



Insurers:

**ACE Insurance Limited**

(ABN 23 001 642 020)

**Liberty International Underwriters**

(ABN 61 086 083 605)

**Iconstruct  
Annual Projects  
Construction &  
Legal Liability  
Insurance Policy**

**Annual  
Projects**

# TABLE OF CONTENTS

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<b>Annual Projects Construction &amp; Legal Liability Insurance .....</b>	<b>1</b>
About this Policy Document.....	1
<b>Scope of Cover .....</b>	<b>1</b>
<b>About The Insurers .....</b>	<b>2</b>
<b>About Iconstruct .....</b>	<b>2</b>
<b>Important Information.....</b>	<b>2</b>
Privacy - General .....	2
Privacy - ACE.....	3
Your Duty of Disclosure.....	3
Non-Disclosure .....	4
Claims .....	4
<b>Annual Projects Construction Insurance – Property Damage.....</b>	<b>4</b>
Property Damage .....	4
Definitions .....	5
Type of Cover Applicable.....	8
Property Damage - Insured Items .....	8
Additional Benefits.....	10
Basis of Loss Settlement.....	10
Limitation .....	11
Loss Accumulation.....	11
Reinstatement of Sum(s) Insured .....	11
Exclusions Applicable .....	12
General Conditions.....	17
Claims Procedures.....	20
<b>Annual Projects Construction Insurance - Legal Liability.....</b>	<b>22</b>
1. Insuring Clause .....	22
2. Definitions .....	22
3. Cross Liabilities .....	26

4. Limit of Indemnity .....	26
5. Defence Costs .....	26
6. Exclusions .....	27
7. General Conditions.....	32

# Annual Projects Construction & Legal Liability Insurance

## About this Policy Document

This Insurance Coverage is structured and issued as companion policies. The Insurers and the Insured are identified and referred to in the Policy Documents which comprises 2 parts:

- a. the Schedule(s) with any endorsement(s) issued;
- b. the Insurance Policy Wording(s).

The Schedule(s) and the Policy Wording(s) are to be read together.

The Insurers will provide insurance against the risks described in each Policy, subject to the Terms, Conditions, Exclusions and Endorsements of that Policy & subject to the Insured having paid, or agreed to pay, the premium shown in the Schedule for the Policy Period or a premium as advised applying to any subsequent period.

The detail contained in the Schedule(s) set out the covers that you have selected.

The Insurance Coverage is structured in 2 element(s) comprising:

Policy 1 - Property Damage

Policy 2 - Legal Liability

Note you are only insured for that element(s) specified on the Schedule(s) with a Sums Insured and Limits of Liability set out alongside that Section.

## Scope of Cover

The Insurers will provide cover under this coverage subject to the following:

- All projects must be of the type defined within the schedule and within the territorial scope.
- The estimated Construction Cost must not exceed the estimated Construction Cost including Principal supplied items as shown in the schedule.
- The Construction for each Project must be commenced during the Policy Period and must be less than the maximum construction period shown in the schedule.
- The Insurer will include cover for Projects that do not fall within the coverage, subject to notification and acceptance prior to commencement of the Project, at terms and conditions to be agreed.

- The coverage is issued on a Contracts Commenced Basis unless otherwise specified. This coverage will provide cover for all Contract Works that commence during the Period of Insurance as shown in the Schedule.
- In the event of cancellation or non-renewal of this Policy, cover will continue, on all insured Contract Works until expiry of the obligations applicable under the relevant Contract for Maintenance/Defect Work.
- The Insured is required to declare to Iconstruct any Contract Works that have not been completed and for which run off cover is required. In issuing this Policy, the Insurers rely upon the information contained in the Application and any written statements made by the Insured or anyone acting on Your behalf.

## About The Insurers

ACE Insurance Limited (ABN 23 001 642 020) (AFSL 239687). ACE is the Insurer of the Property Damage Policy.

Liberty International Underwriters (ABN 61 086 083 605). LIU is a member company of Liberty Mutual Group. LIU is the Insurer of the Legal Liability Policy.

## About Iconstruct

Iconstruct ABN 80 084 755 797 & AFSL 317123 is the underwriting agency authorised to bind cover in respect of Contract Works & Liability on behalf of ACE & LIU.

## Important Information

### Privacy - General

We collect personal information from You for the purposes of providing You with insurance product and services including claims the processing and assessment of claims.

You may choose not to provide this information however this will limit our ability to process any request You have.

We treat Your personal information with care. We will not release Your personal information to anyone other than the Insurer(s) or as permitted or required by law. In the event of a claim, We may disclose detail to and or collect information from investigators and or legal advisers.

If you wish to refresh the information We hold about You kindly contact you Insurance Broker.

## **Privacy - ACE**

ACE Insurance Limited (ACE) is committed to protecting your privacy. ACE collects, uses and retains your personal information in accordance with the National Privacy Principles. ACE's detailed privacy policy is available on our website at [www.aceinsurance.com.au](http://www.aceinsurance.com.au).

ACE may disclose the information we collect to third parties, including contractors and contracted service providers engaged by ACE to deliver certain services or carry out certain business activities on its behalf (such as assessors and call centres), other companies within the ACE Group, other insurers, reinsurers, and government agencies (where we are required to by law). These third parties may be located outside Australia.

You agree to ACE using and disclosing your personal information as set out above. This consent remains valid unless you alter or revoke it by giving written notice to our Privacy Officer.

If you would like to access a copy of your personal information, or to correct or update your personal information, please contact our customer relations team on 1800 815 675 or email [CustomerService.AUNZ@acegroup.com](mailto:CustomerService.AUNZ@acegroup.com). If you have a complaint or want more information about how ACE is managing your personal information, please contact the Privacy Officer, ACE Insurance Limited, GPO Box 4907, Sydney NSW 2001, Tel: +61 2 9335 3200 or email [Privacy.AU@acegroup.com](mailto:Privacy.AU@acegroup.com).

Under the terms of the Insurance Contracts Act 1984 (Cth), We must advise You about the following:

### **Your Duty of Disclosure**

Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance and, if so, on what terms. You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance. Your duty however does not require disclosure of matters:

- that diminishes the risk to be undertaken by the Insurer;
- that is of common knowledge;
- that your insurer knows or, in the ordinary course of his business ought to know;
- as to which compliance with your duty is waived by the insurer.

## **Non-Disclosure**

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim or may cancel the contract. If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

## **Claims**

This policy does not provide cover in relation to events that occurred before the contract was entered into.

## **Annual Projects Construction Insurance – Property Damage**

We are identified and referred to in this Policy and Schedule. You having paid or agreed to pay Us, the premium shown in the Schedule for the Policy Period or a premium as advised by Us as applying to any subsequent period. We will provide insurance against the risks described in the Policy subject to the terms Conditions, Exclusions and Endorsements of this Policy. In issuing this Policy we rely upon the information contained in the application and any statements made by You or anyone acting on Your behalf. The insurance applies only in respect of those items against which a Sum Insured is shown in the Schedule or which are otherwise indicated as being operative on the Schedule.

### **Property Damage**

Coverage Afforded:

#### **A. Construction Cover**

We will indemnify You for Damage to the Contract Works and other Insured Items as specified in the Schedule from any cause, not excluded, occurring at the Site location as set out in the Schedule during the Policy Period.

#### **B. Commissioning Cover**

Where a commissioning period is required by the Contract conditions. We will indemnify the Insured against Damage caused by Breakdown of any of the items the subject of this condition and which:

- (i) arise out of the performance of the commissioning;
- (ii) occur and are discovered during the commissioning period.

C. Maintenance / Defect Work Cover

Where a Maintenance Period is required by the Contract conditions, we will indemnify the Insured for Damage to the Contract Works from any cause, not excluded, which manifests itself during the Maintenance / Defect Work Period and originates from:

- (i) a cause arising out of the Contract Works carried out by the Insured during the Construction Period; or
- (ii) a cause occurring and arising out of the course of operations carried out by the Insured in complying with the requirements of the Maintenance / Defect Work clause in the Insured Contract.

The insurance shall cease to attach to the whole or any separable portion of the Project following expiry of the Maintenance / Defect Work Period.

**Definitions**

Definitions applicable to Policy 1:

1. Average shall mean and shall apply when the amount You have specified for an Insured Item is less than the replacement amount of the Insured Item, then any claim on that Insured Item will be subject to Average with the amount paid by us being reduced in the same proportion as the amount specified bears to 90% of the replacement amount. Average will apply to each Insured Item, unless stated otherwise.
2. Breakdown shall mean physical loss, Damage or destruction caused by mechanical, hydraulic, electrical or electronic failure resulting from defects within a machine or installation which requires repair or replacement to enable normal working to continue.
3. Commissioning Period shall mean the period commencing with the final installation of the relevant items and continuing for 6 weeks or the time specified in the Contract, whichever is the lesser, or the time actually specified in the Schedule.
4. Contract Works shall mean the contract or agreement between any of the Insured(s) and or which gives rise to the Contract Works, and includes any sub-contract agreement entered into.
5. Construction Cost shall mean the cost of labour and all the materials to be incorporated into the Project, at the commencement of the Project.
6. Construction Period shall mean, the period commencing on the work commencement date specified in the contract, or on the date of possession of the Contract Works site, or the actual date of commencement of the works, provided such date is within the Period of Insurance specified within the Schedule, whichever occurs first.

And expiring:

- (i) at the time of practical completion of the Contract Works, being it is complete except for minor omissions and minor defects that do not prevent it from being operational or reasonably capable of being used for its intended purpose; or
  - (ii) with respect to any separable portion of the Contract Works at the time it is taken into use by the principal/owner; or
  - (iii) with respect to any separable portion of the Contract Works at the time it is completed and delivered up to or taken over by the principal/owner; or
  - (iv) with respect to any separable portion of the Contract Works at the time it is completed pending sale or leasing;
- whichever occurs first.
7. Damage means sudden physical loss and or Damage.
8. Deductible shall mean the amount shown in the Schedule that applies to each and every Loss.
9. Worker shall mean any person engaged under a contract of service or deemed contract of service or apprenticeship with any of the Insured(s).
10. Existing Structure means any permanent building or structure located at the Site location prior to the commencement of the Project.
11. Insured Items means all of the individual items shown in the Schedule.
12. Maintenance / Defect Work being the period specified in the Schedule, and commencing:
- (i) at the expiry of the Construction Period; or
  - (ii) on the date each separable portion of the Contract Works is taken over or taken into use or occupation by the principal, tenant or occupier or for which a certificate of practical completion has been issued;
- whichever occurs first.
13. *Insured* wherever used in this Policy means the Insured named in the Schedule and:
- (i) Any subsidiary company of the Insured named in the Schedule;
  - (ii) Any principal, or owner, or agent of the principal or owner, contractors and sub-contractors of the Insured named in the Schedule, but only if the Insured named in the Schedule is obliged under a contract or agreement to effect insurance on their behalf naming them as Insured's under a liability insurance policy and only to the extent required by such contract or agreement and limited to the coverage provided by this Policy;

- (iii) Any director, executive officer or Worker of the Insured named in the Schedule whilst acting within the scope of his/her duties with such parties;
- (iv) Any other related entity controlled by the Insured named in the Schedule and over which it assumes active management;
- (v) Financiers of the Contract Works; or
- (vi) Any office bearer or member of any social, sporting, safety, security, medical or welfare facility of the Insured named in the Schedule, but only whilst acting in their capacity as such,

And only to the extent of their activities involving the Contract Works and their interest therein.

- 14. Period of Insurance specified in the Schedule, and ceasing at the end of the Maintenance / Defect Work Period.
- 15. Policy Period is the period shown in the Schedule.
- 16. Principal Supplied Materials means any item supplied by the Principal, for incorporation within the Construction Cost.
- 17. Project means each Contract Works as described in the Schedule.
- 18. Site Location shall mean the location where the Contract Works is carried out within the Territorial Limits stated in the Schedule.
- 19. Provisional Premium shall mean the premium calculated on the basis of the Estimated Turnover of all the Insured Projects at the agreed rates.
- 20. Schedule shall mean the schedule attaching to this Policy.
- 21. Contract shall mean a contract which is of the type of construction contract(s) as recognised for use by the building industry.
- 22. Turnover shall mean the total Estimated Construction Cost of all the Projects eligible to be covered under this Policy during the Policy Period.
- 23. You, Your, Insured means the Person(s) or legal entity named in the Schedule.
- 24. We, Us & Our, means the Insurer(s) as named in the Schedule.

## **Type of Cover Applicable**

### Runoff Basis

The Policy will provide cover for all Projects which:

Commence during the Policy Period as shown in the schedule In the event of cancellation or non-renewal of the Policy cover will continue on all Projects until expiry of the Maintenance Period. You must declare any Project which has not been completed and which You require the runoff cover to apply at the end of the Policy Period, and pay any premium adjustment.

## **Property Damage - Insured Items**

### 1a. Construction Cost including Principal Supplied Items

The Contract Works Sum Insured must be the full Estimated Construction Cost at the commencement of the Period of Insurance.

### 1b. Principal Supplied Materials is the costs of replacing principal supplied items.

Average will apply to each & every claim based on the full replacement value of all such items subject to the application of the Policy escalation allowance.

### 2a. Minor Plant, Tools

The cost of replacing construction tools, minor plant and equipment used on or about the Site Location for the performance of the contract works during the Construction Period and owned by You.

Average will not apply to this Sum Insured but the maximum sum insured will be limited to \$25,000 or any lesser amount shown in the Schedule, with a further limit of \$5,000 applying to each individual item.

### 2b. Major Plant and Equipment

Including Formwork, Hoardings, Temporary Buildings, Scaffolding.

The cost of replacing items under this section owned, hired, or for which you have accepted responsibility to insure, used on or about the Site location for the performance of the Contract Works during the Construction Period.

Average will apply to this section based on the Sum Insured being the current market value of all items falling within the scope of the above items used on the Site Location.

### 3. Existing Structures

The costs of replacing existing structures located at the Site Location and shown on the Schedule.

Average will apply to this Insured Item. In applying Average the Sum Insured shall represent the full replacement cost of the structure at commencement of the Policy Period.

4. Escalation of Construction Cost

If during the Construction Period there is an increase in the estimated Construction Cost value that exceeds the Construction Cost Sum Insured in the Schedule, then the amounts stated against Construction Cost shall automatically be proportionally increased providing such increase shall not exceed 15%.

5. Expediting Expenses

Shall include the costs of express delivery within the Commonwealth of Australia, overtime rates of wages, the hire of additional labour and equipment, and the costs of purchasing resources necessary to reinstate repair or urgently replace lost or Damaged Contract Works indemnified by the Policy. Express delivery shall include carriage by airfreight within the Commonwealth of Australia but only by licensed airline(s) utilising regular scheduled services. This sum insured will be limited to 5% of the estimated Construction Cost.

Average will not apply to this Insured Item.

6. Removal of Debris

Shall include the cost of demolition, removal and disposal of Damaged & undamaged Contract Works necessary to enable the Contract Works to be restored or replaced . The sum insured will be limited to 10% of the estimated construction cost plus Existing Structure sum insured if applicable.

Average will not apply to this Insured Item.

7. Professional Fees

Shall include Fees for architects, surveyors, consulting engineers and other such professionals not being Your workers but employed in the reinstatement of indemnifiable Damage to the Contract Works (but excluding any fees for the preparation of any claim under the Policy).The sum insured will be limited to 10% of the estimated construction cost plus Existing Structure sum insured if applicable.

Average will not apply to this Insured Item.

### **Additional Benefits**

The Cover under Policy 1 is extended to include the following additional benefits in respect of materials, components and or equipment forming part of the Insured Project and included in the Estimated Construction Cost.

1. **Materials in Transit**

The Construction Period cover is extended to include materials, components and equipment to be incorporated into the Project whilst in transit within the Commonwealth of Australia during the construction period.

Cover commences after completion of loading in an undamaged condition and expires upon completion of unloading at any offsite storage facility or the Site location. The sum insured will be limited to \$100,000 unless otherwise agreed and stated on the Schedule.

2. **Materials Stored Offsite**

The Construction Period cover is extended to include materials, components and equipment to be incorporated into the Project whilst in storage off site within the Commonwealth of Australia during the Construction Period. Cover commences after completion of unloading in an undamaged condition and expires upon completion of loading for transport to the Site location. The sum insured will be limited to \$100,000 unless otherwise agreed and stated on the Schedule.

3. **Mitigation Expenses**

Shall include the costs and expenses necessarily and reasonably incurred by any of the Insured(s), in containing, mitigating, suppressing or preventing further loss or Damage to the Contract Works. The sum insured will be limited to 5% of the estimated construction cost.

Average will not apply to this Insured Item.

### **Basis of Loss Settlement**

The amount payable in respect of Damage indemnifiable under Policy 1 to the Insured Property will be as set below:

1. **Contract Works**

The costs necessary to repair or replace the affected Contract Works to its condition immediately before the Damage, less any salvage.

2. **Existing Structures**

The costs necessary to repair or replace the affected Structure to its condition when new or pay up to the Sum Insured shown in the Schedule, less any salvage.

### 3. Plant and Equipment

The amount payable in respect of Plant and Equipment in respect of Damage will at our option, be either:

- the costs necessary to repair the item and return it to its state of serviceability immediately prior to the Damage, less allowance for depreciation in respect of parts replaced;
- or In the case where the costs of repair exceeds the current market value we will pay the current market value immediately prior to the Damage less any salvage.

We will not make any payment unless You have produced to Our reasonable satisfaction all accounts, invoices, receipts and any other supporting documentation necessary to substantiate that repairs have been affected or replacement has taken place.

We will not pay costs for any alterations, additions, improvements or overhauls nor the cost of any temporary repairs that do not constitute a part of the final repairs.

#### **Limitation**

With respect to each Project insured, the maximum amount of our liability will not exceed the Sum(s) Insured for each Insured Item as stated in the Schedule, less the application of any Deductible.

#### **Loss Accumulation**

For the purpose of the application of the deductible all insured Damage during any one period of 72 consecutive hours caused by flood, storm, earthquake or bushfire shall be considered as loss or Damage for the purpose of applying the Deductible. You may select the time from which any such period will commence but no two such selected periods will overlap.

#### **Reinstatement of Sum(s) Insured**

Following payment of a claim under this Policy, We will reinstate the Sum(s) Insured, provided You pay any additional premium at the original policy rate applicable.

## Exclusions Applicable

We shall not be liable for:

1. The cost of repairing, replacing or rectifying loss of, or Damage to Contract Works or other insured property caused by a defect or omission in design, plan or specification of the Contract Works. However, to the extent the Damage is otherwise covered by this Policy, We will pay the cost of loss or Damage caused directly from such fault, defect, error or omission, less the cost which would have been incurred in repairing replacing or rectifying such fault, defect, error or omission, immediately prior to the loss occurring.

We agree that the Contract Works shall not be regarded as damaged solely by virtue of the existence of any defect in design, plan and or specification.

2. The cost of replacement, repair or rectification of any insured Damage caused by any fault, defect, error or omission in material or workmanship, but this exclusion will be limited to the machine structure or works immediately affected and will not exclude loss of or Damage to work properly carried out resulting from such fault, defect, error or omission.

We agree that the Contract Works shall not be regarded as Damaged solely by virtue of the existence of any defect in design, plan, specification, materials or workmanship.

3. The cost of repairing, replacing or rectifying loss or Damage due to Breakdown of second hand machinery or any plant and equipment not forming part of the Contract Works.
4. Loss or Damage discovered only at the time an inventory is taken.
5. Loss of, or Damage to, cash, bank notes, treasury notes, cheques, postal orders, money orders, stamps, deeds, bonds, bills of exchange, promissory notes, securities and computer systems, software and data.
6. Loss or Damage caused by, erosion, wasting or wearing away, abrasion, corrosion, rust, oxidation, gradual deterioration, creep, heave, or any gradually operating cause.
7. Loss or Damage due to, or caused by, moths, termites or other insects, vermin, mildew, mould, dampness, seepage, wet or dry rot, evaporation, variations in temperature, change of colour, texture or finish, contamination or pollution.
8. The cost of normal upkeep of the Contract Works.
9. Consequential loss, loss of use, penalties, fines, liquidated Damages, or aggravated, punitive or exemplary Damages, or loss or Damage in connection with guarantees of performance or efficiency.

10. Loss or Damage occurring during the course of ocean marine transit including unloading following ocean marine transit, other than transit within Australian coastal waters, in connection with the Project.
11. Loss of, or Damage to any vessel, craft or thing made or intended to float on or in, or travel on or through, water or air, or any plant, tools, equipment or other things in, on or attached to, any such vessel or craft.
12. Loss of, or Damage to property for which You are relieved of responsibility under the terms of any Contract or agreement.
13. Loss or Damage to hoists, cranes and other plant and equipment, Vehicles of any kind, tools, and Workers effects used in and about the performance of the Contract Works, unless a Sum Insured is shown in the Schedule.
14. Loss or Damage due to embezzlement or fraudulent misappropriation by any Worker.
15. Loss or Damage arising out of the imposition of abnormal operational conditions, intentional overloading or overheating or experiments.
16. Loss or Damage due to faulty packing, storage, inherent defect or disease.
17. The cost of repairing or replacing parts requiring periodic or frequent replacement repair or maintenance. This includes but is not limited to:
  - (i) Fuses, shear-pins, rupture plates, or other expendable load limiting devices.
  - (ii) Bits, drills, knives, saw blades or other cutting devices.
  - (iii) Dies, moulds, patterns, pulverising and crushing surfaces, screens, sieves, filters, batteries, tyres, tracks.
  - (iv) Ropes, belts, chains, elevator and conveyor belts.
  - (v) Flexible pipes, jointing and packing material.
18. Loss or Damage to floor and wall finishes or coverings, contents of, or consequential loss in respect of any Existing Structures.
19. Legal liability resulting from any event.
20. Loss of, or Damage to any vegetation forming part of the Project which is caused by or arises from, disease, lack of water, excess water, replanting or transportation operations.
21. Loss of, or Damage to roadworks.
22. Loss of, or Damage to pipe trenches, but this exclusion does not apply to pipe trenching forming part of the construction of a building.

23. Additional Costs of Dewatering:

- (i) due to the quantities of water exceeding those allowed for in the Contract;
- (ii) including additional facilities for the discharge of run off or underground water;
- (iii) due to failure of the dewatering system if such failure could have been avoided by the provision of sufficient standby facilities.

24. War

Any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, terrorism, military or usurped power or confiscation or nationalisation, or requisition or destruction of or Damage to property by or under the orders of any government or public or local authority.

25. Terrorism

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

26. Radioactive Contamination

Any loss or destruction of or Damage to property, consequential loss, liability of whatsoever nature, directly or indirectly caused by, or contributed to, by, or arising from:

- (i) Ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste.
- (ii) Any nuclear assembly or nuclear component thereof, nuclear weapons or material.

27. Cessation of Work

Loss or Damage, or legal liability directly or indirectly following any cessation of work exceeding 30 consecutive days, or immediately following abandonment.

28. Insolvency

Any loss or Damage, or legal liability of whatsoever nature, directly or indirectly caused by, or due to the non-availability of funds to finance the Contract Works, or for the repair or replacement of the Contract Works.

29. Electronic Data Exclusion

Notwithstanding any provision to the contrary in the Policy or any endorsement thereto, it is understood and agreed as follows.

(a) This policy does not insure:

- (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.

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) physical loss of or damage or destruction to Property Insured 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 paragraph (a) above:

Fire, Explosion, Lightning, Windstorm, Hail, Tornado, Cyclone, Hurricane, Earthquake, Volcano, Tsunami, Flood, 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.

For the purpose of the Basis of Settlement provision in this Policy, computer systems records includes Electronic Data as defined in paragraph (a) above.

Any terrorism exclusion in this policy or any endorsement thereto prevails over this endorsement.

### 30. Electronic Equipment and/or Device Endorsement

This policy does not insure against any loss, damage, cost, claim or expense, directly or indirectly, proximately or remotely, whether in whole or in part caused by, resulting from, contributed to, aggravated by or consisting of any malfunction, derangement or inability of:

- (i) the failure of any Electronic Equipment and/or Device to recognise, interpret, calculate, compare, differentiate, sequence or process data consisting of, dependent on or deduced from one or more dates or time or;
- (ii) Any change, repair, alteration, correction or modification of any part or parts of any Electronic Equipment and/or Device to correct or prevent any anticipated or actual condition or circumstances stated in (a.) above.

ELECTRONIC EQUIPMENT AND/OR DEVICE includes but is not limited to computers, computer equipment, coding, programs, instructions or any software stored on electronic, electromechanical, electromagnetic data processing or electronically controlled equipment and media:

- (i) computer hardware, including microprocessors;
- (ii) computer application software;
- (iii) computer operating systems and related software;
- (iv) computer networks;
- (v) microprocessors (computer chips) not part of any computer system;
- (vi) any other computerised or electronic equipment or components;

whether the property of the Insured or not.

### 31. Transmission & Distribution Lines Exclusion

Notwithstanding any provision to the contrary in the Policy or any endorsement thereto, it is understood and agreed as follows:

This policy does not insure in respect of all overhead transmission and distribution lines including wire, cables, poles, pylons, standards, towers, or other supporting structures which may be attendant to the transmission or distribution of electrical power and/or telephone communications.

Provided that this exclusion shall not apply to transmission and distribution towers, poles, lines, components or equipment:

- (i) at the premises of the Insured defined as within property boundaries, as defined in deed of title;
- (ii) 1,000 feet from an insured structure and its surrounding property in respect of power generating assets;
- (iii) in storage and not forming an integral part of the transmission and distribution line system.

### **General Conditions**

#### Applicable to Policy 1 - Precedent to Liability

##### 1. Your Duty

Our liability is conditional upon:

- (i) Payment of the premium. We will not pay any claim until You have paid the premium.
- (ii) Notification of changes. Notification as soon as possible by You to Us, of any change materially varying any of the facts or circumstances existing at the commencement of this Policy, or following any renewal of this Policy. In such an event, You must, at Your own expense, take such additional precautions as may be necessary to minimise the risk of any claim arising under the Policy and must comply with any reasonable directions or requirements of Ours.

The scope of cover and premium will, if necessary, be adjusted by Us accordingly. No material alteration will be made or allowed by You hereby the risk is increased unless agreed to in writing by Us. Material change will include (but not be limited to) alteration in design, materials, construction, programme or method of construction.

- (iii) Observance of Policy Terms and Conditions. The observance of the terms and conditions of the Policy by You and by any other person entitled to indemnity under this Policy.

## 2. Reasonable Care

You must:

- (i) Take all reasonable precautions to prevent Personal Injury and Damage to Property.
- (ii) Comply with, and ensure that Your Workers, servants and agents comply with, all laws and bylaws, regulations and recognised standards for the safety of persons or property.
- (iii) Ensure that only competent Workers use, operate, maintain and service plant and equipment.
- (iv) Maintain all premises, fittings, plant and equipment in sound condition.

## 3. Welding, Flame Cutting, application of Heat

You must ensure that all welding and flame cutting complies with the Australian Standard "AS1674.1 – 1997 and AS1674.2 – 2003 Safety and Welding in Allied Processes" and its amendments. (It is a detailed Code, designed to protect persons and Property from injury by fire or explosion in the course of cutting, heating or welding operations).

## 4. Our Rights of Conduct and Recovery:

- (i) We shall have full discretion in the conduct, defence or settlement of any claim. This includes the right to instruct lawyers to provide advice as to Your liability and to represent You.
- (ii) Subject to the provisions of the Act we have the right to recover or obtain contribution from any person against whom You may be able to claim and the right to take action in Your name.

You and any other person entitled to benefit under this Policy must not hinder these rights and must give all such information and cooperation as We may require.

## 5. Payment of Sum Insured

We may at any time pay to you the appropriate Sum Insured (after deducting from it any amounts already paid) or any lesser amount for which a claim or claims may be settled. In doing so, We will relinquish the conduct of, and shall be under no further liability in connection with, such claim or claims except for costs and expenses incurred before We made such payments.

## 6. Premium Adjustment

- (i) Within thirty (30) days of expiry of the Policy Period, You shall furnish to Us a declaration and details of the actual or final of the Contract Works.

- (ii) Where the final Turnover differs from the estimated Construction Cost, then the final Premium for this Policy shall be determined Us by applying the agreed rate to the final Construction Cost. The difference between the final premium and the Provisional Premium will be calculated and will be:
  - a. the amount payable by You if the Construction Cost exceeds the estimated Construction Cost; or
  - b. the amount refunded by Us if the final Construction Cost is lower than the Estimated Construction Cost. We shall not be called upon to refund more than twenty five per cent (25%) of the Provisional Premium.

#### 7. Cancellation

You may cancel this Policy at any time by giving notice in writing to Us.

We may cancel this Policy at any time where:

- (i) We are entitled to do so pursuant to the Insurance Contracts Act 1984 or any amendments thereto.
- (ii) The Insured has failed to notify Us of any specific act or omission here such notification is required under the terms or conditions of this Policy.
- (iii) The Insured has acted in contravention of or omitted to act in compliance with any term of this Policy which empowers Us to refuse to pay a claim in the event of such contravention or omission.

Any notice of cancellation given by Us shall take effect either at the time when another contract of insurance between the Insured and Us or some other insurer (being a contract that is intended by the Insured to replace this Policy) is entered into or at 4pm on the third business day after the date on which notice was given to the Insured by Us (whichever is the earlier).

#### 9. Inspection by Us

We (or agents appointed by Us) have the right to inspect and examine, by mutual appointment, any property.

#### 10. Joint Insurance

A claim made by any one of the people or entities named as the Insured in the Schedule is a claim made by all of the people or entities named as the Insured. Similarly, any statement, act or omission made by any person or entity named as the Insured in the Schedule is assumed to be made by all people or entities named as the Insured.

#### 11. Transfer of Interest

No interest in this Policy can be transferred without Our written consent.

## 12. Goods and Services Tax

Where We make a payment under this Policy for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You are, or will be, or would have been entitled to under A New Tax system (Goods and Services Tax) Act 1999, in relation to that acquisition, whether or not that Acquisition is actually made.

Where We make a payment under this Policy as compensation instead of payment for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You would have been entitled to under A New tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or other supply.

## 13. Waiver of Subrogation Rights

We may not be liable to pay any benefits under this Policy for Damage if the Insured agrees or has agreed to limit or exclude any right of recovery against any third party who would be liable to compensate the Insured with respect to that Damage.

## Claims Procedures

### 1. Notification

As soon as possible after the happening of any occurrence, accident or event which may give rise to a claim against Us, You or Your legal representative must:

- (i) Advise details to Us and send written confirmation within 30 days;
- (ii) Take all reasonable steps to minimise the loss or Damage or liability and to prevent any further loss, Damage or liability;
- (iii) Take all reasonable precautions to preserve anything which might prove necessary or useful by way of evidence in connection with any claim;
- (iv) Advise the nearest Police Station in the case of property lost, stolen or vandalised, and obtain a written Police report if requested by Us;
- (v) Take all practical steps to recover any property;
- (vi) Retain all Damaged properly for inspection by Us.

### 2. Authority for Repairs or Replacement

Where a claim arises You must not authorise repairs to, or arrange replacement of, any of the property relevant to the claim without Our consent.

3. Admission of Liability

Subject to the provisions of the Insurance Contracts Act 1984, You or any person making a claim under this Policy must not make any admission of liability or payment or promise, or offer of payment in connection with any such claim, without Our written consent.

4. Verification of Claim

You will, at Your own expense, furnish Us with:

- (i) a statement in writing containing particulars of the property affected and its value; and
- (ii) such books of account and other business books, computer records, vouchers, invoices, balance sheets, and other documents, proofs, information, explanations and other evidence and any statutory declaration as We may require for the purpose of investigating or verifying a claim under this Policy and You and Your accountants must cooperate fully in this regard.

5. Other Insurances

You must furnish Us with a statement giving details of the other insurances which may also provide cover on any property hereby insured.

6. Inspection of Loss or Damage

- (i) Upon notification of any loss or Damage being given to Us You may carry out repairs or make good any minor Damage, but in all other cases You must give Us, Our Workers or agents an opportunity to inspect the loss or Damage before any repairs or alterations are effected.
- (ii) If no inspection is carried out by or on behalf of Us within a period of time which is reasonable, having regard to the location of the risk, weather conditions and any other relevant factors, You may proceed with such repairs or replacement.

Signed on behalf of ACE Insurance on the date stated in the Schedule.

## Annual Projects Construction Insurance - Legal Liability

In consideration of the premium being paid by the Insured to Liberty International Underwriters (hereinafter called LIU) and in reliance upon the written statements and declarations contained in the proposal or insurance broker's quotation submission, LIU agrees to indemnify the Insured in accordance with the attached Schedule, Policy wording and endorsements (where applicable).

### 1. Insuring Clause

Subject to the terms of this Policy, LIU will pay to or on behalf of the Insured all sums which the Insured shall become legally liable to pay by way of compensation in respect of Injury and/or Damage first happening:

- 1.1 During the Construction Period in respect of liability in connection with the Contract Works, other than Product liability;
- 1.2 During the Period of Insurance in respect of liability not in connection with the Contract Works;
- 1.3 During the Period of Insurance in respect of Product liability,

as a result of an Occurrence anywhere in Australia in connection with the Insured's Business.

### 2. Definitions

2.1 "Asbestos" means:

2.1.1 That group of natural fibrous silicate minerals that comprises Actinolite, Amosite, Anthophyllite, Chrysotile, Crocidolite and Tremolite.

2.1.2 That group of man made mineral fibres that comprises mineral wool, rockwool, glass fibre, ceramic fibres and superfine fibres.

And includes Asbestos products and products containing Asbestos.

2.2 "Construction Period" means, the period commencing:

2.2.1 On the work commencement date specified in the contract, or on the date of possession of the Contract Works site, or the actual date of commencement of the works, provided such date is within the Period of Insurance specified within the Schedule, whichever occurs first,

And expiring:

2.2.2 At the time of practical completion of the Contract Works, being it is complete except for minor omissions and minor defects that do not prevent it from being operational or reasonably capable of being used for its intended purpose; or

2.2.3 With respect to any separable portion of the Contract Works at the time it is taken into use by the principal/owner; or

2.2.4 With respect to any separable portion of the Contract Works at the time it is completed and delivered up to or taken over by the principal/owner; or

2.2.5 With respect to any separable portion of the Contract Works at the time it is completed pending sale or leasing,

Whichever occurs first.

2.3 “Contract Works” includes all construction related works, contracts or agreements made by on or behalf of the Insured in connection with the Insured’s Business.

2.4 “Damage” means:

2.4.1 Physical damage to or destruction of tangible property including all resulting loss of use of that property. All such loss of use shall be deemed to happen at the time of the physical damage that caused it.

2.4.2 Loss of use of tangible property that is not physically damaged or destroyed provided such loss of use is caused by physical damage of other tangible property which first happened during the Construction Period. All such loss of use shall be deemed to happen at the time of the physical damage or destruction that caused it.

2.5 “Employment Practices” means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination (sexual or otherwise) in respect of employment by the Insured

2.6 “Injury” means:

2.6.1 Bodily injury, death, sickness, disease, disability, shock, fright, mental anguish and mental injury;

2.6.2 False arrest, wrongful detention or imprisonment, malicious prosecution;

2.6.3 Wrongful entry or eviction; or

2.6.4 Libel, slander, defamation of character or invasion of the right of privacy.

2.7 “Insured” wherever used in this Policy means the Insured named in the Schedule and:

2.7.1 Any subsidiary company of the Insured named in the Schedule;

- 2.7.2 Any principal, or owner, or agent of the principal or owner, contractors and sub-contractors of the Insured named in the Schedule, but only if the Insured named in the Schedule is obliged under a contract or agreement to effect insurance on their behalf naming them as Insureds under a liability insurance policy and only to the extent required by such contract or agreement and limited to the coverage provided by this Policy;
- 2.7.3 Any director, executive officer or employee of the Insured named in the Schedule whilst acting within the scope of his/her duties with such parties;
- 2.7.4 Any other related entity controlled by the Insured named in the Schedule and over which it assumes active management;
- 2.7.5 Financiers of the Contract Works; or
- 2.7.6 Any office bearer or member of any social, sporting, safety, security, medical or welfare facility of the Insured named in the Schedule, but only whilst acting in their capacity as such,

And only to the extent of their activities involving the Contract Works and their interest therein.

- 2.9 “LIU” means Liberty International Underwriters. Liberty International Underwriters is a trading name of Liberty Mutual Insurance Company (ABN 61 086 083 605). Incorporated in Massachusetts, USA (The liability of members is limited).
- 2.10 “Limit of Indemnity” means the amount stated in the Schedule pursuant to Clause 4 of this Policy.
- 2.11 “Maintenance / Defect Work” means operations carried out by the Insured for the purpose of:
  - 2.11.1 Maintenance in accordance with their obligations under any maintenance provisions of the contract; or
  - 2.11.2 Remedying any defects in accordance with their obligations under any defects rectification provisions of the contract.
- 2.12 “Occurrence” means an event, including continuous or repeated exposure to substantially the same general conditions, which results in Injury and/or Damage neither expected nor intended from the standpoint of the Insured. All events of a series consequent on or attributable to one source or original cause shall be deemed one Occurrence.
- 2.13 “Period of Insurance” is the period shown in the Schedule.

2.14 "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

2.15 "Product" means any commodity, article or thing (after it has ceased to be in the possession or under the control of the Insured) which is or is deemed (whether by law or otherwise) to have been manufactured, constructed, grown, extracted, produced, processed, assembled, erected, installed, treated, altered, serviced, repaired, sold, handled, supplied or distributed by the Insured or by others trading under the name of the Insured (including any container thereof other than a motor vehicle).

2.16 "Terrorism" means an act or acts

2.16.1 That are violent in nature or are dangerous to human life:

2.16.1.1 That are a violation of the criminal laws of the United States of America or Australia or of any State or Territory of the United States of America or Australia or that would be a criminal violation if committed within the jurisdiction of the United States of America or Australia or any State or Territory of the United States of America or Australia; and that have the apparent intent of:

2.16.1.1.1 Intimidating or coercing any civilian population;

2.16.1.1.2 Influencing the policy of any government by intimidation or coercion; or

2.16.1.1.3 Affecting the conduct of any government by mass destruction, assassination, or kidnapping,

Or

2.16.2 That result in:

2.16.2.1 The denial of access to or services from web sites, computer networks, or telecommunications equipment; or

2.16.2.2 The malfunction or degradation of web sites, computer networks, telecommunications equipment, or mechanical equipment, or that otherwise interrupt the functioning of web sites or such properties,

And that have the apparent intent of intimidating or coercing any civilian population or influencing the policy of any government by intimidation or coercion.

2.17 “Worker” means any person employed by the Insured or deemed to be employed by the Insured whether pursuant to any Workers’ Compensation Law or otherwise.

2.18 “Workers’ Compensation Law” means any law relating to compensation for Injury to Workers or employees.

### **3. Cross Liabilities**

Subject at all times to the terms of this Policy, each person or party indemnified is separately indemnified in respect of claims made by any of them against any other of them provided that LIU’s total liability shall not exceed the Limit of Indemnity for all claims under this Policy.

### **4. Limit of Indemnity**

LIU’s liability to pay compensation shall not exceed the sum stated in the Schedule in respect of any one claim or series of claims arising from one Occurrence.

The total aggregate liability of LIU for any one Period of Insurance for all claims in respect of or in any way connected with the Insured’s Products shall not exceed the Limit of Indemnity stated in the Schedule.

### **5. Defence Costs**

In addition to the Limit of Indemnity, LIU will pay all reasonable legal costs and expenses incurred with LIU’s prior written consent in connection with any claim or potential claim for which the Insured is indemnified by this Policy.

Provided that LIU shall not be liable for legal costs and/or expenses where indemnity is not provided by this Policy.

Provided that LIU shall not be liable for legal costs or other expenses for or in respect of representation at any formal legal inquiry involving an accident resulting in Injury or at any coroner’s inquiry or defending any proceedings in a Court of summary jurisdiction exceeding a sub-limit of AUD500,000 and in the aggregate during the Period of Insurance.

Provided that LIU shall not pay any legal costs or expenses in respect of any Occurrence after LIU has paid compensation up to the Limit of Indemnity.

## 6. Exclusions

This Policy does not cover liability directly or indirectly caused by, arising out of or in any way connected with:

- 6.1 The ownership, maintenance, operation, possession, use, loading or unloading by or on behalf of the Insured of any motor vehicle or trailer which is required by law to be registered or in respect of which there is required by law to be in force a Policy of compulsory liability insurance or in relation to which there existed a statutory scheme providing compensation for Injury, but this exclusion does not apply to:
  - 6.1.1 Injury for which no indemnity is or would be available to the Insured under the said Policy of compulsory liability insurance had the Insured complied with its obligations pursuant to such law.
  - 6.1.2 Injury caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer for which no indemnity is or would be available to the Insured under the said Policy of compulsory liability insurance had the Insured complied with its obligations pursuant to such law.
  - 6.1.3 Damage caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer.
  - 6.1.4 Damage to any bridge, weighbridge or road, or anything beneath such bridge, weighbridge or road caused by the weight of any motor vehicle or trailer or of the load carried thereon.
  - 6.1.5 Damage to any motor vehicle or trailer (not owned, leased or hired by, under hire purchase, on loan or rented to the Insured) temporarily in the Insured's custody or control for the purpose of parking and directly arising out of such parking.
- 6.2 Notwithstanding Exclusion 6.10, Damage to property owned, leased, hired by, under hire purchase, on loan or rented to the Insured or otherwise in the Insured's care, custody or control, other than the first \$100,000 each and every Occurrence and in the aggregate for any one Period of Insurance for property or equipment hired, borrowed or loaned for the purposes of the Contract Works.

Provided further that no indemnity is granted under this Policy in respect of liability assumed by the Insured under any contract or agreement which requires the Insured to effect material Damage insurance on premises, property or goods not owned by the Insured.

- 6.3 Damages claimed for, and/or the costs of withdrawal, recall, inspection, repair, replacement, disposal or loss of use of the Insured's Products or of any property of which such Products form a part, if such Products or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein.
- 6.4 Damage to the Insured's Products if such Damage is attributable to any defect therein or harmful nature or unsuitability thereof.
- 6.5 Any Product guarantee or warranty given by or on behalf of the Insured but this exclusion shall not apply to the requirements of any Federal or State legislation with respect to Product safety and information.
- 6.6 Any Product which is incorporated into the structure, machinery or controls of any aircraft, aerial device, watercraft or hovercraft.
- 6.7 The loss of use of tangible property which has not been physically Damaged or destroyed resulting from:
  - 6.7.1 A delay in or lack of performance by or on behalf of the Insured of any contract or agreement; or
  - 6.7.2 The failure of any Product to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by the Insured but this exclusion does not apply to loss of use of other tangible property directly or indirectly caused by, arising out of or in any way connected with or resulting from the sudden and accidental physical Damage to or destruction of the Product after such Product has been put to use by any person or organisation other than the Insured.
- 6.8 Liabilities assumed under the terms of a contract, agreement or warranty unless the Insured would have been liable in the absence of such contract, agreement or warranty.

However this exclusion shall not apply to Insured named in the Schedule.
- 6.9 Liabilities assumed where the Insured may have been able to recover from another party(ies) but for an agreement between the Insured and such party(ies) where the Insured has waived, released or abandoned any right of recourse or recovery against such other party(ies).
- 6.10 Damage to property of every description having any connection whatsoever with the Contract Works, including permanent and temporary works or structures, materials and supplies, formwork, falsework, scaffolding, props and the like, principal supplied materials, contract consumables, plans and other documents, construction plant and machinery.

6.11 Injury to any Worker.

Provided that if the Insured:

- 6.11.1 Is required by law to insure or otherwise fund, whether through self insurance, statutory fund or other statutory scheme, all or part of any common law liability (whether limited in amount or not) for such Injury; or
- 6.11.2 Is not required to so insure or otherwise fund such liability by reason only that the Injury is to a person who is not a Worker or “employee” within the meaning of the relevant Workers’ Compensation Law or the Injury is not an Injury which is subject to such Law;

then this Policy will respond to the extent that the Insured’s liability would not be covered under any such fund, scheme, Policy of insurance or self insurance arrangement had the Insured complied with its obligations pursuant to such Law.

6.12 6.12.1 Any Workers’ Compensation Law;

6.12.2 The provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination;

6.12.3 Employment Practices.

6.13 6.13.1 The rendering of or failure to render professional advice or service by the Insured or any error or omission connected therewith;

6.13.2 Advice, design, formula or specification given by or on behalf of the Insured.

Provided that this exclusion does not apply to the rendering of first aid or medical services on the Insured’s premises by medical persons employed by the Insured.

6.14 6.14.1 The actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants;

6.14.2 Testing, monitoring, clean up, removal, containment, treatment, detoxifying or neutralising of Pollutants or their effect;

6.14.3 The actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants caused by any product that has been discarded, dumped, abandoned or thrown away by others.

6.14.4 Any expenses for the prevention of the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants;

Provided always that exclusions 6.14.1, 6.14.2 and 6.14.3 shall not apply to liability which is directly caused by a sudden, accidental, instantaneous, unintended, identifiable and unexpected happening which takes place in its entirety at a specific time and place.

The total aggregate liability of LIU for all claims covered in any one Period of Insurance in respect of the proviso above shall not exceed the Limit of Indemnity shown in the Schedule.

- 6.15 6.15.1 Ionising radiations or contamination from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. Combustion shall include any self sustaining process of nuclear fission or fusion;
- 6.15.2 Nuclear weapons material.
- 6.16 Ownership, maintenance, operation, possession or use by or on behalf of the Insured of any aircraft, aerial device, watercraft or hovercraft.
- 6.17 The Deductible shown in the Schedule.
- 6.18 Asbestos.
- 6.19 6.19.1 Claims made and actions instituted within the United States of America, the Dominion of Canada, their respective territories and protectorates and any other territory coming within the jurisdiction of the courts of the United States of America or Canada;
- 6.19.2 Claims and actions to which the laws of the United States of America or Canada and their respective territories and protectorates apply.
- 6.20 Fines, penalties, punitive damages, exemplary damages, liquidated damages, multiplication of compensatory damages and/or aggravated damages.
- 6.21 Any alleged or actual fraudulent, dishonest, malicious, wilful or criminal act or omission of the Insured.
- 6.22 The utterance of libel and/ or slander or the publication of any libellous, slanderous or defamatory material:
  - 6.22.1 Made prior to the commencement of the Period of Insurance; or
  - 6.22.2 Made at the Insured's direction or with the Insured's authority or with knowledge of its falsity; or
  - 6.22.3 Related to advertising, broadcasting, telecasting or publishing activities conducted by or on behalf of the Insured.

- 6.23 Damage to underground services (such as but not limited to water, gas, sewage, fuel and electricity) or any underground property or structure for the purpose of storing, conveying, transporting, transmitting or delivering electricity, water, gas, fuel, telecommunications media, signals, radio and other waves, unless prior to the commencement of any work, the Insured has inquired with the relevant authorities or owners of such services, property or structures as to the exact location of such services, property or structures and takes all precautions to avoid such services, property or structures.
- 6.24 The cost of performing, completing, restoring, repairing, replacing, rectifying or improving any part or parts of the Contract Works.
- 6.25 The use of any electric, oxy-acetylene or similar welding or cutting equipment and allied processes by or on behalf of the Insured unless such welding or cutting was done in full compliance with Australian Standard 1674 "Safety in Welding and Allied Processes."
- 6.26 And regardless of any other cause or event contributing concurrently or in any other sequence to the loss:
- 6.26.1 War and military action which includes without limitation the following:
- 6.26.1.1 War, including undeclared or civil war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), military or usurped power or confiscation, nationalisation, requisition, destruction of or Damage to property by or under the order of any government or public or local authority;
- 6.26.1.2 Warlike action by military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents;
- 6.26.1.3 Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
- 6.26.2 Any actual or threatened act of domestic or international Terrorism committed by a person or persons acting:
- 6.26.2.1 Alone or on behalf of or in connection with any organisation; or
- 6.26.2.2 With the goal of furthering any political, social, religious, ideological or similar objective.

6.26.3 Action taken to prevent or defend against an act of Terrorism.

If an act of Terrorism involves chemical or biological weapons, this Terrorism exclusion will still apply.

If an act of Terrorism involves nuclear reaction, nuclear radiation, or radioactive contamination, this Terrorism exclusion will apply to liabilities that result from such nuclear reaction or radiation or radioactive contamination in place of Exclusion 6.15.

## 7. General Conditions

- 7.1 The Insured shall give written notice to LIU as soon as possible after any Occurrence that may give rise to a claim under this Policy and shall give all such additional information as LIU may require. Every letter, claim, writ, summons or process shall be forwarded to LIU immediately it is received.
- 7.2 No admission, offer, promise, or payment shall be made or given by or on behalf of the Insured without the prior written consent of LIU who shall be entitled to take over the conduct in the name of the Insured of the defence or settlement of any claim or to prosecute in the name of the Insured for their own benefit any claim for indemnity or Damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Insured shall give all such information and assistance as LIU shall require.
- 7.3 This Policy, the Schedule and any endorsements attached to this Policy shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy, the Schedule and endorsements shall bear such specific meaning wherever it may appear.
- 7.4 The amount shown within the Schedule as a Deductible is the first amount for all claims arising out of any one Occurrence which is to be borne by the Insured.
- 7.5 LIU may at any time discharge its total liability to the Insured in respect of any one claim or series of claims arising from one Occurrence by paying to or on behalf of the Insured:
  - 7.5.1 The total amount in respect of the said claim or claims to which the Insured is entitled to indemnity under this Policy, or
  - 7.5.2 The total amount sought by the claimant(s) in the said claim or claims, or
  - 7.5.3 The total amount for which the said claim or claims can be settled, and in addition to such payment, LIU will pay Defence Costs incurred up to the date of the said payment as provided for by Clause 5 of this Policy.

Upon such payment, LIU shall relinquish conduct or control of such claims and be under no further liability under this Policy in connection with such claim or claims.

7.6 This Policy shall be interpreted in accordance with the laws of Australia and any disputes to be resolved by a court are to be resolved in a court of Australian jurisdiction.

7.7 The Insured must:

7.7.1 Exercise reasonable care that only competent Workers and/or employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition;

7.7.2 Take all reasonable precautions to:

7.7.2.1 Prevent Injury and Damage;

7.7.2.2 Prevent the manufacture, sale or supply of defective Products;

7.7.2.3 Comply, and ensure that its Workers, servants and agents comply with all statutory obligations, by-laws or regulations imposed by any public authority for the safety of persons or property;

The amount of any benefit under this Policy for any liability arising from Injury and/or Damage caused or contributed to by the lack of such precautions, measures and compliances shall be reduced by the amount that fairly represents the extent to which LIU's interests have been prejudiced thereby.

7.8 The premium is provisionally based on the Insured's estimates. The Insured shall keep accurate records and within 30 days after expiry of the Period of Insurance declare such details as LIU requires and the premium shall be adjusted and any difference paid by or allowed to the Insured as the case may be subject to any minimum premium that may apply. Where any contract extends 12 months beyond the expiry date of the Period of Insurance a second declaration will occur and adjustment as above.

7.9 The Insured may cancel this Policy at any time by giving notice in writing to LIU.

7.10 LIU may cancel this Policy at any time where:

7.10.1 It is entitled to do so pursuant to the *Insurance Contracts Act 1984* or any amendments thereto.

7.10.2 The Insured has failed to notify LIU of any specific act or omission where such notification is required under the terms or conditions of this Policy.

7.10.3 The Insured has acted in contravention of or omitted to act in compliance with any term of this Policy which empowers LIU to refuse to pay a claim in the event of such contravention or omission.

Any notice of cancellation given by LIU shall take effect either at the time when another contract of insurance between the Insured and LIU or some other insurer (being a contract that is intended by the Insured to replace this Policy) is entered into or at 4pm on the third business day after the date on which notice was given to the Insured by LIU (whichever is the earlier).

- 7.11 Where the Insured comprises more than one person or company, it is agreed that the named Insured referred to in the Schedule shall be the agent of each of the other Insured persons or companies or others indemnified by Clause 3 for the purposes of receiving any notice of cancellation pursuant to this Clause, or any other notice, statement, document or information relating to this insurance Policy. Where the Insured has an insurance broker, nothing in this paragraph shall restrict LIU's right to notify the broker as agent of the Insured.
- 7.12 Where this Policy provides any indemnity to the Insured which is prohibited by law, this Policy shall be varied by operation of this Clause so that this Policy does not respond to the extent that the indemnity is prohibited by law.

Signed on behalf of Liberty International Underwriters on the date stated in the Schedule.



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N. MacCarthy  
Senior Vice President, Casualty – Asia Pacific



construction insurance on-line

[www.iconconstruct.com.au](http://www.iconconstruct.com.au)

**INSURERS:**



**ACE Insurance Limited**  
(ABN 23 001 642 020)



**Liberty International Underwriters**  
(ABN 61 086 083 605)



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