's liability being limited to that Sub Limit.
  - b) water from or action by the sea, tidal wave or high water.

Provided that perils exclusions 1(a) and 1(b) shall not apply if the Damage is caused by or arises out of an earthquake or seismological disturbance.

- 2. Damage directly or indirectly occasioned by or happening through or in connection with:
  - a) moths, termites or other insects, vermin, rust or oxidation, mildew, mould, contamination or Pollution, wet or dry rot, corrosion, change of colour, dampness of atmosphere or other variations in temperature, evaporation, disease, inherent vice or latent defect, loss of weight, change in flavour texture or finish, smut or smoke from industrial operations (other than sudden and unforeseen Damage resulting there from);
  - b) wear and tear, fading, gradual deterioration or developing flaws, normal upkeep or making good;
  - c) error or omission in design, plan or specification or failure of design;
  - d) normal settling, seepage, shrinkage or expansion in buildings or foundations, walls, pavements, roads and other structural improvements, creeping, heaving and vibration;
  - e) faulty materials or faulty workmanship.

Provided that exclusions 2(a) to (e) shall not apply to subsequent Damage to the Insured Property occasioned by a peril (not otherwise excluded) resulting from any peril referred to in this exclusion.

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

4. Damage occasioned by or happening through:
  - a) Theft, but only to the extent it is otherwise covered by section 3, Crime and Contingencies.
  - b) Unexplained disappearance or unexplained inventory shortage, whether resulting from errors in supply or delivery of materials by or to the Insured or solely from clerical or accounting errors by the Insured.
  - c)
    - i) spontaneous combustion;
    - ii) spontaneous fermentation or heating or any process involving the direct application of heat.

Provided that perils exclusions 4(c)(i) and 4(c)(ii) shall be limited to the item or items immediately affected and shall not extend to other property Damaged as a result of such spontaneous combustion, fermentation or heating or process involving the direct application of heat.

5. Damage directly or indirectly occasioned by or happening through or in connection with:
  - a)
    - i) fraudulent or dishonest acts, fraudulent misappropriation, embezzlement, forgery, counterfeiting data corruption, unauthorised amendment of data and erasure by electronic or non-electronic means involved the Insured Property by the Insured or any Employee(s) of the Insured acting alone or in collusion with any other person(s) but only to the extent that such acts are covered by section 3 – Crime and Contingencies;
    - ii) access by any person(s) other than the Insured or the Insured's Employee(s) to the Insured's computer system via data communication media that terminate in the Insured's computer.
  - b)
    - i) the cessation of work whether total or partial;
    - ii) the cessation, interruption or retarding of any process or operation as a result of strikes, labour disturbances or locked out workers.

Provided that perils exclusions 5(b)(i) and 5(b)(ii) shall not apply in respect of physical loss, destruction or Damage directly caused by strikers, locked out workers or similar persons.

- c) erosion, subsidence, earth movement or collapse resulting therefrom.
- d) kidnapping, bomb threat, threat of contamination, hoax, extortion or any attempt thereat.

Provided that Exclusions 5 (a) to (d) shall not apply to subsequent loss, destruction or Damage to the Insured Property occasioned by a peril (not otherwise excluded) resulting from any peril referred to in this exclusion.

6. any legal liability of whatsoever nature other than as herein provided.
7. consequential loss of any kind including consequential loss due to delay, lack of performance, loss of contract or depreciation in the value of land or stock, except as herein provided in section 2.

# Section 3: Crime and Contingencies

## The Indemnity

In the event of any Damage arising from defined events referred to in this section 3, occurring during the Period of Insurance, the Insurer will Indemnify the Insured in accordance with the terms and conditions of the applicable basis of settlement.

Basis of Settlement: The basis of settlement for section 3, Items 1 & 2 is as applicable to section 1 of the policy.

## Defined Events

**ITEM 1 THEFT** and/or Attempted Theft of Insured Property, including:

- a) Theft following forcible and violent entry to the Premises or any attempt thereat;
- b) Theft or any attempt at theft by a person feloniously concealed on the Premises;
- c) Theft following assault or violence or threat of immediate assault or violence to the Insured, its Employees or customers, occurring on the Premises;
- d) Theft following armed hold up occurring at the Premises;
- e) Theft or attempted theft of Vehicles, spare parts or accessories whilst in, on or about the Insured's Premises;
- f) Damage to a Vehicle covered under (e) above subsequent to its theft if the Vehicle is located and returned.

## Limit of Liability

The Insurer will not pay more than the applicable Limit of Liability stated in the Certificate of Insurance.

## Exclusions (applicable to ITEM 1 THEFT Only)

The Insurer shall not be liable under this item in respect of Damage caused by or arising from:

1. Theft or attempted theft of Vehicles by use of a Vehicle's own key(s):
  - a) unless such keys were obtained by entry to a securely locked safe / strongroom or Insurer approved key cabinet by the use of force or violence, or
  - b) where the Vehicle is being serviced within the confines of the Insured's service workshop and the Insured has an enforced policy of not allowing non Employees to enter the service workshop.
2. Theft of:
  - a) Money;
  - b) Livestock, animals, birds or fish;
  - c) Standing timber, growing crops and pasture;
  - d) Jewellery, furs, bullion, precious metals or precious stones other than as stock and/or merchandise of the Business.
3. Theft or attempted theft of parts of used Vehicles in open air. This exclusion does not apply where the entire Vehicle is removed from the Premises. Provided that this exclusion only applies to used motor dealerships.

### **Additional Benefits Applicable to Item 1 ONLY**

Following a claim being admitted under Item 1, the Insurer will pay for the reasonable and necessary costs that are incurred for the Additional Benefits listed below.

1. Replacement keys and locks  
For replacing locks and/or keys and/or combinations including locks and keys of Vehicles and/or the cost of opening safes and/or strongrooms where, if because of theft or any attempted theft the keys and/or combinations are stolen, or if there are reasonable grounds to believe the keys may have been duplicated.
2. Security Film  
For replacing and developing security film where it is exposed because of theft or an attempted theft.

### **ITEM 2 MONEY:**

#### **Insured Property**

This item 2 provides cover to the Insured in respect of Damage to:

- a) Money in transit, meaning:
  - i) Money in transit to or from the Premises whilst in the Insured's personal custody or the custody of persons that the Insured has authorised; or
  - ii) Money whilst contained in the night safe of any bank at which the Insured normally transacts business.
- b) Money contained in the Premises:
  - i) during business hours; or
  - ii) outside business hours but only whilst kept in a locked safe;
- c) Money in the Insured's personal custody or the custody of persons that the Insured has authorised while contained in the Insured(s)/their private residences.

#### **Limit of Liability**

The Insurer will not pay more than the applicable Limit of Liability for section 3 item 2 (Money) stated in the Certificate of Insurance.

#### **Exclusions (applicable to ITEM 2 Only)**

The Insurer will not be liable for Damage to Money:

- a) Whilst being carried by professional money carriers, professional carriers or common carriers which is more specifically insured excepting the excess amount over and above such more specific insurance which excess is held to be covered hereunder.  
Provided that where in the ordinary course of Business the Insured enters into an agreement with such carriers and such agreement provides that the Insured shall indemnify and/or hold harmless and/or release from liability such carriers in respect of loss, destruction or damage which may occur as a result of any event hereby insured against, this insurance shall operate as if (a) above had been deleted.
- b) Stolen from an unlocked and unattended Vehicle.
- c) Stolen from a safe or strongroom opened by a key or by use of details of a combination, either of which has been left at the Premises outside business hours, unless such key or combination details have been properly secured.

- d) Where the Damage is not discovered within five (5) working days of the event.
- e) Where the loss arises out of:
  - i) kidnapping;
  - ii) bomb threat;
  - iii) hoax;
  - iv) extortion;or any attempt thereat.

### **ITEM 3 EMPLOYEE DISHONESTY**

ITEM 3 of section 3 provides cover to the Insured in respect of any Loss caused by an Act of Fraud or Dishonesty committed by any Employee during the Period of Insurance whether acting alone or in collusion with any other person(s).

For the purposes of Item 3 of section 3, Loss means direct pecuniary loss of Money, negotiable instruments or goods belonging to the Insured or for which the Insured holds themselves responsible and which the Insured sustains as a result of any Act of Fraud or Dishonesty committed by any Employee, whether acting alone or in collusion with any other person(s).

#### **Basis of Settlement (ITEM 3 ONLY)**

The Lesser of:

- i) The Actual Cash Value of such Loss; or
- ii) The actual cost of repairing such property or replacing same with property or material of like quality and value.

The Insurer may, with the consent of the Insured, settle any claim for loss of property with the owner thereof. In such cases the property shall become the property of the Insurer.

#### **Limit of Liability**

The Insurer will not pay more than the applicable Limit of Liability for ITEM 3 stated in the Certificate of Insurance.

#### **Exclusions (applicable to ITEM 3 Only)**

##### **The Insurer will not be liable for:**

1. More than the limits stated in the Certificate of Insurance in respect of any one Employee and of all Employees, notwithstanding that Acts of Fraud or Dishonesty were committed during more than one Period of Insurance.
2. Loss arising from any Acts of Fraud or Dishonesty committed more than twelve months prior to the date of receipt by the Insurer of notice of such Loss.
3. Loss arising after the Insured shall have knowledge of any Act of Fraud or Dishonesty on the part of an Employee, but this exclusion shall not apply to Loss of Money or property then being conveyed by such Employee outside the Premises.
4. Claims arising from consequential loss.
5. Loss or part of a Loss which is evidenced solely as to its factual existence or as to the amount by an inventory computation or a profit and loss calculation.

## Memoranda applicable to ITEM 3

### 1. Claims Preparation Costs:

This item extends to indemnify the Insured for:

- a) the fees payable by the Insured to their auditors, and
- c) all other costs, charges and expenses

reasonably and necessarily incurred by the Insured in connection with the preparation of a claim under ITEM 3.

2. **Alterations and Additions to Staff:** This item extends to cover alterations and/or additions to the staff from the date of each alteration and/or addition subject to the Insured providing, at the Insurer's request, a statement showing the total number of Employees and the categories required to ascertain and adjust the premium.
3. **Automatic Reinstatement:** In consideration of the Limits of Liability not being reduced by the amount of any Loss, the Insured shall pay upon request by the Insurer any additional premium on the amount of the Loss from the date thereof to expiry of the Period of Insurance.
4. **Unidentifiable Employees:** If a Loss is alleged to have been caused by an Act of Fraud or Dishonesty of any of the Employees and the Insured shall be unable to designate the specific Employee causing the Loss, the Insured's claim in respect of such Loss shall not be invalidated by their inability to do so, provided that the Insured is able to furnish evidence to prove to the Insurer that the Loss was in fact due to an Act of Fraud or Dishonesty of one or more of the Employees.
5. **Other Parties:** This Item extends to include Loss arising as a result of any Act of Fraud or Dishonesty involving Money, or goods belonging to or in the care, custody and/or control of one Insured party arising from the act or acts of Employees of another party insured under the terms of this item.
6. **Superseded Policy:** If this policy supersedes any policy previously held by the Insured then the insurance afforded by ITEM 3 shall apply to any Loss which is discovered by the Insured during the Period of Insurance (or within 12 months after the termination thereof) and which would have been recoverable by the Insured under such prior policy but for the fact that the time allowed there under within which losses must be discovered had expired, provided that the Insurer shall not be liable hereunder unless such Loss would have been covered in terms of this ITEM 3 had this ITEM 3 been in force when the Act of Fraud or Dishonesty resulting in the Loss was committed.
7. **Extended Cover for Past Employees:**  
Any person who ceases to be an Employee shall for the purpose of this item be considered as being an Employee for a period of twelve months after such person ceased to be an Employee.
8. **Waiver:**  
It is understood and agreed that knowledge possessed by the person signing any proposal form or giving renewal or other instructions shall not prejudice any claim under this Item.

## Basis of Settlement (applicable to Section 3 only)

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

- a) On buildings, machinery, plant and all other property and contents including Landscaping (other than (e) to (r) specified below): the cost of reinstatement, replacement or repair in accordance with the provisions of the reinstatement and replacement and extra cost of reinstatement memoranda as set out herein.

Landscaping, means lawns, gardens, ornamental plants, shrubs and trees. Subject to the Sub Limit stated in the Certificate of Insurance against "Landscaping".

- b) On raw materials, supplies and other merchandise not manufactured by the Insured: the replacement cost at the time and the place of replacement or, if such property is not replaced, the value thereof at the time and place of the Damage.
- c) On material in process of manufacture: the replacement value of the raw materials and the value of labour and other overhead charges expended thereon at the time and the place of the Damage.
- d) On finished goods: the replacement value of the raw materials and the value of labour and other overhead charges expended thereon without any allowance for profit, or the cost of re-stocking such goods, whichever is the lesser.
- e) On computer systems, records, documents, manuscripts, securities, deeds, specifications, plans, drawings, designs, business books and other records of every description: the cost of reinstating, replacing, reproducing or restoring same, including information contained therein or thereon but excluding the value to the Insured of the said information; or, if such is not required, the replacement cost of materials as blank stationery at the time and place of Damage.
- f) On patterns, models, moulds, dies or casts: the cost of repair or replacement (if actually replaced) otherwise the Indemnity Value to the Insured of such property.
- g) On Glass: the cost of repairing or replacing broken Glass, including:
1. temporary shuttering and/or hiring of security service pending replacement of broken Glass;
  2. sign-writing and ornamentation on Glass;
  3. replacement burglar alarm tapes on Glass;
  4. removing and re-fixing of windows and show-case frames and fittings;
  5. heat reflecting material or process on Glass.
- h) On personal property and tools of trade of directors and Employees: the replacement cost at the time and place of replacement.
- i) On empty Premises awaiting demolition: the salvage value of the building materials and landlords fixtures and fittings.

- j) On Stock of NEW Vehicles in respect of which loss or Damage is not recoverable under the Insured's Dealer Floor Plan Agreements:
1. Total Loss – The replacement cost of the Vehicle at the time of replacement, (including options, accessories, tools and spare parts) or if not replaced, the market value of the Vehicle at the time of loss, with no allowance for dealer margin or profit.
  2. Partial Loss – The cost of repairs based on the Insurer's recognised labour rates plus parts and accessories. If the Insured supplies the parts and accessories the basis of settlement for such parts and accessories will be the cost to the Insured plus 15%.
  3. At the Insured's option, in respect of Vehicles which have travelled less than 10,000 km at the date of the Damage, the following Basis of Settlement will apply:
    - On Vehicles with a prescribed pre-loss or Damage value of \$50,000 or less incurring 30% or more Damage the Vehicle will be treated as a constructive Total Loss.
    - On Vehicles with a prescribed pre-loss or Damage value greater than \$50,000 and up to and including \$100,000 and incurring 25% or more Damage the Vehicle will be treated as a constructive Total Loss.
    - On Vehicles having a prescribed pre-loss or Damage value of greater than \$100,000 and incurring 20% or more Damage the Vehicle will be treated as a constructive Total Loss.
- k) On NEW Vehicles subject to the Insured's Dealer Floor Plan Agreements: the difference between the amount recoverable under such agreement and any improved value at the time of the Damage including the Insured's equity in such Vehicles.
- l) On Spare Parts and Accessories of NEW Vehicles: the cost of repair or replacement provided that in the event that such parts and/or accessories are supplied from the Insured's own stock, the Basis of Settlement shall be the value of the parts at the Insured's cost plus 15%, plus the reasonable cost of fitting.
- m) On Stock of USED Vehicles in respect of which loss or Damage is not recoverable under the Insured's Dealer Floor Plan Agreements:
1. Total Loss – The sum of the actual price paid by the Insured plus all direct expenditure subsequently incurred in the preparation and improvement of the Vehicle for resale with no allowance for profit or other expenses.
  2. Partial Loss – The cost of repairs based on the Insurer's recognised labour rates plus parts and accessories. If the Insured supplies the parts and accessories the Basis of Settlement for such parts and accessories will be the cost to the Insured plus 15%.
- n) On USED Vehicles subject to the Insured's Dealer Floor Plan Agreements: the difference between the amount recoverable under such Agreement and any improved value at the time of the Damage including the Insured's equity in such Vehicles.
- o) On Spare Parts and Accessories of USED Vehicles: the cost of repair or replacement provided that in the event that such parts and/or accessories are supplied from the Insured's own stock, the basis of settlement shall be the value of the parts at Insured's cost plus 15%, plus the reasonable cost of fitting.

- p) Leased Vehicles (Residual Value):  
On Vehicles under a lease agreement becoming a Total Loss, the payout sum under the lease agreement if it is greater than the amount determined by the other basis of settlement Clauses.  
Provided that liability under this Clause to indemnify in addition to the amount determined by the other basis of settlement clause will not exceed ten percent (10%) of the amount determined by such basis of settlement clauses.
- q) Customers' Vehicles (Including Consignment Stock)  
basis of settlement at Insurer's option will be to:
1. repair, reinstate or replace the Vehicle as far as circumstances permit and in a reasonably sufficient manner, to a condition equal to but not better or more extensive than its condition immediately prior to the Damage occurring with allowance for wear, tear and depreciation; or
  2. pay the amount of the Damage to the Vehicle not exceeding its Market Value subject also to the Sub Limits of liability, stated in the Certificate of Insurance.
- r) Leased Equipment (Residual Value):  
On machinery, plant and equipment leased on a Residual Value basis (other than Leased Vehicles): in the event of actual or constructive Total Loss, the amount for which the lessee is contractually liable to the lessor, but not exceeding the sum represented by rent payable under such lease(s) for the period commencing on the date of the Damage and ending on the retirement date(s), plus the current Market Value of the property immediately before its loss or Damage or the Residual Value, whichever is the greater, less any Salvage Value. In the event of Damage which does not amount to a constructive Total Loss, the cost of repair in accordance with the provisions of the reinstatement or replacement and extra cost of reinstatement memoranda as set out herein.  
For the purpose of this basis of settlement, the term "Residual Value" shall mean the minimum amount which the lessee has guaranteed that the leased property will realise, being the same amount which the lessee has agreed would be payable to acquire such property upon the retirement date of the lease.
- s) Hail Nets, Textile Canopies, Awnings and Blinds:  
On hail nets, textile canopies, awnings and blinds: reinstatement and replacement value for the first 24 months following installation as new. Thereafter the reinstatement and replacement value less 10% for each subsequent twelve (12) month period or part thereof.

### **Conditions: Applicable to ITEM 3:**

#### **1. Alterations:**

The Insured shall institute and/or maintain and continue to employ in every manner all such systems of check and control, accounting and clerical procedures and methods of conducting their Business as has been represented to the Insurer by the Insured but the Insured may:

- a) change the remuneration, conditions of service, duties and position of any Employees;
- b) make such other changes as are approved beforehand in writing by the Insured's auditors.

Notwithstanding the above, the Insurer hereby agrees that the indemnity afforded in terms of ITEM 3 shall not be invalidated in the event of a breach or non-compliance with this condition if such breach or non compliance occurs without the knowledge or consent of the Insured's officer responsible for insurance.

**2. Deduction from Loss:**

In the event of any claim being made under this Item the Insured shall to the extent allowed by law retain all salary, commission, moneys or assets or the property of any Employee in respect of whom a claim is made which may be in or come into the Insured's hands or under their control and shall apply the same towards making good the amount of any default due to acts insured against under this ITEM 3. However if the total Loss to the Insured exceeds the amount recoverable under this item, such retention shall be applied first to the uninsured portion of the Loss.

**3. Notification of Loss:**

In the event of the discovery by the Insured of any Loss involving suspected theft or fraud, the Insured shall give notice to the Insurer of such Loss but may, notwithstanding anything to the contrary contained in general condition 11 of the policy (Precautions to Prevent Loss) refrain from reporting the matter to the police but shall do so immediately should the Insurer require such action be taken.

# General Exclusions (applicable to Sections 1, 2, and 3)

## **The Insurer shall not be liable under sections 1, 2 or 3 of this policy in respect of:**

1. Damage to the Insured Property:
  - a) directly or indirectly occasioned by a happening through or connected with war (whether war be declared or not), invasion, act of foreign enemy, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power;
  - b) resulting from confiscation, nationalisation, requisition by or under the order of any government or public or local authority.

Notwithstanding the provisions of this general exclusion 1 (b) the Insurer shall be liable for Damage to, or the cost of removal of, sound property at the Premises for the purpose of preventing or diminishing imminent Damage by, or inhibiting the spread of, fire or any other peril Insured against under this policy.

2. Damage to the Insured Property or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
  - i) ionising radiations or contamination by radioactivity from any nuclear waste, or from the combustion of nuclear fuel.  
(For the purpose of this exclusion only, "combustion" shall include any self sustaining process of nuclear fission).
  - (ii) nuclear weapons materials.

3. Electronic Date Recognition (including year 2000) Exclusion

The Insurer shall not be liable for claims arising directly or indirectly out of, or caused by, through or in connection with any Software or Device not being Electronic Date (including Year 2000) Compliant.

For the purpose of this exclusion only:

Electronic Date (including Year 2000) Compliant means that neither performance nor functionality is affected by dates prior to, during, and after the year 2000 and in particular:

- a) no Date value (including the current Date) will cause any interruption in operation;
- b) Date-based functionality must behave consistently for dates prior to, during and after the year 2000;
- c) in all interfaces, output, display and data storage, the century in any Date must be specified either explicitly or by unambiguous algorithms or inferencing rules;
- d) all leap years and non leap years must be correctly recognised (including that the year 2000 must be recognised as a leap year);
- e) no particular Date value (including 9 September 1999) is treated otherwise than as a date or used for special meanings;
- f) all information involving dates is correctly stored, retrieved, processed, recognised, calculated, sequenced, compared, managed, manipulated and presented including where formulas involve dates in one century, or in multiple centuries; and
- g) the relevant Software or Device must correctly interface and inter-operate with any related Software or Device and date or Date related information from them in accordance with the other requirements of this definition of Electronic Date (including Year 2000) Compliant.

Software or Device means any software, computer, hardware, equipment, media, microchip, integrated circuit, embedded system or similar device, whether Your property or not.

For the purpose of general exclusion 3, Date includes a period of time.

#### 4. Electronic Data Exclusion

- a) The Insurer shall not be liable for Damage resulting from:
  - i) total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data,
  - ii) error in creating, amending, entering, deleting or using Electronic Data, or
  - iii) total or partial inability or failure to receive, send, access or use Electronic Data for any time or at all from any cause whatsoever, regardless of any other contributing cause or event whenever it may occur.

Electronic Data means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for such equipment.

- b) However, in the event that a peril listed below (being a peril Insured by this policy but for this exclusion) is caused by any of the matters described in paragraph (a) above, this policy, subject to all its provisions, will insure:
  - i) Damage to Insured Property directly caused by such listed peril, and/or
  - ii) Consequential loss insured by this policy

Further, this exclusion does not apply in the event that a peril listed below (being a peril insured by this policy but for this exclusion) causes any of the matters described in the above paragraph b) i). fire, explosion, lightning, windstorm, hail, tornado, cyclone, hurricane, earthquake, volcano, tsunami, freezing, weight of snow, impact by aircraft or other aerial objects dropped there from, impact by any road Vehicle or animal, bursting overflowing discharging or leaking of water tanks apparatus or pipes, or theft of Electronic Data solely where such theft is accompanied by theft of the computer hardware, firmware, medium, microchip, integrated circuit or similar device containing such Electronic Data.

- c) For the purposes of the basis of settlement provisions in this policy, computer systems records include Electronic Data as defined.

#### 5. Terrorism Exclusion

- a) The Insurer shall not be liable in respect of Damage to the Insured Property directly or indirectly occasioned by or happening through or connected with:
  - i) an Act of Terrorism;
  - ii) any action controlling, preventing, suppressing, retaliating against, or responding to an Act of Terrorism.
- b) Notwithstanding the provisions of this Exclusion, the Insurer will be liable for Eligible Terrorism Losses in accordance with section 8 of the Act, subject to the Limits(s) or Sub Limits(s) of Liability of this policy and the application of any Reduction Percentage.
- c) For the purposes of this Exclusion:
  - i) an Act of Terrorism means an act, including the use of force or violence (or threat of force or violence) by any person or group of people acting alone, or on behalf of or in connection with any organisation or government that is done for political, religious, ideological or ethnic reasons with the intention to influence any government or put the public or any section of the public in fear.
  - ii) "the Act" means the Terrorism Insurance Act 2003 (Cth);
  - iii) "Eligible Insurance Contract" has the same meaning it bears in the Act;
  - iv) "Eligible Terrorism Losses" has the same meaning it bears in the Act; and
  - v) "Reduction Percentage" has the same meaning it bears in the Act.
- d) Notwithstanding any other provision contained in this policy, this general exclusion shall override anything contained in this policy which is inconsistent with this general exclusion.

# Memoranda (applicable to Sections 1, 2 and 3)

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

## 1. **Interests of Other Parties:**

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

Where the insurance covers the interest of more than one party, any act or neglect of an individual party will not prejudice the rights of the remaining party/parties; provided the remaining party/parties shall, immediately on becoming aware of any act or neglect whereby the risk of Damage has increased, give notice in writing to the Insurer and on demand pay such reasonable additional premium as the Insurer may require.

Notwithstanding the foregoing paragraph it is understood and agreed that in the event of any of the parties referred to herein being entitled to the benefits of any 'concessions agreement', which it may have entered into with the Insurer(s), the said 'concessions agreement' will take precedence over the foregoing paragraph.

## 2. **Branded Goods:**

Any salvage of branded goods and/or merchandise, the Insured's own or held by the Insured in trust or on commission, and/or goods sold but not delivered, shall not be disposed of by sale without the consent of the Insured. If such salvage is not disposed of by sale then the Damage will be assessed at the value agreed between the Insured and the Insurer after brands, labels or names have been removed by or on behalf of the Insured.

## 3. **Hazardous Goods:**

The storage of Hazardous Goods usual to trade and/or occupation is allowed.

## 4. **Reinstatement or Replacement:** Applicable to buildings, machinery, plant and all other property and contents specified in item (a) under basis of settlement applicable to section 1 and section 3, items 1 and 2.

The basis upon which the amount payable is to be calculated shall be the cost of reinstatement of the Damaged Insured Property at the time of its reinstatement, subject to the following provisions and subject also to the terms, conditions and Limit(s) or Sub Limit(s) of Liability of this policy.

For the purpose of the insurance under this memorandum 'reinstatement' shall mean:

- a) Where property is lost or destroyed: in the case of a building, the rebuilding thereof or in the case of property other than a building, the replacement thereof by similar property: in either case in a condition equal to, but not better or more extensive than, its condition when new.
- b) Where property is Damaged: the repair of the Damage and the restoration of the Damaged portion of the property to a condition substantially the same as, but not better or more extensive than, its condition when new.
- c) Notwithstanding other provisions of this reinstatement or replacement memorandum, nothing will preclude the Insured rebuilding or replacing the Damaged or destroyed building in a different shape or form provided the liability of the Insurer is not hereby increased

- d) Notwithstanding other provisions of this reinstatement or replacement memorandum, the Insured shall not be bound to actually rebuild any building destroyed but may purchase an alternative existing building to replace that which was destroyed. Such replacement shall be deemed to constitute "reinstatement" for the purpose of the insurance under this memorandum.

Provided that the Insurer shall not be liable to make any payment beyond the cost that would have been incurred had the building that was destroyed been rebuilt.

Provisions:

- a) The work of rebuilding, replacing, repairing or restoring as the case may be (which may be carried out upon any other site(s) and in any manner suitable to the requirements of the Insured, but subject to the liability of the Insurer not being thereby increased), must be commenced and carried out with reasonable despatch, failing which the Insurer shall not be liable to make any payment greater than the indemnity value of the Damaged property at the time of the happening of the Damage.
- b) When any Insured Property to which this memorandum applies is Damaged in part only, the liability of the Insurer shall not exceed the sum representing the cost, which the Insurer could have been called upon to pay for the reinstatement if such property has been wholly destroyed.
- c) No payment beyond the amount which would have been payable under this policy if this memorandum had not been incorporated herein shall be made until a sum equal to the cost of reinstatement shall have been actually incurred; provided that where the Insured reinstates or replaces any lost or destroyed property at a cost which is less than the cost of reinstatement (as defined) but greater than the value of such property at the time of the happening of its loss or destruction, then the cost so incurred shall be deemed to be the cost of reinstatement.
- d) All other industrial special risks and/or fire and named perils insurance covering the property affected by or on behalf of the Insured shall be on a similar reinstatement basis.

**5. Extra Cost of Reinstatement:** (Applicable to buildings, machinery, plant and all other property and contents specified in Item (a) of basis of settlement applicable to section 1).

This policy includes the extra cost of reinstatement (including demolition or dismantling) of Damaged property necessarily incurred to comply with the requirements of any Act of Parliament or Regulation made thereunder or any By-Law or Regulation of any municipal or other statutory authority; subject to the following provisions and subject also to the terms, conditions and Limit(s) or Sub Limits of Liability of this policy.

Provisions:

- i) The work of reinstatement (which may be carried out wholly or partially upon any other site(s), if the requirements of the aforesaid Act, Regulation or By-Law so necessitate, subject to the liability of the Insurer not being thereby increased), must be commenced and carried out with reasonable despatch, failing which the Insurer shall not be liable to make any payment beyond the amount which would have been payable under this policy if this memorandum had not been incorporated herein.
- ii) The amount recoverable shall not include the additional cost incurred in complying with any such Act, Regulation, By Law or requirement with which the Insured has been required to comply prior to the happening of the Damage.

- iii) Co-insurance shall not be applied to the amount recoverable under this memorandum and any amount specified shall not be taken into account for co-insurance purposes in terms set out in any clause contained in this policy.
- iv) All other industrial special risks and/or fire and named perils insurances covering the property affected by or on behalf of the Insured shall be on a similar basis.
- v) If the cost of reinstatement of the Damage directly caused by any perils insured against is less than fifty percent (50%) of that which would have been the cost of reinstatement of the Insured Property had such property been totally destroyed, the amount recoverable in respect of extra cost of reinstatement will be limited to the extra cost of reinstatement necessarily incurred in reinstating only that portion Damaged.

#### **6. Floor Space Ratio Index (Plot Ratio):**

Subject to the terms, conditions and Limit(s) or Sub Limit(s) of Liability of this policy, in the event of any building(s) being Damaged so as to constitute Total Loss or constructive Total Loss and, as a result of the exercise of statutory powers and/or authority by any government departments, local government or any other statutory authorities, reinstatement of such building(s) as before is prohibited and reinstatement is only permissible subject to a reduced floor space ratio index:-

The Insurer agrees to pay in addition to any amount payable on reinstatement of such building(s) the difference between:

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

In arriving at the amount payable under (a) and (b) above, any payments made by the Insurer shall include the extra cost of reinstatement, including demolition or dismantling of the Insured property, necessarily incurred to comply with the requirements of any Act of Parliament or Regulation made there under or any By-Law or Regulation of any municipal or other statutory authority.

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

#### **7. Loss of Land Value**

Notwithstanding property exclusion 8 the following indemnity is provided by this policy

Indemnity

- a) In the event of the absolute refusal by the competent local or government authority to allow the reconstruction only of the Premises following destruction or Damage the Insurer shall pay by way of indemnity the difference between the land value before and after the destruction or Damage.  
or
- b) In the event of the competent local or government authority allowing partial reconstruction only of the Premises after destruction or damage the Insurer shall pay by way of indemnity the difference between the land value after such reconstruction and the land value before the destruction or Damage.

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

Provided that the liability of the Insurer in respect of this loss of Land Value is limited to \$500,000.

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

Special Conditions to Loss of Land Value Indemnity

1. Settlement shall be made following the ruling of the competent local or government authority resulting in the loss of Land Value. Should settlement have been made however and subsequently the ruling of the competent local or government authority be changed prior to completion of the reconstruction resulting in an increase in the Land Value, that part of the claim paid in excess of the revised Land Value shall be refunded by the Insured to the Insurer.
2. All differences relating to the Land Value arising out of the policy shall forthwith be referred to the decision of two registered valuers one to be appointed by each of the parties and in case the two registered valuers do not agree to a third valuer appointed by the President of the Commonwealth Institute of Valuers as an expert whose decision shall be binding.

#### **8. Acquired Companies:**

This policy extends to include property located in Australia belonging to companies and other organisations a controlling interest in which is acquired by the Insured during the currency of this policy; subject to the Insured declaring details of such acquisition within ninety (90) days following the date of acquisition, provided the business of the new acquisition shall be similar to the Business as stated in the Certificate of Insurance.

For the purposes of this memorandum a controlling interest shall in the case of a company, mean the acquisition of shares carrying more than fifty per cent (50%) of votes capable of being cast at a general meeting of ordinary shareholders in such company.

#### **9. Amount of Policy not reduced by loss:**

The insurance under each section and/or item of this policy and the Indemnity Period shall be automatically reinstated in the event of any loss in consideration of the payment by the Insured of a pro rata additional premium calculated on the amount of the loss settlement at the rate(s) agreed for the Period of Insurance.

#### **10. Event:**

Only for the purpose of the application of any Excess: Damage resulting from earthquake or atmospheric disturbance occurring during each period of 72 consecutive hours shall be considered as one event whether such earthquake or atmospheric disturbance is continuous or sporadic in its sweep and/or scope and the Damage was due to the same seismological disturbance or atmospheric conditions. Each event shall be deemed to have commenced on the first happening of any such Damage not within the period of any previous event.

## 11. Subrogation Waiver:

The Insurer agrees to waive any rights and remedies or relief to which may become entitled by way of subrogation against:

- a) any corporation or organisation (including its directors, officers, Employees or servants) owned or controlled by any Insured named herein or subsidiary to any Insured named herein or any co owner of the Insured Property hereunder;
- b) any Insured named or described by this policy (including its directors, officers, Employees or servants).
- c) when required of the Insured by contractual agreement, government, semi-government, municipal and other statutory authorities or owners and lessors of premises.

## 12. Adjustment of Premium:

- a) The premium shown is provisional and is calculated on the declared values of:
  - i) Insured Property,
  - ii) Gross Profit and Insured Payroll,on the day of commencement of each Period of Insurance.
- b) The Insured undertakes to declare to the Insurer within a reasonable time after the expiry of the Period of Insurance:
  - i) the value of Insured Property on the day of expiry of the Period of Insurance. For the purpose of this declaration, stock-in-trade and/or merchandise shall be taken at its average value during the Period of Insurance.
  - ii) the amount of the Gross Profit earned and Payroll paid, in accordance with the cover afforded in the respective items of section 2, in the course of the Business during the accounting period of 12 months most nearly concurrent with the Period of Insurance.
- c) The provisional premium shall be adjusted by payment to the Insurer of an additional premium or by allowance to the Insured of a return premium, as the case may be, calculated at the agreed rate on:
  - i) Fifty per cent (50%) of the difference between property declared in accordance with clauses (a)(i) and (b)(i); and
  - ii) The full agreed rate hereunder on the difference between the amounts declared under clauses (a)(ii) and (b)(ii).
- d) It is agreed to make allowance for any abnormal fluctuation in values and to charge a premium commensurate with the risk, such premium to be agreed between the parties to this agreement.
- e) The declaration of values at the expiry of the Period of Insurance declared in accordance with this memorandum shall not be reduced as the result of Damage in respect of which a claim has been paid or is payable under this policy.

# General Conditions (applicable to Sections 1, 2 and 3)

## 1. **Misrepresentation and Non Disclosure:**

If the Insured:

- a) failed to disclose any matter which the Insured was under a duty to disclose to the Insurer; or
  - b) made a misrepresentation to the Insurer before this policy was entered into;
- and if the Insurer would not have entered into this policy for the same premium and on the same terms and conditions expressed in this policy but for the failure to disclose or the misrepresentation, then
- c) the liability of the Insurer in respect of any claim will be reduced to an amount to place the Insurer in the same position in which the Insurer would have been placed if such non disclosure had not occurred or such misrepresentation had not been made; or
  - d) if the non disclosure or misrepresentation was fraudulent, the Insurer may avoid this policy.

Notwithstanding the provisions of general conditions 1 and 2, the Insured shall not be prejudiced by any unintended and/or inadvertent error, omission or misdescription of the risk, interest or Insured Property under the policy, incorrect declaration of value, failure to advise the Insurer of any change of risk, interest or Insured Property or failure to comply with any statutory requirement, provided that the Insured's officer responsible for insurance shall, upon becoming aware of any such unintended and/or inadvertent act, error or omission, inform the Insurer as soon as reasonably practicable and that the Insured shall, upon request, pay any reasonable extra premium to the Insurer from the date of the increase in risk.

## 2. **Alteration:**

The Insurer shall not be liable for Damage to any Insured Property hereunder caused or contributed to by any alteration after the commencement of this policy:

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

Provided that any such alteration, upon coming to the knowledge of the Insured's officer responsible for insurance, shall be immediately notified to the Insurer and if agreed to by the Insurer in writing, an appropriate additional premium paid if required.

## 3. **Sprinkler Installations – Applicable to owned premises or installations for which the Insured is responsible:**

The Insured warrants that in such of the Premises as are protected or as are required by law to be protected by an approved installation of automatic sprinklers, automatic external alarm signal and automatic alarm signal connected with a fire brigade station, in or on the Premises, due diligence shall be used so that the same at all times be maintained in good working order.

The Insured further warrants that provision will be made for the regular maintenance of the installation in accordance with Australian Standard AS 2118 Automatic Sprinkler Installation by the installing engineers or firm (if their services are available) or, failing this, by a person or organisation who must be approved by the Insurer to carry out such maintenance.

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

**4. Other Insurance:**

The Insured shall give written notice as soon as practicable to the Insurer of any other insurance or insurances effected covering the Insured Property.

**5. Cancellation:**

- a) This policy may be cancelled at any time at the request of the Insured, in which case the Insurer will retain the customary short period rate for the time this policy has been in force.
- b) The Insurer may also cancel this policy at any time according to law.
- c) Where Your policy is cancelled by Us We may retain or recover the pro rata amount of premium for the expired cover. Notice of cancellation will be given in writing by Us and may be delivered personally or posted. Cancellation shall be effective at 4:00pm on the third day after delivery of the notice or at a time when another contract of insurance that is intended to replace this policy is entered into, whichever occurs first.

**6. Notification of Claims:**

On the happening of Damage, the Insured shall forthwith give notice thereof in writing to the Insurer and shall (within thirty (30) days after such Damage or such further time as the Insurer may in writing allow), at the Insured's own expense, deliver to the Insurer a claim, in writing containing as particular an account as may be reasonably practicable of the several articles or portions of property Damaged and of the Damage thereto, having regard to their value at the time of the Damage, together with details of any other insurances on any Insured Property.

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

No claim under this policy shall be payable unless the Insured has complied with the terms of this condition.

**7. Fraud:**

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

**8. Reinstatement:**

If the Insurer elects or becomes bound to reinstate or replace any property, the Insured shall at the Insured's own expense produce and deliver to the Insurer all such plans, documents and information as the Insurer may reasonably require. The Insurer shall not be bound to reinstate exactly or completely, but only as circumstances permit and in reasonably sufficient manner and shall not in any case be bound to expend more than the applicable Limit of Liability.

**9. Insurer Rights:**

On the happening of any Damage in respect of which a claim is or may be made under this policy the Insurer and every person authorised by the Insurer may, without thereby incurring any liability, and without diminishing the right of the Insurer to rely upon any conditions of this policy, enter, take or keep possession of any building or premises where the Damage has happened and may take possession of or require to be delivered to the Insurer any of the Insured Property and may keep possession of and deal with such property for all reasonable purposes and in any reasonable manner.

This condition shall be evidence of the leave and licence of the Insured to the Insurer so to do. If the Insured or any one acting on the Insured's behalf shall not comply with the requirements of the Insurer or shall hinder or obstruct the Insurer in doing any of the abovementioned acts, then all benefits under this policy shall be forfeited. The Insured shall not in any case be entitled to abandon any property to the Insurer whether taken possession of by the Insurer or not.

**10. Subrogation:**

- a) Any person claiming under this policy shall at the request and at the expense of the Insurer do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the Insurer for the purpose of enforcing any rights and remedies, or of obtaining relief or indemnity from other parties to which the Insurer shall be or would become entitled or subrogated upon the Insurer paying for or making good any Damage under this policy.
- b) If the Insurer makes any recovery as a result of such action, the Insured may only recover from the Insurer any amount by which the amount recovered by the Insurer exceeded the amount paid to the Insured by the Insurer in relation to the loss.

**11. Precautions to Prevent Loss:**

The Insured shall take all reasonable precautions to prevent Damage to the Insured Property by this policy.

**12. Insured's Action after Damage:**

The Insured shall, upon becoming aware of any Damage which may give rise to a claim under this policy, take all practicable steps to trace and recover any missing property and to discover by whom the property was Damaged.

**13. Observance of Terms and Conditions:**

The due observance and fulfilment of these conditions and the other terms of this policy by the Insured, insofar as the same are capable of being construed as such, are conditions precedent to any liability of the Insurer to make any payment under this policy.

**14. Progress Payments:**

Provided that liability has been admitted progress payments on account of any claims may be made to the Insured at such intervals and for such amounts as may be agreed upon production of a report by the loss adjuster (if appointed), provided such payment(s) shall be deducted from the amount finally determined upon adjustment of the claim.

## 15. Headings:

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

## 16. Goods and Services Tax

### A) Information the Insured Must Give the Insurer

If the Insured is registered, or required to be registered, for Goods and Services Tax ("GST") purposes the Insured must provide the Insurer in writing with their Australian Business Number ("ABN") when requested. The Insured must also tell the Insurer in writing what their Input Tax Credit ("ITC") entitlement is for their insurance premiums either:

- i) on or before entry into, renewal or variation of this policy; or
- ii) if permitted under the GST Law, at any other time at or before the Insured first notifies the Insurer of a claim under this policy.

If the Insured has told the Insurer of their ITC entitlement under (a) above and their ITC entitlement later alters, they must tell the Insurer in writing about that alteration at or before the time they first notify the Insurer of a claim under this policy.

If the Insured is/are registered and ceases to be registered for GST purposes they must tell the Insurer immediately in writing.

### B) Calculating Claims

If the Insured makes a claim under this policy, any payment or supply the Insurer makes to them in respect of the acquisition of goods, services or other supply (or monetary compensation in lieu thereof) or otherwise in relation to Your claim will be calculated on the GST inclusive cost of the Insured's claim.

In calculation such payment the Insurer are entitled to reduce it by any ITC which the Insured is, or would be, entitled to:

- i) for the acquisition of such goods, services or other supply; or
- ii) had the compensation been used to acquire such goods, services or other supply.

However, the total of all payments Insurer make to the Insured will not exceed the Sum Insured, Limit or Sub Limit of liability, or other monetary limitation of this policy.

The Sums Insured, Limits and/or Sub Limits of Liability, or any other monetary limitations are inclusive of any taxes, levies, duties or charges that the payment would be affected by or subject to.

### C) Payments

If the Insured makes a claim and the Insurer is obliged by law to withhold any amount from the payment in order to satisfy that law (for example, because the Insured has not provided their ABN where required to do so), the amount withheld will be treated as forming part of the claim payment paid to the Insured under this policy (even though the Insured has not received the withheld amount).

### D) Interpretation

- i) Where this general condition 16 is in conflict with any other provision of this policy, this general condition 16 will apply.
- ii) Reference to payments made to the Insured include payments made on their behalf or at their direction.
- iii) Other expressions which are not defined but which are used in any legislation will have the meaning given to them in that legislation. Examples of this are "GST", "GST Law", "ABN" and "ITC".

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