

# Mobile Plant & Equipment Package Insurance

Policy Wording

CHUBB®

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# Mobile Plant & Equipment Package Insurance

## Policy Wording

### Duty of Disclosure

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#### *Your Duty of Disclosure*

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

You have this duty until we agree to insure you.

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

#### *What you do not need to tell us*

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an insurer; or
- we waive your duty to tell us about.

#### *If you do not tell us something*

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

### General Insurance Code of Practice

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We are a signatory to the General Insurance Code of Practice (**Code**). The objectives of the Code are to further raise standards of service and promote consumer confidence in the general insurance industry. Further information about the Code and Your rights under it is available at [codeofpractice.com.au](https://codeofpractice.com.au) and on request. As a signatory to the Code, We are bound to comply with its terms. As part of Our obligations under Parts 9 and 10 of the Code, Chubb has a [Customers Experiencing Vulnerability & Family Violence Policy](#) (Part 9) and a [Financial Hardship Policy](#) (Part 10). The Code is monitored and enforced by the Code Governance Committee.

## Privacy Statement

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In this Statement “We”, “Our” and “Us” means Chubb Insurance Australia Limited (**Chubb**).

“You” and “Your” refers to Our customers and prospective customers as well as those who use Our Website.

This Statement is a summary of Our Privacy Policy and provides an overview of how We collect, disclose and handle Your Personal Information. Our Privacy Policy may change from time to time and where this occurs, the updated Privacy Policy will be posted to [Our website](#).

Chubb is committed to protecting Your privacy. Chubb collects, uses and retains Your Personal Information in accordance with the requirement of the *Privacy Act 1988* (Cth) and the Australian Privacy Principles (**APPs**), as amended or replaced from time-to-time.

### Why We collect Your Personal Information

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The primary purpose for Our collection and use of Your Personal Information is to enable Us to provide insurance services to You.

Sometimes, We may use Your Personal Information for Our marketing campaigns and research, in relation to new products, services or information that may be of interest to You.

### How We obtain Your Personal Information

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We collect Your Personal Information (which may include sensitive information) at various points including, but not limited to, when You are applying for, changing or renewing an insurance policy with Us or when We are processing a claim. Personal Information is usually obtained directly from You, but sometimes via a third party such as an insurance intermediary or Your employer (e.g. in the case of a group insurance policy). Please refer to Our Privacy Policy for further details.

When information is provided to Us via a third party We use that information on the basis that You have consented or would reasonably expect Us to collect Your Personal Information in this way. We take reasonable steps to ensure that You have been made aware of how We handle Your Personal Information.

### When do We disclose Your Personal Information?

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We may disclose the information We collect to third parties, including:

- the policyholder (where the insured person is not the policyholder, i.e., group policies);
- service providers engaged by Us to carry out certain business activities on Our behalf (such as claims assessors, call centres in Australia, online marketing agency, etc);
- intermediaries and service providers engaged by You (such as current or previous brokers, travel agencies and airlines);
- government agencies (where We are required to by law);
- other entities within the Chubb group of companies such as the regional head offices of Chubb located in Singapore, UK or USA (Chubb Group of Companies); and
- third parties with whom We (or the Chubb Group of Companies) have sub-contracted to provide a specific service for Us, which may be located outside of Australia (such as in the Philippines or USA). These entities and their locations may change from time-to-time. Please contact Us, if You would like a full list of the countries in which these third parties are located.

In the circumstances where We disclose Personal Information to the Chubb Group of Companies, third parties or third parties outside Australia We take steps to protect Personal Information against unauthorised disclosure, misuse or loss.

## Your decision to provide Your Personal Information

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In dealing with Us, You agree to Us using and disclosing Your Personal Information, which will be stored, used and disclosed by Us as set out in this Privacy Statement and Our Privacy Policy.

## Access to and correction of Your Personal Information

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Please contact Our customer relations team on 1800 815 675 or email [CustomerService.AUNZ@chubb.com](mailto:CustomerService.AUNZ@chubb.com) if You would like:

- a copy of Our Privacy Policy, or
- to cease to receive marketing offers from Us or persons with whom We have an association.

To request access to, update or correct Your Personal Information held by Chubb, please complete this [Personal Information request form](#) and return to:

Email: [CustomerService.AUNZ@chubb.com](mailto:CustomerService.AUNZ@chubb.com)  
Fax: + 61 2 9335 3467  
Address: GPO Box 4907 Sydney NSW 2001

## How to Make a Complaint

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If You have a complaint or would like more information about how We manage Your Personal Information, please review Our [Privacy Policy](#) for more details, or contact:

Privacy Officer  
Chubb Insurance Australia Limited  
GPO Box 4907 Sydney NSW 2001  
+61 2 9335 3200  
[Privacy.AU@chubb.com](mailto:Privacy.AU@chubb.com).

## Complaints and Dispute Resolution Process

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We understand that You could be dissatisfied with Our organisation, Our products and services, or the complaints handling process itself. We take all Our customer's concerns seriously and have detailed below the complaints process that You can access.

### Complaints and Customer Resolution Service

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#### *Contact Details*

If You are dissatisfied with any aspect of Your relationship with Chubb including Our products or services and wish to make a complaint, please contact Our Complaints and Customer Resolution Service (**CCR Service**) by post, phone, fax, or email, (as below):

Complaints and Customer Resolution Service  
Chubb Insurance Australia Limited  
GPO Box 4065  
Sydney NSW 2001  
P +61 2 9335 3200  
F +61 2 9335 3411  
E [complaints.AU@chubb.com](mailto:complaints.AU@chubb.com)

Our CCR Service is committed to reviewing complaints objectively, fairly and efficiently.

#### *Process*

Please provide Us with Your claim or policy number (if applicable) and as much information as You can about the reason for Your complaint.

### *Our response*

We will acknowledge receipt of Your complaint within one (1) business day of receiving it from You.

We will investigate Your complaint and keep You informed of the progress of Our investigation at least every ten (10) business days and will make a decision in relation to Your complaint in writing within thirty (30) calendar days. If We are unable to make this decision within this timeframe, We will provide You with a reason for the delay and advise of Your right to take Your complaint to the Australian Financial Complaints Authority (**AFCA**) as detailed below, subject to its Rules. If Your complaint falls outside the AFCA Rules, You can seek independent legal advice or access any other external dispute resolution options that may be available to You.

To the extent allowable at law, if You request copies of the information We relied on to make a decision about Your complaint, We must provide it within ten (10) business days of Your request. Please see the General Insurance Code of Practice 2020 ([codeofpractice.com.au](http://codeofpractice.com.au)) or contact Us for further details.

Please note that if We have resolved Your complaint to Your satisfaction by the end of the fifth (5th) business day after We have received it, and You have not requested that We provide You a response in writing, We are not required to provide a written response. However, this exemption does not apply to complaints regarding a declined claim, the value of a claim, or about financial hardship.

### External Dispute Resolution

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If You are dissatisfied with Our complaint determination, or We are unable to resolve Your complaint to Your satisfaction within thirty (30) days, You may refer Your complaint to AFCA, subject to its Rules.

AFCA is an independent external dispute resolution scheme approved by the Australian Securities and Investments Commission (**ASIC**). We are a member of this scheme and We agree to be bound by its determinations about a dispute. AFCA provides fair and independent financial services complaint resolution that is free to consumers.

You may contact AFCA at any time at:

Australian Financial Complaints Authority  
GPO Box 3  
Melbourne VIC 3001  
P 1800 931 678 (free call)  
F +61 3 9613 6399  
E [info@afca.org.au](mailto:info@afca.org.au)  
W [www.afca.org.au](http://www.afca.org.au)

Time limits may apply to complain to AFCA and so You should act promptly or otherwise consult the AFCA website to find out if or when the time limit relevant to Your circumstances expires.

## Financial Claims Scheme

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We are an insurance company authorised under the *Insurance Act 1973* (Cth) (**Insurance Act**) to carry on general insurance business in Australia by the Australian Prudential Regulation Authority (**APRA**) and are subject to the prudential requirements of the Insurance Act.

The Insurance Act is designed to ensure that, under all reasonable circumstances, financial promises made by Us are met within a stable, efficient and competitive financial system.

Because of this We are exempted from the requirement to meet the compensation arrangements Australian financial services licensees must have in place to compensate retail clients for loss or damage suffered because of breaches by the licensee or its representatives of Chapter 7 of the *Corporations Act 2001* (Cth). We have compensation arrangements in place that are in accordance with the Insurance Act.

In the unlikely event that We were to become insolvent and were unable to meet Our obligations under the Policy, a person entitled to claim may be entitled to payment under the Financial Claims Scheme. Access to the Scheme is subject to eligibility criteria. Please refer to [www.fcs.gov.au](http://www.fcs.gov.au) for more information.

The **Policy** is issued by Chubb Insurance Australia Limited ABN 23 001 642 020 AFSL 239687. Our website can be visited at [www.chubb.com/au](http://www.chubb.com/au).

This **Policy** wording is underwritten by Chubb Insurance Australia Limited ABN 23 001 642 020 AFSL 239687 of Grosvenor Place, Level 38, 225 George Street, Sydney NSW 2000.

In consideration of the **Insured's** payment of the **Premium** to the **Insurer**, the **Insurer** agrees to indemnify the **Insured** in accordance with the terms and conditions of the **Policy**.

## Definitions and Interpretation

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For the purpose of this **Policy**, the following Definitions and Interpretations apply to all Sections of this **Policy**:

1. **Act of Terrorism** means an act, including but not limited to the use of force or violence and/or the threat of force or violence, of any person or group or persons, whether acting alone or on behalf of or in connection with any organisation or government, which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic 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.
2. **Additional Excess(es)** means an **Excess** on top of another **Excess** and includes the **Tipping Excess** and the **Age and Inexperienced Drivers' Excess**.
3. **Advertising Injury** means:
  - 3.1 libel, slander or defamation;
  - 3.2 infringement of copyright or of title or of slogan;
  - 3.3 piracy if unfair competition or idea misappropriation under an implied contract;
  - 3.4 invasion of privacycommitted or alleged to have been committed in any advertisement, publicity article, broadcast or telecast and arising out of the **Insured's** advertising activities or any advertising activities conducted on behalf of the **Insured** in the course of advertising the **Products**, goods or services.
4. **Age and Inexperienced Drivers' Excess** means an **Additional Excess** shown in the **Schedule** which applies when a **Machine** is on a public road and is operated or used by a person(s) under 25 years of age or with less than 2 years' experience with an appropriate class of licence at the time of **Damage**.
5. **Agreed Value** means the agreed value of a **Machine** specified in the **Schedule**.
6. **Aircraft** means any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.
7. **Asbestos** means asbestos in any form, including its presence or use in any alloy, by-product, compound or other material or **Waste**.
8. **Bodily Injury** means physical injury, sickness, or disease sustained by a person, including death, mental anguish, mental injury and mental shock resulting from such injury, sickness or disease.
9. **Business** means the activities of the **Insured** specified in the **Schedule**.
10. **Damage** (with **Damaged** having a corresponding meaning) means:



- 10.1 sudden and unexpected physical loss, damage or destruction (including as a consequence of damage the inability to recover or retrieve); or
- 10.2 loss by theft.
11. **Dangerous or Hazardous Goods** means things identified as “Dangerous or Hazardous Goods” or their equivalent in the Australian Dangerous Goods Code. This does not include things identified as “goods too dangerous to be transported” in the Australian Dangerous Goods Code.
12. **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.
13. **Employee** means a natural person who is employed by the **Insured** under a contract of service or apprenticed to the **Insured**.
14. **Employment Practices** means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, sexual harassment or discrimination in respect of employment of the **Insured**.
15. **Excess** means the amount specified in the **Schedule** applicable to a specific section of this **Policy** which the **Insured** must first contribute to a claim.
- Should more than one **Excess** apply under this **Policy** for any claim or series of claims arising from one original cause, such **Excesses** shall not be aggregated and the highest single level of **Excess** only shall apply, except in relation to **Additional Excesses** or any time **Excess**.
16. **Flood** means the covering of normally dry land by water that has escaped or being released from the normal confines of any lake; river; creek; other natural watercourse (whether or not it has been altered or modified) or reservoir; canal or dam.
17. **Geographical Limits** means Australia only in respect of Sections 1 – 4 of this **Policy** and Worldwide except the United States of America and Canada in respect of Section 5 of this **Policy**.
18. **Hired in Machines** means mobile machinery and equipment of a nature and type similar to that listed in the **Schedule** for which the **Insured** is legally liable to insure, but does not include:
- 18.1 Road vehicles that are a prime mover, road registered trucks, trailers, sedan, station wagon, panel van, utility, 4 X 4, buses and light commercial vehicles or equipment;
- 18.2 survey equipment unless attached to an eligible **Hired in Machine**;
- 18.3 equipment which is static in nature;
- 18.4 motorbikes, Quad Bikes or similar off road recreational vehicles; and
- 18.5 cranes with a lifting capacity in excess of twenty five (25) tonnes.
19. **Hook Liability** means liability for **Property Damage** to property or goods not owned by the **Insured** and not otherwise **Insured** under Section 1 (Damage to Machines) Subsection 3.1.3 (Damage to Lifted Goods) of this **Policy**, whilst such property or goods are being carried or suspended by a **Machine** designed to lift such property or goods, and provided such property or goods have been prepared for such carriage in accordance with safe working practice.
20. **Injury** means the following to any natural person:
- 20.1 injury, death, illness, disease, disability, shock, fright, mental anguish and mental injury including loss of consortium or services;

- 20.2 libel, slander or defamation, except where:
- 20.2.1 the first publication or utterance happened prior to the commencement of this **Policy**;
  - 20.2.2 the **Injury** arises out of **Advertising Injury**;
- 20.3 assault and battery provided that it is committed for the purpose of preventing **Injury** or **Property Damage** or eliminating or preventing danger to persons or property; and
- 20.4 discrimination as a result of race, religion, sex, marital status, age, intellectual impairment, disability or otherwise (unless insurance of the discrimination is prohibited by law) not committed by or at the intentional direction of the **Insured**, but only in respect to liability other than for fines and penalties imposed by law.
21. **Insured** (with the **Insured**, **You** or **Your** having the same meaning), means:
- 21.1 the **Named Insured**;
  - 21.2 all subsidiary companies and other entities under the control of the **Named Insured** and over which it is exercising active management;
  - 21.3 all persons, companies and other entities that have a financial or insurable interest in a **Machine**.
22. **Insurer** (with **We**, **Us** and **Our** having the same meaning) means Chubb Insurance Australia Limited ABN: 23 001 642 020 AFSL: 239687.
23. **Legal Costs** means the reasonable costs, charges, fees (including legal and expert fees) incurred in defending, investigating and monitoring a claim against the **Insured**.
24. **Machine(s)** means:
- 24.1 a machine specified in the **Schedule** and any attachments to that **Machine** and the value for which is included within the **Sum Insured** for that **Machine**;
  - 24.2 a machine covered by Section 1, Subsection 4.1 (Hired In Machines).
25. **Machinery Breakdown** means the breaking, seizing, deformation or burning out of any part of a **Machine** whilst in use arising from either mechanical or electrical or electronic defects in the **Machine** causing sudden stoppage of the **Machine's** functions and necessitating repair or replacement before it can resume working.
26. **Market Value** means the current cost to buy a **Machine** of the same age, condition, model and make.
27. **Mixed Dust** means any combination or mixture of **Asbestos** or **Silica** and any other dust, fibres or particles, in any form, including any presence or use in any alloy, by-product, compound or other material or **Waste**.
28. **Named Insured** means the first named **Insured** and other **Insureds** stated in the **Schedule**.
29. **Occurrence** means an event, including continuous or repeated exposure to substantially the same general conditions which results in **Injury**, **Property Damage** or **Advertising Injury** where such **Injury**, **Property Damage** or **Advertising Injury** is not intended from the standpoint of the **Insured**.
30. **Period of Insurance** is the period specified in the **Schedule** and any further extension of the period that has been agreed by the **Insurer**.
31. **Policy** means this document, the **Schedule** and any endorsement to this **Policy**, all of which are to be read together.

32. **Pollution** means the discharge, dispersal, seepage, release or escape of smoke, vapours, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or **Pollutants** into or upon land, the atmosphere or water.
33. **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and **Waste**.
34. **Premium** means the amount the **Insurer** requires the **Insured** to pay for the insurance it selects under this **Policy**, including any additional requests for **Premium**.
35. **Product** means anything which was, or is deemed by law to have been, manufactured, grown, extracted, treated, produced, processed, sold, supplied, distributed, repaired, serviced, installed, assembled, erected or constructed in the course of the **Business** by the **Insured**, including labels, packaging or containers (other than a **Machine**), and directions or instructions, given or omitted to be given in connection with such **Product**, after ceasing to be in the possession or under the control of the **Insured**.
36. **Product Defect** means a defect in or harmful quality of a **Product** caused by an error or omission unintended by and not known to the **Insured**, including an error in or omission of advice concerning the use or storage of a **Product**.
37. **Property Damage** means physical damage to or destruction of tangible property including resultant loss.
38. **Replacement Value** means the full cost to replace the **Machine** with an equivalent new **Machine**, including customs duties incurred.
39. **Schedule** means the schedule attached to this **Policy**.
40. **Silica** means silica in any form (including silicates or other similar silicon compounds), including its presence or use in any alloy, by-product, compound or other material or **Waste**.
41. **Substitute Machine** means a **Machine** being used by an **Insured** as a temporary replacement for a **Machine** undergoing repair, maintenance or servicing that is of equivalent size, function and **Market Value** of the **Machine** being replaced.
- This cover for any **Substitute Machine** will cease when the **Machine** being repaired, maintained or serviced is returned to the **Insured**.
42. **Sum Insured** means the sum specified in the **Schedule** applicable to a specific section of this **Policy**.
43. **Tipping Excess** means an **Additional Excess** shown in the **Schedule** which applies when a **Machine** is a rigid body tipper or tipping trailer whose tipping hoist is partially or fully extended at the time of **Damage**.
44. **Total Loss** means the **Machine** has been **Damaged** and the repair estimate plus salvage value exceeds the applicable Basis of Settlement at Section 1, Subsection 2.
45. **Waste** includes material to be recycled, reconditioned or reclaimed.
46. **Watercraft** means any vessel, craft or thing made or intended to float on or travel on or through water.
47. **Windscreen** means the sheet of flat or curved glass that forms a front, side, back or top window of a **Machine**.
48. **Working Tool** means the performance by a **Machine**, in the course of work operations, of a function that it is designed to perform including setting up or disassembly in connection with performing such a function but not including travel within or outside any site at which the **Insured** is carrying out work in connection with the **Business**.

## Interpretation

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49. **Headings:** Clause and other headings are for ease of reference only and shall not be deemed to form any part of the context or to affect the interpretation of this **Policy**.
50. **Parties:** references to parties are reference to parties to this **Policy**.
51. **Persons:** references to persons shall be deemed to include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, States or agencies of State Government departments and local and municipal authorities.
52. **Plural and Singular:** words importing the singular shall include the plural and vice versa.

## Section 1 – Damage to Machines

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Where this cover is identified in the **Schedule** as having been selected by the **Insured** and the **Premium** has been paid or agreed to be paid, the **Insurer** will provide the following cover.

### 1. Scope of Cover

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The **Insurer** will indemnify the **Insured** against **Damage** to any **Machine** that occurs anywhere within the **Geographical Limits** during the **Period of Insurance** in accordance with the Basis of Settlement set out in Section 1, Subsection 2 and shall provide the Additional Covers referred to in Section 1, Subsection 3 subject to:

- 1.1 the General Exclusions Applying to All Sections set out in page 25, 26 & 27;
- 1.2 the Exclusions Applying to Sections 1, 2, 3 and 4 Only set out in pages 27, 28, 29 & 30;
- 1.3 the Conditions Applicable to All Sections set out in pages 32, 33, 34 & 35; and
- 1.4 compliance with Trade Laws and other Sanctions set out at page 35.

### 2. Basis of Settlement

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For **Machines** designated as **Agreed Value** in the **Schedule**:

- 2.1 the **Insurer** will in the event of **Damage** causing a **Total Loss** pay to the **Insured** that **Agreed Value** less the **Excess**.

For **Machines** less than sixty (60) months old from the date of manufacture to the time of **Damage**:

- 2.2 the **Insurer** will pay to the **Insured** after deducting the **Excess** the lesser of:
  - 2.2.1 the cost of repairing the **Machine** equal to its condition immediately prior to the **Damage** including any costs of dismantling, transporting, commissioning, erecting and reinstalling the **Machine**;
  - 2.2.2 the **Replacement Value** of the **Machine** immediately prior to the **Damage** occurring; or
  - 2.2.3 the **Sum Insured** applicable to Section 1 (Damage to Machines).

For all other **Machines** more than (60) months old from the date of manufacture to the time of **Damage**:

- 2.3 the **Insurer** will (subject to Section 1, Subsection 2.1) pay to the **Insured** after deducting the **Excess** the lesser of:

- 2.3.1 the cost of repairing the **Machine** equal to its condition immediately prior to the **Damage** including any costs of dismantling, transporting, commissioning, erecting and reinstalling the **Machine**;
  - 2.3.2 the **Market Value** of the **Machine** immediately prior to the **Damage** occurring; or
  - 2.3.3 the **Sum Insured** applicable to Section 1 (Damage to Machines).
- 2.4 in the event of **Total Loss** the **Insurer** will (subject to Section 1, Subsection 2.1) pay to the **Insured** after deducting the **Excess**:
- 2.4.1 the **Sum Insured** applicable to Section 1 (Damage to Machines) if the **Market Value** of the **Machine** immediately prior to the **Damage** occurring is not less than eighty five percent (85%) of the **Sum Insured**; or
  - 2.4.2 the **Market Value** of the **Machine** immediately prior to the **Damage** occurring plus fifteen percent (15%) if the **Market Value** of the **Machine** immediately prior to the **Damage** occurring is less than eighty five percent (85%) of the **Sum Insured**.

### 3. Additional Cover

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- 3.1 in addition to payment under Section 1, Subsection 2 (Basis of Settlement) the **Insurer** will also cover:

#### 3.1.1 Accessories, Tools and Spare Parts

Where a **Machine** is **Damaged** the **Insurer** will pay for the cost of replacing any lost or **Damaged** accessories, tools or spare parts that were attached to or within the **Machine** at the time of **Damage** and not otherwise specified in the **Schedule**, provided that such indemnity is limited to the sum specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

#### 3.1.2 Appreciation in Value for Machines

Where a **Machine** is more than sixty (60) months old at the time of **Damage**, increase the **Sum Insured** applicable to Section 1 (Damage to Machines) by the amount (if any) that the **Market Value** of the **Machine** has appreciated during the **Period of Insurance** up to a maximum of twenty five percent (25%) of that **Sum Insured** subject to such **Sum Insured** being equal to or greater than the **Machine's Market Value** at the date:

- 3.1.2.1 of commencement of the **Period of Insurance**; or
- 3.1.2.2 when the **Machine** was first endorsed on this **Policy**.

#### 3.1.3 Damage to Lifted Goods

The **Insurer** will cover the **Insured** in respect of **Damage** to goods that are both:

- 3.1.3.1 in the possession and control of the **Insured**; and
- 3.1.3.2 suspended from a **Machine** designed to lift those goods.

Provided that the Limit of Indemnity in respect of such **Damaged** goods does not exceed the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

- 3.1.3.3 however, the **Insurer** will not indemnify the **Insured** under this Additional Cover against:
  - 3.1.3.3.1 **Damage** to such goods caused directly or indirectly by or arising from a defect in or the fragility of the goods or their container; or
  - 3.1.3.3.2 any other legal liability.

#### 3.1.4 Deemed Total Loss

When a **Machine** or any part of it is reasonably abandoned because:

- 3.1.4.1 its actual **Total Loss** seems unavoidable; or

3.1.4.2 it could not be preserved from actual **Total Loss** without an expenditure which would exceed its repaired and/or recovered value,

the **Insurer** may deem such **Damage** to be a **Total Loss** for the purposes of the Basis of Settlement in Section 1, Subsection 2.

For this Subsection 3.1.4, the **Insurer** will also reimburse the **Insured** for all expenditure reasonably incurred by the **Insured** in attempting to preserve a **Machine**, or any part of the **Machine**, from actual **Total Loss** or **Damage**.

### 3.1.5 **Employees' Personal Property**

The **Insurer** will indemnify the **Insured** in respect of any personal property of an **Employee** that is **Damaged** following **Damage** to a **Machine** which is covered under Section 1 (Damage to Machines). Such indemnity is limited to the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

### 3.1.6 **Expediting Costs**

Where a **Machine** is **Damaged** the **Insurer** will pay the necessary and reasonable cost of making temporary repairs to, and expediting the repair, reinstatement or replacement of the **Damaged Machine** including but not limited to the additional costs for overtime, shift-work, night-work, work on weekend or public holidays, express freight by road, train or air. Such indemnity is limited to the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

### 3.1.7 **Substitute Machines**

Where a **Machine** specified in the **Schedule** is being serviced, repaired or is not operable, the **Insurer** will provide cover according to the terms of this Section 1 (Damage to Machines) for any **Machine** being temporarily used by the **Insured** as a **Substitute Machine**. Any cover for the **Substitute Machine** will cease when the **Substitute Machine** is returned to the owner.

The indemnity under this Additional Cover is limited to the **Sum Insured** of the **Machine** being substituted

### 3.1.8 **Hired in Machines**

The **Insurer** will provide cover according to the terms of this Section 1 (Damage to Machines) for **Hired in Machines** not listed in the **Schedule**. Such indemnity is limited to the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

### 3.1.9 **Hired Out Machines (Dry Hire)**

The **Insurer** will provide cover according to the terms of this Section 1 (Damage to Machines) for **Machines** hired without an **Employee** as an operator provided that the agreement between the **Insured** and the hirer provides that the **Insured** shall:

3.1.9.1 arrange for the hirer to be insured against **Damage**; or

3.1.9.2 release the hirer from liability for **Damage**.

The indemnity under this Additional Cover will be as set out in Subsection 2. Basis of Settlement.

### 3.1.10 **Protection, Recovery and Removal (Damage)**

Where a **Machine** is **Damaged**, the **Insurer** will pay the reasonable costs of protecting, securing, recovering and removing the **Machine** to a place of safety or the premises of the nearest repairer or a repairer to be agreed in writing by the **Insurer**. Once repaired, the **Insurer** agrees to the reasonable costs of the **Machine's** redelivery from such premises to its usual place of keeping. Provided that:

3.1.10.1 the indemnity under this Additional Cover will not exceed in respect of any one occurrence the sum specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover, which shall be in addition to the **Sum Insured**; and

3.1.10.2 the total indemnity in respect of the actual **Damage** to the **Machine** together with such protection, recovery or removal costs shall not exceed the total value of the **Machine** at the time of the **Damage**.

**3.1.11 Extra Costs of Reinstatement**

The **Insurer** will pay any reasonable additional costs incurred:

- 3.1.11.1 if the repair to a **Machine** would cause the **Machine** to be in a better condition than immediately prior to the **Damage** so that the **Machine** complies with any relevant legislation with which the **Machine** is required to comply to resume its ordinary use; or
- 3.1.11.2 where the repair requires a part or parts that are no longer available.

The indemnity under this Additional Cover will not exceed the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

**3.1.12 Recovery Costs (No Damage)**

The **Insurer** will pay the costs necessarily and reasonably incurred for the purpose of recovery and/or removal of any **Machine** in the event of such **Machine** becoming unintentionally immobilised whether or not **Damage** has occurred. Provided that:

- 3.1.12.1 no indemnity shall be provided in respect of the cost of rectifying **Machinery Breakdown** where such is the sole requirement necessary to effect the said recovery or withdrawal;
- 3.1.12.2 the indemnity under this Additional Cover shall not exceed in respect of any one occurrence the sum specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover, which shall be in addition to the **Sum Insured**; and
- 3.1.12.3 the total indemnity in respect of the actual **Damage** to the **Machine** together with such recovery protection, recovery or removal costs shall not exceed the total value of the **Machine** at the time of the **Damage**.

**3.1.13 Removal of Debris**

Where a **Machine** is **Damaged**, the **Insurer** will pay the reasonable costs of cleaning up and removing debris of the **Machine** from the site of **Damage**.

**3.1.14 Signwriting**

Where a **Machine** is **Damaged**, the **Insurer** will pay the reasonable costs of restoring any signwriting, advertising signs and artwork on, in or attaching to the **Machine**.

**3.1.15 Undamaged Ancillary and/or Peripheral Equipment**

Where a **Machine** is destroyed but its ancillary and/or peripheral equipment is not **Damaged** but is rendered superfluous, it is agreed that the **Insurer** may treat such ancillary and/or peripheral equipment as having been **Damaged** and its salvage value shall be payable to the **Insurer** by the **Insured** upon completion of its sale or shall be deducted from the final amount of any monies payable by the **Insurer** for any claim under this **Policy**, whichever shall occur later.

**3.1.16 Extended Warranties**

Valuation includes the pro-rated cost for the unused portion of non-refundable extended warranties, maintenance contracts or service contracts that the **Insured** purchased, which are no longer valid on **Damaged Machines** that the **Insured** repaired or replaced.

**3.1.17 Repatriation of Employees**

If a **Machine** suffers **Damage** the **Insurer** will pay for the reasonable costs of overnight accommodation and return of **Employees** to anywhere within Australia provided:

- 3.1.17.1 the **Machine** was not more than five hundred (500) kilometres from its usual address or departure point;
- 3.1.17.2 the **Machine** was being used in connection with the **Business**;
- 3.1.17.3 the costs involved do not relate to emergency medical transportation; and

3.1.17.4 the **Insured** had not intended to pay for overnight accommodation in any event.

The indemnity under this Additional Cover will not exceed the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

#### 3.1.18 **Locks and Keys**

The **Insurer** will pay the costs of replacing or recoding keys to a **Machine** that are lost, stolen or damaged, or there is a reasonable suspicion that the keys may have been illegally duplicated.

The indemnity under this Additional Cover will not exceed the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

#### 3.1.19 **Fire Brigade and Emergency Service Charges**

If a **Machine** suffers **Damage** the **Insurer** will pay any reasonable agreed costs associated with fire extinguishment charged by the relevant fire authority or any emergency services costs the **Insured** is liable to pay. The indemnity under this Additional Cover will not exceed the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

#### 3.1.20 **Funeral Expenses**

If a **Machine** suffers **Damage** and as a consequence an **Employee** sustains a fatal injury, the **Insurer** will pay for any associated reasonable funeral expenses and associated reasonable travel costs within Australia or New Zealand to attend the funeral for any members of the deceased's immediate family including grandparents and de facto partner.

The indemnity under this Additional Cover will not exceed the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Additional Cover.

#### 3.1.21 **Windscreen – Nil Excess for First Claim**

In the event of **Damage** occurring only to the **Windscreen** of a **Machine**, the **Insurer** shall pay to replace the **Windscreen** without deduction of the **Policy Excess**.

Cover under this additional cover is limited to one (1) **Excess** free **Windscreen** claim per **Machine** within the **Period of Insurance** and a total of five (5) **Excess** free **Windscreen** claims within the **Period of Insurance**.

#### 3.1.22 **Machines Under Finance – Gap Protection**

In the event that a **Machine** which is more than (60) months old from the date of manufacture to the time of **Damage** sustains indemnifiable **Damage** under Section 1 (Damage to Machines) of this **Policy**, and where the **Market Value** for the **Damaged Machine**, at the time of **Damage**, is less than the amount owed by the **Insured** under a valid hire purchase, leasing or other financial agreement, then the **Insurer** will insure for the difference between the **Market Value** at the time of the **Damage**, and the amount owed, less:

- a) any payments and interest of finance in arrears at the date of the **Damage**;
- b) any discount in respect of finance charges and interest for the unexpired term of such hire purchase or leasing agreement at a date not exceeding thirty (30) days after the date of **Damage**; and
- c) any payment which on the date of **Damage** has not been made solely because such payment under the terms and conditions of the particular hire purchase or leasing agreement has not actually become due.

Provided that:

3.1.22.1 the **Insured** is not more than thirty (30) calendar days in arrears with any payments at the date of **Damage**;

3.1.22.2 an **Excess** of ten (10%) percent of such difference shall apply;

3.1.22.3 that the Limit of Indemnity under this endorsement does not exceed twenty percent (20%) of the **Market Value** at the time of **Damage**; and

3.1.22.4 any amounts paid under this section will only be paid to the **Insured**.



#### 4. Optional Endorsement to Cover

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The following Optional Endorsements to the standard cover will be deemed to be incorporated in this **Policy** only when specified in the **Schedule** by the appropriate number and title and upon payment of any **Premium**. Optional Endorsements vary the standard terms of your Policy. Optional Endorsements may expand, reduce, or impose additional conditions on your standard cover as set out in the standard Policy terms and should be read carefully.

##### 4.1 Hired in Machines

Cover provided by Section 1 (Damage to Machines) will include indemnity in respect of the **Insured's** legal liability under the terms of any applicable hiring agreement or otherwise to pay compensation for **Damage to Hired in Machines** whilst in the **Insured's** custody, care or control within the **Geographical Limits** and whilst in transit (other than by sea or air).

Such indemnity is limited to the amount specified in the **Schedule** as the Limit of Indemnity applicable to this Optional Endorsement Section 1, Subsection 4.1.

##### 4.2 Continuing Hire Charges

Cover provided by Section 1 (Damage to Machines) will include indemnity in respect of the **Insured's** legal liability to pay continuing hire charges for which it is liable under the terms of any applicable hiring agreement and as a result of **Damage** but does not include liability for demurrage and any other consequential loss of the hirer including loss of profit, loss of use or loss due to delay.

Such indemnity is limited in respect of each **Damaged Machine** to the lesser of:

- 4.2.1 the amount specified as the Limit of Indemnity 'Hiring Charges' in the **Schedule** less the aggregate of all amounts already paid by the **Insurer** for hiring charges in respect of the **Machine** under this Optional Endorsement Section 1, Subsection 4.2; or
- 4.2.2 the amount of hiring charges for the **Machine** payable by the **Insured** under the hire contract for the period commencing on the day after the expiry of the **Excess** period listed in the **Schedule** for this Optional Endorsement and ending at the earlier of:
  - 4.2.2.1 the end of the 'Indemnity Period' applying to this Optional Endorsement Section 1, Subsection 4.2 specified in the **Schedule**; or
  - 4.2.2.2 the date on which the **Machine** is repaired or replaced.

##### 4.3 Finance Payment Protection

Where a **Machine** is **Damaged**, the **Insurer** will pay the **Insured** any payments under any lease, hire purchase agreement or other finance agreement in respect of the **Machine** provided that:

- 4.3.1 the payments will cease after twelve (12) months from the occurrence of **Damage** or the date on which the **Machine** is repaired or replaced or a cash settlement has been provided, whichever is the earlier;
- 4.3.2 the **Insured** will with due diligence do and concur in doing and permit to be done all things which may be reasonably necessary or practicable to minimise, mitigate or avoid or diminish loss;
- 4.3.3 no payment will be made unless the period for repair or replacement exceeds fourteen (14) consecutive days; and
- 4.3.4 no payment will be provided for any balloon or residual value payments which may be due during the repair or replacement period.

##### *Basis of Settlement:*

The amount payable under this Optional Endorsement Section 1, Subsection 4.3 is calculated as follows:

- 4.3.5 where the period for repair or replacement exceeds fourteen (14) days but does not exceed one (1) calendar month, one (1) full monthly payment or its equivalent;

4.3.6 where the repair or replacement period exceeds one (1) calendar month, payment for the period of repair or replacement calculated on a daily pro-rata basis;

4.3.7 the **Insurer** will not be liable for any more than the aggregate **Sum Insured** as specified in the **Schedule** during the **Period of Insurance**.

This Optional Endorsement Section 1, Subsection 4.3 only applies to **Machines** noted in the **Schedule** as being subject to this Optional Endorsement Section 1, Subsection 4.3.

#### Definitions Applicable To Sections 2 And 3 Only

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For the purposes of Section 2 (Increased Costs of Working) and Section 3 (Loss of Income) the following Definitions apply:

1. **Average Weekly Income** means the average **Weekly Income** derived from the **Machine** calculated having regard to the twelve (12) month period (or lesser period of possession or ownership) immediately preceding the occurrence of **Damage**.
2. **Income** means the gross income derived from the **Machine** in the course of the **Business** after deducting the normal and reasonable costs of operating the **Machine**.
3. **Increased Costs of Working** means the additional expenditure reasonably incurred for the purpose of avoiding or diminishing the reduction of **Income** resulting from **Damage** to a **Machine** including using or hiring substitutes or alternatives for the **Machine**.
4. **Indemnity Period** means the period beginning with the occurrence of **Damage** and ending at the earlier of the following:
  - 4.1 the date the **Machine** is fully repaired and returned to the **Insured**;
  - 4.2 the date the **Machine** is permanently replaced and provided to the **Insured**; or
  - 4.3 the date the **Indemnity Period** shown in the **Schedule** as applying to Sections 2 and 3 expires.
5. **Shortfall in Weekly Income** means the amount by which the **Weekly Income** falls short of the **Average Weekly Income** as a result of the **Damage**.
6. **Weekly Income** means the actual **Income** for each week the **Machine** is in operation.

#### Conditions Applicable To Sections 2 And 3 Only

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1. For the purposes of Section 2 (Increased Costs of Working) and Section 3 (Loss of Income) the **Insured** shall take all reasonable steps to minimise or reduce loss of **Income** as a consequence of **Damage** to a **Machine**, including using or hiring substitutes or alternatives for the **Machine**.

## Section 2 - Increased Costs of Working

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Where this cover is identified in the **Schedule** as having been selected by the **Insured** and the appropriate **Premium** is paid or agreed to be paid, the **Insurer** will provide the following cover.

### 1. Scope of Cover

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1.1 If the **Business** is interrupted or interfered with as a consequence of **Damage** to a **Machine** for which the **Insured** is entitled to indemnity under Section 1 of this **Policy**, the **Insurer** will indemnify the **Insured** during the **Indemnity Period** against the **Increased Costs of Working** resulting from such reduction or interference in accordance with the Basis of Settlement set out in Section 2, Subsection 2 subject to:

- 1.1.1 the General Exclusions Applying to All Sections set out in page 25, 26 & 27;
- 1.1.2 the Exclusions Applying to Sections 1, 2, 3 and 4 Only set out in pages 27, 28, 29 & 30;
- 1.1.3 the Conditions Applicable to All Sections set out in pages 32, 33, 34 & 35;
- 1.1.4 the Conditions Applicable to Sections 2 and 3 only as set out at page 18; and
- 1.1.5 compliance with Trade Laws and other Sanctions set out at page 35.

### 2. Basis of Settlement

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2.1 The **Insurer** will pay to the **Insured** after deducting the time **Excess**, the **Increased Costs of Working** during the **Indemnity Period** up to the **Sum Insured** in the aggregate per **Policy Period** applicable to Section 2 (Increased Costs of Working).

## Section 3 - Loss of Income

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Where this cover is identified in the **Schedule** as having been selected by the **Insured** and the appropriate **Premium** paid or agreed to be paid, the **Insurer** will provide the following cover.

### 1. Scope of Cover

---

1.1 If the **Business** is interrupted or interfered with as a consequence of **Damage** to a **Machine** to which the **Insured** is entitled to indemnity under Section 1 of this **Policy**, the **Insurer** will indemnify **Insured** during the **Indemnity Period** for the **Shortfall in Weekly Income** resulting from such reduction or interference in accordance with the Basis of Settlement set out in Section 3, Subsection 2 subject to:

- 1.1.1 the General Exclusions Applying to All Sections set out in pages 25, 26 & 27;
- 1.1.2 the Exclusions Applying to Sections 1, 2, 3 and 4 Only set out in pages 27, 28, 29 & 30;
- 1.1.3 the Conditions Applicable to All Sections set out in pages 32, 33, 34 & 35;
- 1.1.4 the Conditions Applicable to Sections 2 and 3 only as set out at page 18; and
- 1.1.5 compliance with Trade Laws and other Sanctions set out at page 35.

### 2. Basis of Settlement

---

The **Insurer** will pay to the **Insured** after deducting the time **Excess**, the **Shortfall in Weekly Income** during the **Indemnity Period** less any savings in the costs of working of the **Machine** that cease or are reduced as a result of the **Damage** up to the **Sum Insured** in the aggregate per **Policy Period** applicable to Section 3 (Loss of Income).

## Section 4 – Registered Machine Liability

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Where this cover is identified in the **Schedule** as having been selected by the **Insured** and the appropriate **Premium** is paid or agreed to be paid, the **Insurer** will provide the following cover:

### 1. Third Party Liability – Property Damage

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Subject to the Limit of Liability set out in Section 4, Subsection 4, the **Insurer** will indemnify the **Insured** against any legal liability (unless otherwise excluded) to pay compensation in respect of **Property Damage** caused by, through or in connection with the use in the **Business** of a **Machine** that is registered and happening within the **Geographical Limits** during the **Period of Insurance** as a result of an **Occurrence**.

### 2. Third Party Liability – Injury

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Subject to the Limit of Liability set out in Section 4, Subsection 4, the **Insurer** will indemnify the **Insured** against any legal liability (unless otherwise excluded) to pay compensation in respect of **Injury** caused by, through or in connection with the use in the **Business** of a **Machine** that is registered and happening within the **Geographical Limits** during the **Period of Insurance** as a result of an **Occurrence**.

### 3. Extensions to Section 4, Subsections 1 & 2

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#### 3.1 Legal Costs

The **Insurer** will pay all **Legal Costs** incurred with their prior written consent in the defence of any claim in respect of which the **Insured** is entitled to indemnity under Section 4, Subsections 1 or 2 of the **Policy**. Furthermore, the **Insurer** will pay reasonable legal expenses incurred with their prior written consent, such consent not to be unreasonably withheld for representation at any formal legal inquiry or at any coroner's inquest.

#### 3.2 Indemnity to Other Persons

The **Insurer** will extend the protection provided to an **Insured** under Section 4, Subsection 1 and 2 of the **Policy** to:

- 3.2.1 any person who was authorised by the **Insured** to drive, use or was in charge of a **Machine** that is required by law to be registered provided that person holds a valid driver's licence, and has neither been deemed ineligible for nor previously refused motor vehicle insurance of any description;
- 3.2.2 any passenger travelling in, entering into or alighting from a **Machine** that is required by law to be registered and authorized to carry passengers.

#### 3.3 The Insured's liability as a Principal

The **Insurer** will indemnify the **Insured** under Section 4, Subsections 1 and 2 in respect of any registered **Machine** not owned or supplied by the **Insured** which is in the charge of or being driven, used or operated by a person authorised to use the **Machine** on behalf of the **Insured** in connection with the **Business**.

#### 3.4 Towing

The **Insurer** will indemnify the **Insured** under Section 4, Subsection 1 and 2 of the **Policy** against legal liability arising from the towing of a trailer or other **Machine** or vehicle by a **Machine** provided that the number of trailers, **Machines** or vehicles and/or their load or loads does not exceed that which it was designed or permitted by law.

#### 3.5 Dangerous or Hazardous Goods

The **Insurer** will indemnify the **Insured** for legal liability arising from or in connection with **Dangerous or Hazardous Goods** up to the sub-limited amount specified in the **Schedule** less any amounts already paid by the **Insurer** under this Section 4 (Registered Machine Liability).

### 3.6 Substitute Machines

The **Insurer** will indemnify the **Insured** under Section 4, Subsections 1 and 2 of the **Policy** for legal liability arising from or in connection with the use in, through or in connection with the **Business** any **Substitute Machine** which is registered and happening within the **Geographical Limits** during the **Period of Insurance** as a result of an **Occurrence**.

### 3.7 Conditionally Registered Machines

The **Insurer** will indemnify the **Insured** under Section 4, Subsection 1 and 2 of the **Policy** for legal liability arising from or in connection with the use in, through or in connection with the **Business** any **Machine** or **Substitute Machine** that is conditionally registered and happening within the **Geographical Limits** during the **Period of Insurance** as a result of an **Occurrence**.

### 3.8 Registered Machines covered under Section 1, Subsection 4.1 – Hired in Machines (Blanket Cover)

The **Insurer** will indemnify the **Insured** under Section 4, Subsection 1 and 2 of the **Policy** for legal liability arising from or in connection with the use in, through or in connection with the **Business** any **Hired in Machine** covered either Additional Cover 3.1.8 Hired in Machines or under the Optional Endorsement in Section 1, Subsection 4.1 – Hired in Machines (Blanket Cover) that is registered and happening within the **Geographical Limits** during the **Period of Insurance** as a result of an **Occurrence**.

## 4. Limit of Liability

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### 4.1 Section 4, Subsections 1 and 2 Combined

The total liability of the **Insurer** under Section 4, Subsections 1 and 2 combined in respect of all claims arising out of any one **Occurrence** is limited to the **Sum Insured** applicable to Section 4 (Registered Machine Liability).

## 5. Exclusions

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The following Exclusions apply to Section 4 (Registered Machine Liability) only.

### 5.1 The **Insurer** will not indemnify the **Insured** or any other person claiming indemnity under this Section 4 (Registered Machine Liability) for or in respect of:

- 5.1.1 any liability which is covered by or within the scope of any statutory scheme operating anywhere in Australia governing the payment of damages, compensation or expenses (whether limited in amount or not) for **Injury**, or the compulsory insurance of any liability for such payment, caused by, through, or in connection with the use of a **Machine**;
- 5.1.2 any amount in excess of that recoverable under any statutory compulsory insurance or fund or accident compensation scheme;
- 5.1.3 any claim for which the **Insured** would have been partially or wholly compensated but for the **Insured's** failure to insure or to register the **Machine** or to lodge a claim in accordance with a requirement of any statutory compulsory insurance or fund, or accident compensation scheme;
- 5.1.4 any liability for damages, compensation or expenses for which the right to claim has been abolished or in any way limited by any law operating anywhere in Australia;
- 5.1.5 any liability arising from the use of a **Machine** in a race, speed trial or reliability trial;
- 5.1.6 any liability arising from carrying a larger number of passengers than is permitted by law or by the **Machine's** specifications;
- 5.1.7 any liability arising from carrying or towing a load heavier or larger than is permitted by law or by the **Machine's** specifications;

- 5.1.8 any liability arising from the use of a **Machine** for carrying, or otherwise in connection with, a substance identified as “Goods Too Dangerous to Transport” or their equivalent in the Australian Dangerous Goods Code;
- 5.1.9 any liability arising from the use of any **Machine** as a **Working Tool**; or
- 5.1.10 any liability arising from the loading or unloading of things on or from a **Machine**, except where such loading or unloading occurs on a carriageway or thoroughfare.

## Section 5 - General Liability

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Where this cover is identified in the **Schedule** as having been selected by the **Insured** and the appropriate **Premium** is paid or agreed to be paid, the **Insurer** will provide the following cover.

### 1. Definitions

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For the purposes of Section 5 (General Liability) the following Definitions apply:

- 1.1 the Definition of **Insured** in Definitions and Interpretation at page 10 is extended to also mean:
  - 1.1.1 any director, officer, **Employee**, partner or shareholder of the **Insured**, but only whilst acting within the scope of their duties in such capacity;
  - 1.1.2 any office bearer or member or voluntary helper of the **Insured’s** social and/or sporting clubs, canteen, security, first aid, fire and ambulance services, educational, welfare or child care facilities formed with the consent of the **Insured** in respect of claims arising from duties connected with activities of any such club or facility;
  - 1.1.3 any director or executive officer of the **Insured** in respect of private work undertaken by **Employees** for such persons;
  - 1.1.4 any **Employee** whilst undertaking private work for any director or senior executive of the **Insured**;
  - 1.1.5 any partner or member of any partnership or joint venture but only with respect to their liability as a partner or member of such partnership or joint venture where the **Insured** is identified or listed in the **Schedule** as a partnership or joint venture.
  - 1.1.6 the personal representatives of the **Insured** in respect of liability incurred by the **Insured** whilst acting on behalf of the **Insured**.
- 1.2 **Medical Persons** means legally qualified medical practitioners, legally qualified registered nurses, dentists and first aid attendants within the **Geographical Limits**.

### 2. Scope of Cover

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#### 2.1 Legal Liability

Subject to the Limits of Liability set out in Section 5, Subsection 3, the **Insurer** will indemnify the **Insured** against any legal liability (unless otherwise excluded) of the **Insured** to pay compensation in respect of:

- 2.1.1 **Injury**;
- 2.1.2 **Property Damage**; and
- 2.1.3 **Advertising Injury** happening within the **Geographical Limits** during the **Period of Insurance** as a result of an **Occurrence** in connection with the **Business**.

## 2.2 Legal Costs & Other Expenses

The **Insurer** will pay the following costs and expenses in addition to the Limits of Liability set out in Section 5, Subsection 3:

- 2.2.1 all **Legal Costs** incurred with the **Insurer's** prior written consent in the defence of any claim in respect of which the **Insured** is entitled to indemnity under Section 5, Subsection 2.1 of the **Policy**;
- 2.2.2 all **Legal Costs** incurred with the **Insurer's** prior written consent for representation at any formal legal inquiry or at any coroner's inquest held in connection with any claim in respect of which the **Insured** is entitled to indemnity under Section 5, Subsection 2.1 of the **Policy**;
- 2.2.3 all reasonable expenses incurred by the **Insured** for first aid rendered for **Injury** to others at the time of an **Occurrence**, except any medical expenses which the **Insurer** is prohibited by law from paying; and
- 2.2.4 all reasonable expenses incurred by the **Insured** for temporary repairs, shoring up or protection of property of others that has been **Damaged** as a result of an **Occurrence** which may be the subject of indemnity under this Section 5 (General Liability).

Even if the allegations of a claim are groundless, the **Insurer** will indemnify the **Insured** in respect of any claim against the **Insured** for compensation or damages to which indemnity under Section 5 (General Liability) applies (or would apply if the claim was sustained) and the **Insurer** may make such investigations and settlement of any claim as the **Insurer** deems expedient.

If a claim is made which exceeds the **Sum Insured** applicable to Section 5 (General Liability), the **Insurer's** liability to pay **Legal Costs** and other expenses under Section 5, Subsection 2.2 will be limited to that proportion of **Legal Costs** and other expenses as the **Sum Insured** bears to the amount paid to dispose of the claim.

## 3. Limits of Liability

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- 3.1 The limit of the **Insurer's** liability in respect of any one **Occurrence** shall not exceed the Limit of Liability applicable to Section 5 (General Liability) as stated in the **Schedule**.
- 3.2 The total aggregate liability of the **Insurer** during any one **Period of Insurance** for all claims arising out of the **Products** shall not exceed the Limit of Liability applicable to Section 5 (General Liability).
- 3.3 The total aggregate liability of the **Insurer** during any one **Period of Insurance** for all claims arising out of **Pollution** shall not exceed the Limit of Liability applicable to Section 5 (General Liability).
- 3.4 The total aggregate liability of the **Insurer** during any one **Period of Insurance** for all claims under this Section 5 (General Liability) arising from or in connection with:
  - 3.4.1 vibration; or
  - 3.4.2 removal or weakening of or interference with support for land or buildings;shall not exceed the sub limited amount shown in the **Schedule** for Vibration and Weakening of Support.
- 3.5 The total aggregate liability of the **Insurer** during any one **Period of Insurance** for all claims under this Section 5 (General Liability) arising out of **Hook Liability** shall not exceed the sub limited amount shown in the **Schedule** for **Hook Liability**.

## 4. Exclusions

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The following Exclusions apply to Section 5 (General Liability) only. The **Insurer** shall not be liable for:

### 4.1 Advertising Injury

Liability arising out of **Advertising Injury** for:

- 4.1.1 offences committed prior to the inception date of this **Policy**;
- 4.1.2 offences made at the direction of the **Insured** with knowledge of their illegality or falsity;
- 4.1.3 breach of contract, other than misappropriation of advertising ideas under an implied contract;
- 4.1.4 incorrect description of the price of the **Products**, goods or services;
- 4.1.5 infringement of trade mark, service mark or trade name by use of it as the trade mark, service mark or trade name of the **Products**, goods or services sold, offered for sale or advertised, but this Exclusion 4.1.5 does not apply to titles or slogans;
- 4.1.6 failure of the **Products**, goods or services to conform with advertised performance, quality, fitness or durability; or
- 4.1.7 any **Insured** whose **Business** is advertising, broadcasting, publishing or telecasting.

### 4.2 Professional Liability

Any damages, loss, cost or expense arising out of the rendering of or failure to render professional advice or service by the **Insured**, but this Exclusion 4.2 does not apply to the rendering of or failure to render professional medical advice by **Medical Persons** employed by the **Insured** to provide first aid and other medical services on the **Insured's** premises.

### 4.3 Designs, Plans, Specifications, Patterns and Formulas

Any damages, loss, cost or expense arising out of or in connection with any design, plan, specification, pattern or formula provided by the **Insured**.

### 4.4 Requirement to Insure

**Property Damage** to property rented to, leased to, occupied by, or used by, or in the care, custody or control of the **Insured** to the extent the **Insured** is required under contract to provide insurance therefore.

### 4.5 Registered Machines

**Injury** or **Property Damage** arising from the ownership, maintenance, possession or use by the **Insured** of any **Machine** whilst used in circumstances where such **Machine** is required to be registered for use as a motor vehicle by law. Provided that this Exclusion 4.5 shall not apply:

- 4.5.1 to **Injury** where compulsory liability insurance or a statutory scheme does not provide indemnity for reasons that do not involve a breach by the **Insured** of any applicable legislation relating to motor vehicles;
- 4.5.2 where such **Injury** or **Property Damage**:
  - 4.5.2.1 is caused by or arises from the loading or unloading of things on or from any **Machine** that occurs beyond the limits of any carriageway or thoroughfare; or
  - 4.5.2.2 arises out of the use of any **Machine** as a **Working Tool**.



#### 4.6 Contractors and Sub Contractors

The **Insurer** shall not be liable for any damages, loss, cost or expense arising out of any act or omission of:

- 4.6.1 a contractor or sub-contractor of an **Insured**;
- 4.6.2 all tiers of contractors and sub-contractors below a contractor or sub-contractor of an **Insured**;
- 4.6.3 a director, executive officer, partner or **Employee** of a person or company referred to in 1.1 and 1.2 above.

This Exclusion 4.6 shall not apply to legal liability caused directly or indirectly by or arising from an **Insured's** own act or omission including their vicarious liability in respect of an act or omission of a contractor or sub-contractor of an **Insured**.

#### 4.7 Defective Concrete (Rip & Tear)

The **Insurer** shall not be liable for any damages, loss, cost or expense arising out of any **Injury** or **Property Damage** caused by, arising out of or contributed to by the intentional destruction or removal of poured and/or set (whether pre- stressed or otherwise) concrete, concrete block, cement mortar or other materials or structures being either in part or in whole **Products**.

Additionally, this **Policy** excludes any claim based on or arising from error, omission, inadequacy or fault in any design, formula or specification for such concrete or concrete material.

For the purpose of this Exclusion 4.7, the **Products** shall be deemed "Defective" when, upon testing by an accredited independent testing agency, they do not meet the contractual specifications or applicable safety regulations or building codes relating to compressive strength or other criteria required for the specific construction in which such materials are incorporated.

### A. General Exclusions Applying to All Sections

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This **Policy** does not cover any loss, **Damage** or liability caused by or arising from:

- 1. Any **Act of Terrorism**
- 2. The actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of:
  - 2.1 **Asbestos**;
  - 2.2 **Silica**; or
  - 2.3 **Mixed Dust**.
- 3. Demand, order, request or regulatory or statutory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralise, or in any way respond to, or assessing the effects of:
  - 3.1 **Asbestos**;
  - 3.2 **Silica**; or
  - 3.3 **Mixed Dust**.
- 4. Claim or proceeding by or on behalf of a governmental authority or others for any damages, loss, cost or expense because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of:

- 4.1 **Asbestos;**
  - 4.2 **Silica;** or
  - 4.3 **Mixed Dust.**
- 5. Radioactivity or the use, existence or escape of any nuclear fuel, nuclear material, or nuclear waste or action of nuclear fission or fusion;
  - 6. War, invasion, acts of foreign enemies, hostilities or war-like operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power.
  - 7. Any reason if at the time of the **Occurrence** or **Damage**, the **Machine** was being used underground, however, this exclusion shall not apply to any **Machine** whilst:
    - 7.1 travelling in a completed tunnel that is a public road; or
    - 7.2 working in an open pit or in a completed or partially completed structure, which provides a completed support structure above the working area, regardless of whether or not the bottom of the pit is below ground or sea level.
  - 8. Communicable Disease Exclusion
    - a) Any loss, damage, claim, cost, expense or other sum whatsoever, directly or indirectly arising out of, or in any way attributable or related to, connected with or contributing concurrently or in any sequence with:
      - i. a Communicable Disease; or
      - ii. the fear of threat (whether actual or perceived) of a Communicable Disease.
    - b) For the purposes of this exclusion, loss, damage, claim, cost, expense or other sum, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test:
      - i. for a Communicable Disease, or
      - ii. any location or property insured that is or may be affected either directly or indirectly by a Communicable Disease.
    - c) As used in this **Policy**, a Communicable Disease means any:
      - i. physical distress, illness, or disease caused or transmitted directly or indirectly by any virus, bacterium, parasite, fungus or other organism or any variation of it, whether deemed living or not, and regardless of the means of transmission or where such outbreak occurred or is occurring; or
      - ii. any virus, bacterium, parasite, or other organism or any variation of it, whether deemed living or not which causes, or is likely and/or expected to cause, physical distress, illness or disease; or
      - iii. any disease which is a quarantinable disease or a listed human disease under the Biosecurity Act 2015 (Cth), as may be amended from time to time and any replacement, successor or functionally similar legislation of Australia (or of the applicable state or territory in Australia), including delegated legislation irrespective of where it was discovered or where such outbreak occurred or is occurring; or
      - iv. any mutation of the illnesses, diseases or organisms described in clauses (c)(i), (ii) and (iii).

This Exclusion applies to all coverage extensions, additional coverages, exceptions.

## 9. Cyber Exclusion

- a) Subject only to paragraph (c) below, in no case shall this **Policy** cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus, computer process or any other electronic system.
- b) Subject to the conditions, limitations and exclusions of the **Policy** to which this clause attaches, the indemnity otherwise recoverable hereunder shall not be prejudiced by the use or operation of any computer, computer system, computer software programme, computer process or any other electronic system, if such use or operation is not as a means for inflicting harm.
- c) Where this **Policy** covers risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, paragraph (a) shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

## B. Exclusions Applying to Sections 1, 2, 3 and 4 Only

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Sections 1, 2, 3 and 4 shall not cover any loss, damage or liability:

1. Caused by a **Machine** being used as a crane or lifting device in:
  - 1.1 contravention of any applicable statutory requirements; or
  - 1.2 excess of the safe working load specified by any relevant statutory authority or manufacturer's specification; or
  - 1.3 in breach of any recommended manufacturers' use guidelines.
2. Caused by a **Machine** being used in an unsafe or un-roadworthy condition;
3. Caused by an act of, or failure to act by the **Insured**, a director or partner of the **Insured** or an **Employee**, or a person engaged in the operation of a **Machine** with the intention of causing, or with reckless disregard of the risk of causing, **Injury** or damage to person or property;
4. Caused by a **Machine** being used for an unlawful purpose;
5. Caused by a **Machine** being driven by or in the charge of a person who is not appropriately authorised, qualified, licensed or trained to operate the **Machine**;

Exclusions B1, B2, B3, B4 & B5 will not apply if the **Insured** proves that whilst permission was given for such person to use the **Machine**, the **Insured** did not know, or could not reasonably have known, that the **Machine** was being utilised in a manner excluded by Exclusions B1, B2, B3, B4 & B5.

6. Caused by a **Machine** being used by a person:
  - 6.1 under the influence of any drug or alcohol; or
  - 6.2 with a level of drugs or alcohol in that person's blood or urine in excess of the level permitted by law to operate the **Machine**.

Exclusion B6 will not apply if the **Insured** proves that whilst permission was given for such person to use the **Machine**, the **Insured** did not know, or could not reasonably have known, that the person was so affected.

7. Caused by any fault in, or failure of, the design or specification of the **Machine** provided that this Exclusion B7 does not apply to:

7.1 any **Damage** resulting from such fault or failure; or

7.2 any liability arising from such fault or failure.

8. Caused by tests or trials imposing abnormal conditions on the **Machine**;

9. Caused by scratching or chipping of painted or polished surfaces;

10. Caused by corrosion, rusting erosion, gradual deterioration, wear and tear, fatigue, lack of lubricant, lack of coolant, incorrect lubricant, incorrect coolant or electrical failure.

This Exclusion B10 does not apply to ensuing **Damage** to the **Machine** where prior to the **Damage** such condition was not known by or could not have been reasonably detected by the **Insured** or any **Employee** or any person engaged in the operation of the **Machine**.

11. Caused by a **Machine** which is a prototype or experimental machine;

12. For **Damage** whether direct or indirect caused by or resulting from the inability or inadequacy of any:

12.1 computer hardware microprocessor or other semi-conductor device;

12.2 operating system software or firmware; or

12.3 other Electronic Data Processing Property.

12.4 microprocessor other semiconductor device operating system software or firmware not part of Electronic Data Processing Property.

12.5 other system, machinery equipment or component that is connected to or communicates with any of the foregoing, to accept, retrieve, recognise, understand, interpret, identify, distinguish, process communicate, or otherwise use any data or time regardless of any other cause or event that:

12.5.1 contributes concurrently to;

12.5.2 contributes in any sequence to; or

12.5.3 worsens

such loss or **Damage** even if such other cause or event would otherwise be covered.

This Exclusion B12 does not apply to ensuing loss or **Damage** caused by or resulting from a Specified Peril.

For the purposes of this Exclusion B12, the following Definitions shall apply (and replace any similar Definition otherwise applicable):

12.6 Electronic Data Processing Property means:

12.6.1 Electronic Data Processing Equipment;

12.6.2 Electronic Data Processing Media; and

12.6.3 Telephone Equipment.

12.7 Electronic Data Processing Equipment means:

12.7.1 data processing systems;

- 12.7.2 electronic systems consisting of separately identifiable; and removable component memory or control boxes that are attached to and control Production Machinery but not the Production Machinery itself; and
  - 12.7.3 equipment component parts and related peripheral equipment including air-conditioning and fire protective equipment used solely for data processing operations.
- 12.8 Electronic Data Processing Media means:
- 12.8.1 punch cards, tapes, discs, diskettes, drums cells;
  - 12.8.2 other magnetic or optical recording or storage devices;
  - 12.8.3 the software or other information recorded on this media; and
  - 12.8.4 the original source material used to enter data and/or program software.
- 12.9 Telephone Equipment means telephone systems and their component parts you own or are in your case custody or control.
- 12.10 Specified Peril means accidental escape of water from any automatic sprinkler installation, **Aircraft** or other aerial devices or articles dropped therefrom, earthquake, escape of water from any tank apparatus or pipe, explosion, fire or lightning, **Flood**, impact by any road vehicle or animal, riot or civil commotion, smoke, strikers locked-out workers or persons taking part in labour disturbances, subsidence ground heave or landslide, theft, vandalism, volcanic action, windstorm or hail.
13. For damages, penalties, or interest for delay or detention.
14. For legal liability except to the extent covered under:
- 14.1 Section 1, Subsection 3.1.3 (Damage to Lifted Goods);
  - 14.2 Section 1, Subsection 3.1.5 (Employees' Personal Property);
  - 14.3 Section 1, Subsection 3.1.7 (Substitute Machines);
  - 14.4 Section 1, Subsection 3.1.8 (Hired in Machines),
  - 14.5 Section 1, Subsection 3.1.9 (Hired Out Machines (Dry Hire))
  - 14.6 Section 1, Subsection 4.1 (Hired in Machines (Blanket Cover)),
  - 14.7 Section 1, Subsection 4.2 (Continuing Hire Charges),
  - 14.8 Section 1, Subsection 4.3 (Finance Payment Protection); and
  - 14.9 Section 4 (Registered Machine Liability).
15. For loss of a **Machine** or any part of a **Machine** arising from the exercise by another of a right or alleged right to ownership or possession of the **Machine**.
16. For **Damage** to:
- 16.1 safety devices caused by the operation of such devices;
  - 16.2 tyres caused by bursting, cutting, wearing or the application of brakes;
  - 16.3 batteries caused by a defect in such batteries unconnected with other **Damage**;
  - 16.4 bits, drills, knives, discs, cutting edges, blades, dies, moulds, pulverising or crushing surfaces, belts, bands or any other parts requiring regular periodic replacement;

- 16.5 drill pipes, collars, rock bits, reamers, core barrels, stabilisers, lugging equipment, casings and tools of any kind while below the rotary table, below ground or underground.
17. Caused by **Machinery Breakdown**.
18. For a **Machine** being a drilling rig or other drilling, tunnelling or trenching equipment being used or operated in or connection with:
- 18.1 oil, gas or geothermal drilling;
- 18.2 oil, gas or geothermal wells.
19. This **Policy** does not cover **Damage** caused as a result of solidification or hardening of concrete or similar products, unless this is a direct result of **Damage** insured under this **Policy** which does not allow removal of concrete or similar materials but excluding the value of concrete or similar material and limited to the **Sum Insured** applicable for Section 1.

## C. Exclusions Applying to Sections 4 and 5 Only

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The **Insurer** shall not be liable for:

### 1. Aircraft, Hovercraft and Watercraft

Liability arising out of the ownership, operation or use of:

1.1 **Aircraft**;

1.2 hovercraft; or

1.3 **Watercraft** greater than eight (8) metres in length, unless the **Watercraft** is:

1.3.1 being operated by an independent contractor or operator;

1.3.2 not owned by an **Insured** but is being used for entertainment for the purpose of the **Business**.

### 2. Aggravated, Punitive or Exemplary Damages

Aggravated, punitive or exemplary damages.

### 3. Contractual Liability

3.1 Liability assumed by the **Insured** under any contract or agreement, but this Exclusion C3 does not apply to the extent:

3.1.1 that such liability would have been implied by law or would otherwise have existed in the absence of such contract or agreement;

3.1.2 the liability arises from the provision of a legally binding written contract for the lease of real or personal property other than a provision that obliges the **Insured** to effect insurance or provide indemnity in respect of the subject matter of the contract; or

3.1.3 the liability is assumed by the **Insured** under a warranty of fitness of quality on the **Insured's products**.

3.2 Any legal liability an **Insured** has released or waived all or part of the **Insured's** right to recover indemnity, contribution or damages from another.

### 4. Electronic Data

Liability arising out of:

4.1 communication, display, distribution or publication of **Electronic Data** – however, this Exclusion C4.1 does not apply to **Injury** or **Advertising Injury** resulting from any of them;

- 4.2 total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of **Electronic Data**;
- 4.3 error in creating, amending, entering, deleting or using **Electronic Data**; or
- 4.4 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.

## 5. Employers' Liability

Liability for **Injury**:

- 5.1 for which insurance against such liability (whether the insurance is limited in amount or not) is or would have been provided through licensed self- insurance or under a policy in a form prescribed or approved under or issued in pursuance of any Workers' Compensation or Accident Compensation legislation applicable to the **Insured** or any extension of such policy granted on request as a matter of usual practice by entities authorised to issue such policies; or
- 5.2 relating to **Employment Practices**, Provided that:
  - 5.2.1 exclusions C5.1 and C5.2 shall not apply with respect to:
  - 5.2.2 liability of others assumed by the **Insured** under written contract; or
  - 5.2.2.1 claims for loss of consortium from the spouse of an **Employee**.

## 6. Fines, Penalties and/or Liquidated Damages

Fines, penalties and/or liquidated damages imposed by law or assumed by the **Insured** under any contract, warranty or agreement.

## 7. Industrial Awards

Liability to or of any **Employee** of the **Insured** imposed by the provisions of any industrial award or agreement or determination where such liability would not otherwise have attached.

## 8. Pollution

- 8.1 Liability arising out of **Pollution**, but this Exclusion C8.1 does not apply where the liability arises from a sudden identifiable, unintended and unexpected event from the standpoint of the **Insured** which takes place in its entirety at a specific time and place.
- 8.2 Any costs and expenses incurred in the prevention, removing, nullifying or clean-up of such **Pollution**, but this Exclusion C8.2 does not apply where clean-up, removal or nullifying expenses are incurred consequent upon a sudden identifiable, unintended and unexpected event from the standpoint of the **Insured** which takes place in its entirety at a specific time and place.

## 9. Products and Work Performed

Liability for:

- 9.1 the cost of making good, replacing or reinstating work performed by or for the **Insured** which is or is alleged to be or was faulty but this Exclusion C9.1 does not apply to **Property Damage** resulting from such faulty work;
- 9.2 the cost of making any refund of the price paid for any **Products** or work performed by or for the **Insured**;
- 9.3 the cost of or damages claimed in relation to the withdrawal, recall, inspection, repair, replacement or loss of use of the **Products** or 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;

9.4 **Property Damage** to the **Products**, however this Exclusion C9.4 shall be restricted to the defective or harmful or unsuitable part of the **Product** and shall not apply to **Property Damage** to the remainder of such **Product** or **Products**;

9.5 any **Product** that is, or an Insured could reasonably be expected to know is, installed in, or used in **Aircraft**, hovercraft or **Watercraft**.

10. **Property Owned by or in the Care, Custody or Control of the Insured**

**Property Damage** to property owned by the **Insured** or held in trust or in the custody or control of the **Insured** but this Exclusion C10 does not apply to **Property Damage** to:

10.1 personal property of directors, **Employees** and visitors of the **Insured**;

10.2 premises (including fixtures and fittings) not owned by the **Insured**:

10.2.1 at which the **Insured** is undertaking work in connection with the **Business** but no indemnity is granted for **Property Damage** to that part of the property on which the **Insured** is working and which arises out of such work;

10.2.2 which are leased, rented or loaned to the **Insured**;

10.3 vehicles (including spare parts and accessories thereon) not owned or used by the **Insured** in connection with the **Business** whilst within a car park belonging to or under the control of the **Insured** provided that the **Insured**, as a principal part of the **Business**, does not operate the car park for reward;

10.4 any other property (except property owned by the **Insured** and property described in C10.2.1, C10.2.2 and C10.3 above).

but the total aggregate liability of the **Insurer** during any one **Period of Insurance** under this Exclusion C10 in respect of all claims arising out of any one **Occurrence** is limited to the sub limited amount specified in the **Schedule** for Property in the **Insured's** Physical Possession or Legal Control.

## Conditions Applying to All Sections of the Policy

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### 1. Automatic Additions

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This **Policy** extends to include any **Machines** acquired by the **Insured** during the **Period of Insurance** provided that:

1.1 the **Machine** is of a similar kind to the **Machines** currently **Insured** under the **Policy**;

1.2 the **Insured** declares to the **Insurer** no later than one hundred and twenty (120) days after the acquisition the value of the acquired **Machines**; and

1.3 the **Insured** must pay the rateable proportion of the **Premium** from the date of acquisition of such **Machines** to the expiry of the **Period of Insurance**; and

1.4 the value of such newly acquired **Machines** does not exceed the amount shown in the **Schedule** as the sub-limit for Automatic Additions.

### 2. Acquired Entities

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This **Policy** extends to include any company, subsidiary, organisation, firm or other entity formed, purchased or otherwise acquired by the **Named Insured** during the **Period of Insurance** provided that the **Named Insured**:

2.1 holds a controlling interest in such entity; and



- 2.2 the **Business** and the machines of the acquired company are of a similar type the **Business** and **Machines** of the **Insured**; and
- 2.3 advises the **Insurer** of its interest in such entity within thirty (30) days following the date of attachment of such interest or such further period whilst the policy remains on foot and there is no claim or potential claim in respect of such entity; and
- 2.4 declares to the **Insurer** the number of additional **Machines** to be Insured and pays such additional **Premium** as may be required by the **Insurer**.

### 3. Care of Machines

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The **Insured** must take reasonable steps to safeguard the **Machines** from **Damage** and to maintain them in accordance with:

- 3.1 manufacturers' or distributors' specifications; and
- 3.2 applicable laws and standards.

### 4. Changes Only by Endorsement

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This **Policy** is only amended by a written endorsement that becomes part of this **Policy**. The endorsement must be signed by one of the **Insurer's** authorised employees.

### 5. Liability not to be Admitted

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No admission, offer, promise, payment or indemnity shall be made or given by or on behalf of the **Insured** without the consent of the **Insurer** who shall have the right to take over and conduct in the name of the **Insured** the defence or settlement of any claim or to prosecute in the name of the **Insured** for the **Insurer's** own benefit any claim for indemnity or damages or otherwise. The **Insured** shall give all such information and assistance as the **Insurer** may require.

### 6. Compliance with Recommendations, Guidelines, Standards and Legislation

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The **Insured** shall at all times during the **Period of Insurance**:

- 6.1 service, maintain, use and operate any **Machine** in accordance with:
  - 6.1.1 manufacturers' and distributors' recommendations and guidelines;
  - 6.1.2 systems and procedures imposed or recommended by law, International Standards, Australian Standards and industry standards;
- 6.2 ensure that anyone servicing, maintaining, using, or engaging in the operation of any **Machine** complies strictly with:
  - 6.2.1 manufacturers' and distributors' recommendations and guidelines;
  - 6.2.2 systems and procedures imposed or recommended by law, International Standards, Australian Standards and industry standards;
- 6.3 not permit unqualified or inadequately experienced persons to engage in the operation or use of any **Machine**.

### 7. Conformance

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In the event any term or condition of this **Policy** is found to be invalid, illegal or unenforceable, in whole or in part, such term or condition or part of it shall be deemed not to apply to this **Policy**. However, the validity, legality and enforceability of all other terms and conditions remains unchanged.

## 8. Cross Liability

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Where the **Insured** is comprised of more than one party, the words “the **Insured**” shall be considered as applying to each party comprising the **Insured** in the same manner as if that party were the only party named herein as the **Insured**.

Nothing contained in this clause shall operate to increase the relevant **Sum Insured**, amend the Cancellation section of this **Policy** on page 36 or impair any rights or duties specifically assigned to the first **Named Insured**.

## 9. Discovery of Products Defects

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In the event that an **Insured** becomes aware of a **Product Defect**, the **Insured** shall make all reasonable efforts to locate and recall all such **Products**, regardless whether or not **Injury** or **Property Damage** has already occurred.

## 10. First Named Insured

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The first **Named Insured** is primarily responsible for payment of all **Premiums** and other amounts payable to the **Insurer** under this insurance. The first **Named Insured** will act on behalf of all other **Insureds** for the giving and receiving of notices and the receiving of any return **Premiums** that become payable under this insurance.

## 11. Goods and Services Tax (GST)

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If an **Insured** is entitled to an input tax credit for the **Premium**, that **Insured** must inform the **Insurer** of the extent of that entitlement at or before the time a claim is made under this **Policy**. The **Insurer** will not be liable for amounts based upon, arising from or in consequence of any **Insured's** misstatement or failure to inform the **Insurer** of the extent of its entitlement to an input tax credit.

The amount of any **Excess** or retention payable will be less any input tax credit that is or may be available to the **Insured**.

## 12. Legal Jurisdiction

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The terms and conditions of this insurance shall be governed by and construed in accordance with the laws of New South Wales, Australia. If any person or organisation sues the **Insurer** on this insurance or as a result of a dispute arising out of, in connection with, or relating to, this insurance, then such legal proceeding against the **Insurer** must be brought in and determined exclusively in a New South Wales court of competent jurisdiction.

## 13. Right of Inspection

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13.1 The **Insurer** shall have the right to inspect or examine any **Machine** at any time upon the giving of reasonable notice during the **Period of Insurance**.

13.2 The **Insured** shall assist in inspections or examinations of the **Machines**.

## 14. Notification of Changes Materially Affecting the Insurance

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The **Insured** shall notify the **Insurer** in writing as soon as possible of any change materially varying any facts or circumstances existing at the commencement of the **Period of Insurance**, including but not limited to, changes in the information contained in the proposal.

14.1 The **Insurer** shall not indemnify against the risks arising from the material changes unless, before **Damage, Property Damage or Injury**, in connection with those risks occurs, the **Insurer** has agreed in writing to extend the **Policy**.

14.2 Following the **Insured's** notification to the **Insurer** of such material changes the **Insurer** shall have the right to vary the **Sums Insured, Excess, Premiums** or the terms of the **Policy**.

## 15. Transfer of Rights & Duties

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The **Insured's** rights and duties under this **Policy** may not be transferred without the **Insurer's** written consent.

## 16. Waiver of Subrogation

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The **Insurer** agrees to waive any rights and remedies or relief to which it or they may become entitled by subrogation against each party comprising the **Insured**.

## 17. Sanctions Clause and Exclusion

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This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit the **Insurer** from providing insurance, including, but not limited to, the payment of claims. All other terms and conditions of the policy remain unchanged.

Chubb Insurance Australia Limited is a subsidiary of a US company and Chubb Limited, a NYSE listed company. Consequently, Chubb Insurance Australia is subject to certain US laws and regulations in addition to EU, UN and national sanctions restrictions which may prohibit it from providing cover or paying claims to certain individuals or entities or insuring certain types of activities related to certain countries such as Iran, Syria, North Korea, North Sudan, Crimea and Cuba.

## 18. Machines on Watercraft

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18.1 The **Insured** shall not place a **Machine** on a **Watercraft** unless prior to doing so:

18.1.1 the **Insured** has notified the **Insurer**; and

18.1.2 the **Insurer** has agreed in writing to extend the **Policy** to cover the **Machine** while on the **Watercraft**;

18.2 The **Policy** shall not cover **Damage** to a **Machine** while on a **Watercraft** unless, prior to such placement, the **Insurer** has agreed in writing to extend the **Policy** to cover such placement.

## 19. Application of Excess

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19.1 The indemnity must exceed the **Excess** (including, if relevant, any **Additional Excess**) before the **Insurer** shall be liable to pay the indemnity.

19.2 The **Insurer** shall:

19.2.1 Deduct the amount of the **Excess** from the indemnity payable under Sections 1, 2 & 3; and

19.2.2 Not be liable to indemnify an **Insured** under Sections 4 or 5 if the **Insured** does not pay the **Excess** within 14 days after being requested to do so.

19.3 The **Insured** will not be required to contribute any **Excess** under Section 1 towards a claim if:

19.3.1 The **Insured** can satisfy the **Insurer** that the claim involves a collision with another machine or motor vehicle and the collision which gave rise to the claim was totally the fault of the operator or driver of another machine or motor vehicle; and

19.3.2 The **Insured** must provide the **Insurer** with a unique identifier or the registration number of the other machine or motor vehicle and the full name, licence number and address of the other operator or driver; and

19.3.3 The amount of the **Insured's** claim exceeds the applicable **Excesses** under this **Policy**; and

19.3.4 The **Insurer** is able to recover the amount of any loss including any applicable **Excesses** from the third party.

19.4 Where the operator or driver of the other machine or motor vehicle disputes who was at fault, the **Insured** must pay any **Excess** which applies but the **Insurer** will refund it if the **Insurer** is successful in establishing that the other operator or driver was at fault.

## Cancellation

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1. This **Policy** may be cancelled at any time at the request of the **Insured** by giving the **Insurer** notice in writing. The cancellation will take effect from the date we receive the **Insured's** cancellation request. The **Insured** will be entitled to a pro rata refund of premium for any unexpired **Period of Insurance**, less 20% for the **Insurer's** costs.
2. The **Insurer** may also cancel this **Policy** on any grounds set out in the Insurance Contracts Act.

## Claims

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### 1. Notification

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The **Insured** or someone with appropriate authority acting on the **Insured's** behalf must:

- 1.1 notify the **Insurer** in writing of any accident or damage or loss as soon as practicable, but in no event later than thirty (30) days after the **Insured** receives notice of any occurrence that may involve the **Insurer**. The notice must include:
  - 1.1.1 if there is **Damage** to property, details of the **Damage** and the steps taken to mitigate the loss;
  - 1.1.2 If there is **Bodily Injury** to any person, details of how, when and where the **Occurrence** that relates to such **Bodily injury** happened;
  - 1.1.3 the names and addresses of any injured persons and organisations and any witnesses to the extent his can be readily obtained by the **Insured**;
  - 1.1.4 the nature and location of any **Bodily Injury** or **Damage** in connection with the facts;
  - 1.1.5 any other relevant information the **Insurer** may require.
- 1.2 notify the police of theft or malicious damage losses;
- 1.3 send to the **Insurer** any letter of demand, claim, writ or summons relating to an accident involving a **Machine**; and
- 1.4 provide all information required by the **Insurer** in connection with any claim or legal action relating to that accident.
- 1.5 allow the **Insurer** the right to take over and conduct in the name of the **Insured** the conduct, defence and settlement of any claim. The **Insured** shall have the right and opportunity to participate in the defence and settlement of any claim or proceedings;
- 1.6 subject to the Insurance Contracts Act 1984, help the **Insurer** to recover any money paid by the **Insurer** from any person whom the **Insured** may be able to hold liable. The **Insurer** will have the right to take any action in the **Insured's** name;
- 1.7 notify the **Insurer** of any other insurance that also provides cover for any claim made under this **Policy**.

### About Chubb in Australia

Chubb is the world's largest publicly traded property and casualty insurer. Chubb, via acquisitions by its predecessor companies, has been present in Australia for 100 years. Its operation in Australia (Chubb Insurance Australia Limited) provides specialised and customised coverages including Business Package, Marine, Property, Liability, Energy, Professional Indemnity, Directors & Officers, Financial Lines, Utilities as well as Accident & Health, to a broad client base, including many of the country's largest companies. Chubb also serves successful individuals with substantial assets to insure and consumers purchasing travel insurance.

More information can be found at [www.chubb.com/au](http://www.chubb.com/au).

### Contact Us

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