

ISP

Industrial Special Plant
Insurance Policy



First in Plant Protection

Index

GENERAL SECTION

A. Important Notices	03
B. General Definitions	04
C. General Exclusions for Sections 1 to 7	07
D. Exclusions for Sections 1 to 5	08
E. Exclusions for Sections 6 to 7	10
F. General Conditions	12

SECTION 1 - DAMAGE

A. The Cover	16
B. The Indemnity	16

SECTION 2 - HIRED-IN PLANT (LIABILITY TO HIRERS)

A. The Cover	17
B. The Indemnity	17
C. Additional Benefits	17

SECTION 3 - ADDITIONAL BENEFITS

A. Introduction	18
B. Additional Benefits	18
1. Damage to Lifted Goods	18
2. Multiple Crane Operation	18
3. Expediting Costs	18
4. Recovery Costs	18
5. Indemnity to Hirer	18
6. Appreciation in Value	19
7. Additions/Deletions of Machines	19
8. Agreed Value	19
9. Owner's Protection	19
10. Owner's Protection Plus	19
11. Hired-Out Plant (Damage Waivers)	20

SECTION 4 - CONSEQUENTIAL LOSS

A. The Cover	21
B. The Indemnity	21
C. Definitions for Section 4	21

SECTION 5 - BREAKDOWN

A. The Cover	22
B. The Indemnity	22

SECTION 6 - ROAD RISK

A. The Cover	23
B. Limits of Indemnity	23
C. Additional Benefits	23
1. Legal Costs	23
2. Extended Cover for drivers and passengers	23
3. Extended Road Risk for substitute vehicles	23
4. Extended Road Risk cover for vehicle additions and deletions	23
D. Exclusions	24

SECTION 7 - BROADFORM LIABILITY

A. The Cover	25
B. Limits of Indemnity	25
C. Additional Benefits	25
1. Legal Costs	25
2. Additional Payments	25
3. Cover for Others	25
D. Exclusions	26

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

In consideration of the Insured's payment of the Premium to the Underwriters, the Underwriters agree (each for its own part and not one for the other) to indemnify the Insured:

1. in accordance with the terms of the Policy; and
 2. each to the extent of its underwriting proportion.
- (**Note:** The names and underwriting proportions of the Underwriters will be supplied on request).

A. IMPORTANT NOTICES

1. The Policy: Contents and Structure

- (a) The terms of the contract of insurance between the Underwriters and the Insured are recorded in the Policy, which is made up of:
 - (1) this document;
 - (2) the Schedule;
 - (3) the Endorsements;
 - (4) the Important Notices in the Proposal.
- (b) Sections 1, 2, 4, 5, 6 and 7 each contain at least two sub-sections:
 - (1) The Cover - which defines what things and events are insured;
 - (2) The Indemnity - which explains what and how much the Underwriters will pay.
- (c) Section 3 contains Additional Benefits relevant to Sections 1 and 2.
- (d) The Underwriters shall not be liable to indemnify the Insured under Section 4 (Consequential Loss) unless the Insured holds concurrent Damage cover under either Section 1 or another contract of insurance.

2. The Insured's Duty of Disclosure

- (a) Important Notice 2 in the Proposal gave notice of the Insured's duty under the Insurance Contracts Act 1984 to disclose relevant information to the Underwriters **before** entering into this contract of insurance.
- (b) General Condition F.10 imposes a similar obligation on the Insured to disclose changes in the Insured, the Business or the Machines happening after the commencement of this contract of insurance.

3. Average

- (a) Important Notice 5 in the Proposal notified the Insured about 'Average', which is the consequence of under-insurance (see General Condition 1).
- (b) In Sections 1, 2 and 5, the 'Average' formula applies where the Sum Insured for the relevant Machine is less than 90% of its Market Value calculated at the time of Damage.
- (c) In Section 4, the 'Average' formula applies where the Sum Insured for Section 4 is less than 90% of the Annual Income calculated at the time of Damage.

4. Payment of Excess

In the event of a claim under Section 6 or 7, the Insured is required to pay the Excess to UAA within 14 days.

5. Safety Precautions and Procedures

- (a) Because this Policy concerns machinery whose operation is, of itself, usually hazardous, General Condition 2 imposes an obligation on the Insured, its Employees and agents to comply strictly with:
 - (1) manufacturers' and distributors' recommendations and guidelines; and
 - (2) systems and procedures imposed or recommended by law, international standards, Australian Standards and industry standards;for servicing, maintaining, using and operating Machines.
- (b) If Damage results from a failure to comply with such precautions and procedures, the Underwriters may be entitled under General Condition 2 and General Exclusion D.1(c) to refuse to pay the indemnity against that Damage or to significantly reduce the amount they will pay.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

6. Interests of Third Parties

The interests of third parties (e.g. financiers, lessors, etc.) in Machines are not covered by the Policy (except hirers, if Additional Benefits B.5 or B.11 in Section 3 apply). However, if in the Proposal the Insured has identified third party interests to be covered and they are noted as such in the Schedule, they may have rights under Sections 1-5.

7. Privacy

UAA is committed to protecting the privacy of personal information in accordance with the Privacy Act. UAA's privacy principles, set out at www.aaa.com.au, explain what personal information is collected from the Insured, why it is collected, how it will be used and to whom it can be disclosed.

See full UAA Privacy Statement at www.aaa.com.au

8. General Insurance Code of Practice

The Underwriters are signatories to the General Insurance Code of Practice, which aims to raise the standards of practice and service in the insurance industry. The Underwriters will make the internal and external dispute resolution procedures as required by the Code available to every Insured entitled to them. Further information about the Code is available upon request.

B. GENERAL DEFINITIONS

Act of Terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person(s) or group(s) or persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological, 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.

Asbestos includes:

1. that group of natural fibrous silicate minerals that comprises Actinolite, Amosite, Anthophyllite, Chrysolite, Crocidolite and Tremolite;
2. that group of man-made mineral fibres that comprises mineral wool, rock wool, glass fibre, ceramic fibres and superfine fibres;
3. anything containing asbestos;
4. asbestos products.

Australian Dangerous Goods Code means the edition of the Australian Code for the Transportation of Dangerous Goods by Road and Rail (or its equivalent) that is current at the time of an Occurrence causing Property Damage or Personal Injury.

Breakdown Damage means the sudden and unexpected breaking, distortion or burning of a part of a Machine while in operation in the course of the Business caused directly and solely by a defect of the part that:

1. prior to the breaking, distortion or burning, was not known to the Insured, a director or partner of the Insured, an Employee or anyone engaged in the operation of the Machine; and
2. prevents normal use of the Machine.

Business means the business of the Insured shown in the Schedule.

Capacity in relation to a machine is determined by factors including:

1. recognised standards;
2. legislation and regulations;
3. manufacturers' recommendations;
4. load charts;
5. Configuration of the Machine.

Configuration of a Machine is determined by a combination of factors including:

1. the length and angle of any jib or boom;
2. the weight of the load;
3. the distance between the load and the Machine;
4. the nature and incline of the surface on which the Machine is standing or resting;
5. the placement and extension of outriggers;
6. the weather conditions;

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

7. the speed of lifting, lowering, luffing or slewing;
8. counterweighing.

Costs of Working means the normal and reasonable costs to the insured of using or operating a Machine in the course of the Business.

Damage means:

1. sudden and unexpected physical damage or destruction of a Machine that prevents normal use of the Machine, but excludes sudden and unexpected breaking, distortion or burning of a part of a Machine caused by a defect of the part (whether Breakdown Damage or otherwise);
2. loss of a Machine by theft.

Dangerous or Hazardous Goods means things identified as 'Dangerous or Hazardous Goods' or their equivalent in the Australian Dangerous Goods Code.

Employee means a person who, during the Period of Insurance and in the ordinary course of the Business, is:

1. employed by an Insured under a contract of service;
2. apprenticed to an Insured;
3. hired or seconded to an Insured by another;
4. deemed to be an employee or worker of an Insured under workers' compensation legislation; or
5. a director or partner of an Insured while performing employee duties.

Endorsement means any endorsement applied by the Schedule.

Excess means the amount stated in the Schedule for a Machine or a Section that:

1. the indemnity shall exceed before the Underwriters shall be liable to pay the indemnity; and
2. shall:
 - (a) for Sections 1 - 5, be deducted from the indemnity payable by the Underwriters;
 - (b) for Sections 6 and 7, be paid to the Underwriters by the Insured.

Insured means those named in the Schedule as the Insured.

Legal Costs means:

1. in Section 2:
 - (a) the Insured's reasonable and properly incurred legal costs and expenses of defending a claim of Liability to Hirer; and
 - (b) the legal costs and expenses incurred in a claim for Liability to Hirer against the Insured by a person other than:
 - (1) the Insured;
 - (2) an Employee or a director or partner of the Insured;that the Insured is liable to pay;
2. in Sections 6 and 7, the Insured's reasonable and properly incurred legal costs and expenses of a claim against the Insured for Legal Liability.

Legal Liability means an Insured's liability at law to pay damages to a person other than an Insured, an Employee, or a director or partner of an Insured.

Machine means an item of machinery identified in the Schedule, but does not include:

1. any attachment to the Machine unless the attachment is:
 - (a) identified in the Schedule; or
 - (b) permanently attached to the Machine;
2. any accessory fitted to the Machine unless it (or a similar item of equivalent value) was fitted at the time the Machine was acquired by the Insured.

Market Value means the market value of the Machine taking into account, among other things, its depreciation and wear and tear.

Motor Vehicle means:

1. a motor vehicle intended to be propelled on wheels or self-laid tracks by means other than human or animal power; and
2. a trailer or vehicle being towed by a motor vehicle; but excludes rail and tram rolling stock.
(Note: a Machine can be a Motor Vehicle).

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

North America means:

1. the United States of America or Canada;
2. any state or territory incorporated in or administered by or from the United States of America or Canada.

Occurrence means:

1. a single event;
2. a series of events attributable to the same single source or cause;
3. continual or repeated exposure to substantially the same general conditions.

Overloading means:

1. in relation to a Machine being a crane or being engaged in a lifting operation:
 - (a) lifting, carrying, moving or lowering;
 - (b) attempting to lift, carry, move or lower;a load that is or becomes greater than the Machine's Capacity at any time during the lifting operation, having regard to the Machine's Configuration;
2. in relation to all Machines and vehicles: placing on the Machine or vehicle a load heavier or larger than allowed by law or the Machine's or vehicle's specifications.

Period of Insurance means the period of cover of the contract of insurance shown in the Schedule.

Personal Injury means physical injury to the person (including death, nervous shock, illness and disease) that is both unintended and unforeseen by the Insured.

Policy means:

1. this document;
2. the Schedule;
3. the Endorsements;
4. the Important Notices in the Proposal.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste.

(**Note:** Waste includes but is not limited to all materials to be recycled, reconditioned or reclaimed).

Premium means the amount that the Underwriters shall charge for insurance under this Policy.

Products means the following after they have left the possession and control of an Insured:

1. tangible goods sold, handled, distributed, supplied, grown, extracted, produced, made, manufactured, processed, treated, altered, serviced, repaired, installed, assembled, erected or constructed by the Insured in the course of the Business;
2. containers and packaging of such tangible goods (other than a vehicle).

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 the Product.

Property Damage means physical damage or destruction of tangible property, including resultant loss of use, both unintended and unforeseen by the Insured, but does not include damage or destruction of Products.

Proposal means the proposal for this contract of insurance.

Road Vehicle means:

1. a Motor Vehicle that is both:
 - (a) registered for use as a motor vehicle as required by law; and
 - (b) identified in the Schedule; or
2. a trailer attached to a Motor Vehicle and registered as required by law.

Schedule means the schedule for this contract of insurance.

Sum Insured means the maximum amount payable for indemnity, being:

1. for Sections 1, 2, 3 and 5: the amount for a Machine stated in the Schedule;
2. for Sections 4, 6 and 7: the amount for the Section stated in the Schedule;
3. for an Additional Benefit: the amount for the Additional Benefit stated in the Schedule or the Additional Benefit itself.

ISP 01.2004

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

UAA means the Underwriters' agent:
Underwriting Agencies of Australia Pty Limited
(ABN 86 003 565 302, AFS Licence No. 238517).

Use as a Working Tool means the performance by a Motor Vehicle (or any machine, tool or apparatus forming part of or attached to it), 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:

1. travel outside a Work Site, whether or not simultaneously performing another function;
2. travel within a Work Site, whether or not simultaneously performing another function;
3. travel within a Work Site by a Motor Vehicle primarily designed for road transport, whether or not simultaneously carrying or transporting anything;

and the functions referred to in this General Definition include but are not limited to loading, unloading, lifting, lowering, carrying, grading, levelling, scraping, digging, shovelling, drilling, pumping, spraying, discharging, tipping, crushing, chipping, mulching and mixing (but not mixing during transport by the Motor Vehicle).

Use of a Road Vehicle means use, operation or towing of a Road Vehicle, but does not include Use as a Working Tool.

Underwriters means the insurance underwriters (each for its own part and not one for the other) referred to in the Schedule.

Watercraft means a thing intended to float, submerge or move in, on or under water.

Work Site means a work site in Australia at which the Insured is carrying out or intends to carry out work for or in the course of the Business.

C. GENERAL EXCLUSIONS FOR SECTIONS 1 TO 7

1. The Underwriters shall not indemnify the Insured against any loss, damage or liability (including Legal Liability) caused directly or indirectly by, arising from or in connection with:
 - (a) sonic pressure waves in connection with aircraft and other aerial devices;
 - (b) radioactive substances, radioactive processes or ionising radiations;
 - (c) radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component;
 - (d) war, invasion, acts of foreign enemies, hostilities (whether or not war is declared), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation or nationalisation or requisition, or imposed by law;
 - (e) any business activities other than the Business;
 - (f) any:
 - (1) Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage or liability;
 - (2) action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

(Note: The Insured may have rights pursuant to the Terrorism Act 2003).
2. The Underwriters shall not indemnify the Insured against anything in respect of which the Insured is entitled to indemnify under another contract of insurance that is required to be effected by or under a law in Australia.
3. The Underwriters shall not indemnify the Insured against damages, penalties or interest for delay or detention.
4. The Underwriters shall not indemnify the Insured against any loss, damage, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:
 - (a) the calculation, comparison, differentiation,

ISP 01.2004

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

sequencing or processing of data involving the date change to the year 2000 or any other date change, including leap year calculations, by any computer system, hardware, program or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the Insured or not;

- (b) any change, alteration or modification involving the date change to the year 2000 or any other date change, including leap year calculations, to any computer system, hardware, program or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the Insured or not;

(Exclusion E.4 applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost claim or expense).

D. EXCLUSIONS FOR SECTIONS 1 TO 5

1. The Underwriters shall not indemnify the Insured against any loss, damage or liability caused directly or indirectly by, arising from or in connection with:

- (a) deliberate or reckless Overloading of a Machine;
- (b) deliberately or recklessly incorrect loading of a Machine;
- (c) failure of:
- (1) an Insured;
 - (2) a director or partner of an Insured or an Employee; or
 - (3) a person engaged in the operation of the Machine;

to service, maintain, use or operate a Machine strictly in compliance with systems and procedures imposed or recommended by law, International Standards, Australian Standards, industry standards or manufacturers' or distributors' recommendations or guidelines;

- (d) operation of a Machine while its load-measuring instruments or limiters are known or suspected to be defective, inoperative or turned off by:

- (1) an Insured;
- (2) a director or partner of an Insured or an Employee; or
- (3) a person engaged in the operation of the Machine;

- (e) acts or omissions of:

- (1) the Insured;
- (2) a director or partner of an Insured or an Employee; or
- (3) a person engaged in the operation of the Machine;

with the intention of causing, or with reckless disregard of the risk of causing, injury or damage to person or property;

- (f) tests or experiments imposing abnormal operating conditions on a Machine;
- (g) physical damage or destruction of a part of a Machine caused by the application of a tool or process during inspection, maintenance, servicing, modification or repair;
- (h) scratching or chipping of painted or polished surfaces;
- (i) corrosion, rusting, erosion, gradual deterioration, wear and tear, defect of any type, fatigue, lack of lubricant, lack of coolant, incorrect lubricant, incorrect coolant or electrical failure, unless the Insured proves that prior the Damage or Breakdown Damage:
- (1) neither any Insured nor any Employee nor any person engaged in the operation of the Machine was aware of such corrosion, etc; and
 - (2) a casual inspection of the Machine would not have revealed such corrosion, etc;
- (j) defects in design;
- (k) loss of a Machine or any part thereof caused by or arising from the exercise by another of a right or purported right to ownership or possession of the Machine or any part thereof;
- (l) any legal liability of whatsoever nature other than as provided in Section 2 and Additional Benefit B.5 (Indemnity to Hirer) in Section 3.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

2. The Underwriters shall not indemnify the Insured against physical damage or destruction of:
 - (a) a safety or protective device caused by the operation of such safety or protective device;
 - (b) tyres caused by bursting, puncturing, cutting, wearing or the application of brakes;
 - (c) batteries caused by a defect in the batteries, unless the defect was caused by Damage to a Machine;
 - (d) foundations or masonry;
 - (e) tools, cutting edges, moulds, patterns, non-metallic linings, pulverising or crushing surfaces, flexible pipes, trailing cables, driving belts or bands, fluids and any parts requiring regular periodic replacement.

3. The Underwriters shall not indemnify the Insured against any loss, damage or liability caused directly or indirectly by, arising from or in connection with a Machine that:
 - (a) has not been commissioned as a commercially operating machine;
 - (b) is a prototype or experimental machine; or
 - (c) is being developed or is still in the course of development.

4. The Underwriters shall not indemnify the Insured against any loss, damage or liability caused directly or indirectly by, arising from or in connection with:
 - (a) use of a Machine for an unlawful purpose, unless the Insured proves that the Insured was unaware of such use;
 - (b) operation of a Machine by any person:
 - (1) not properly qualified or suitably experienced;
 - (2) not licensed, holding an improperly obtained licence or not complying with licence conditions; or
 - (3) suffering from a physical or mental disability affecting or impairing his or her ability;to operate the Machine, unless the Insured proves that the Insured:
 - (4) did not consent to the Machine being operated by that person; or
 - (5) was unaware of the matters in (1), (2) and (3) above;
 - (c) operation of a Machine by any person:
 - (1) under the influence of or affected by drugs or alcohol;
 - (2) with a level of drugs or alcohol in the breath, blood or urine in excess of that permitted by law to operate a Machine or drive a motor vehicle;unless the Insured proves that the Insured:
 - (3) did not consent to the Machine being operated by that person; or
 - (4) was unaware of the matters in (1) and (2) above.

5. The Underwriters shall not indemnify an Insured against any loss, damage or liability in respect of which an Insured has released or waived the Insured's right to recovery, indemnity or contribution from another unless:
 - (a) Additional Benefit B.5 (Indemnity to Hirer) in Section 3 applies to such release or waiver; or
 - (b) the Schedule shows that Additional Benefit B.11 (Hired-out Plant) in Section 3 applies to the Policy and that Additional Benefit applies to such release or waiver.

6. Subject to the cover provided in Additional Benefits B.5 (Indemnity to Hirer) and B.11 (Hired-out Plant) in Section 3:
 - (a) the Underwriters shall not indemnify any person or company other than an Insured having an interest in a Machine unless the person or company is named in the Schedule as an interested party.
 - (b) the Underwriters, without limiting any other defence, shall be entitled, in respect of any claim by an interested party, to raise against the interested party any defence that the Underwriters have against an Insured.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

E. EXCLUSIONS FOR SECTIONS 6 AND 7

[See also Exclusions in Sections 6 and 7.]

1. The Underwriters shall not indemnify the Insured against Legal Liability:

(a) Employer's liability

- (1) to an Employee or any other person arising from or in the course of his or her employment with an Insured;
- (2) imposed by workers' compensation legislation, an industrial award, an agreement or a determination;
- (3) against which legislation relating to workers' compensation requires the Insured to have insurance; or
- (4) against which the Insured has the benefit of a statutory indemnity or insurance policy under legislation relating to workers' compensation.

(b) Changes in compulsory insurance law

of a kind to which a statutory indemnity scheme or insurance that the Insured was required to have by law (including workers' compensation and motor vehicle legislation) applied at the commencement of the Period of Insurance, even if the scheme has ceased to apply or the requirement to have such insurance has ceased before the happening of the Occurrence.

(c) Contractual liability

- (1) assumed by an Insured under an agreement that an Insured would not have without that agreement;
- (2) in respect of all or part of which an Insured has released or waived the Insured's right to recover indemnity, contribution or damages from another.

(d) Admissions of liability

which an Insured has incurred solely by reason of an express, implied or constructive admission of liability.

(e) Property in an Insured's physical possession or legal control

for damage to:

- (1) any property (not including premises) while being used or operated by an Insured;
- (2) any vehicle or trailer in a car park owned or operated by an Insured for reward;

- (3) any part of any property on which an Insured is working where the damage is directly caused by such work;
- (4) property in the physical possession or legal control of the driver of a vehicle unless the property is suspended from a Machine designed to lift that property.

(f) Pollution

- (1) for Personal Injury or Property Damage caused by or arising out of the discharge, dispersal, release, seepage, migration or escape of Pollutants into or upon land, the atmosphere, or any water course or body of water, but this exclusion does not apply if the discharge, dispersal, release, seepage, migration or escape is sudden, identifiable, unexpected and unintended and takes place in its entirety at a specific time and place, and which occurs outside of North America;
- (2) for any costs and expenses incurred in preventing, removing, nullifying or cleaning up such contamination or pollution, but this exclusion does not apply to clean-up, removal or nullifying expenses only, which are consequent upon a sudden, identifiable, unexpected and unintended happening taking place in its entirety at a specific time and place which results in Personal Injury or Property Damage and which occurs outside of North America;
- (3) for the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants caused by any Product that has been discarded, dumped, abandoned or thrown away by others;

and the Underwriters' aggregate liability under

(1) and (2) above for all discharges, dispersals, releases, seepages, migration or escape of Pollutants during the Period of Insurance of this Policy shall not exceed the Sum Insured.

(g) Asbestos

caused directly or indirectly by, arising from or in connection with Asbestos.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

(h) Fines, penalties and exemplary, aggravated or punitive damages

for:

- (1) fines or penalties;
- (2) exemplary, aggravated or punitive damages; and
- (3) additional damages resulting from the multiplication of compensatory damages.

(i) North America

for Personal Injury and Property Damage:

- (1) occurring in North America;
- (2) the subject of a claim or proceedings in North America; or
- (3) subject to the law of North America.

(j) Property owned by an Insured

for damage to property owned by an Insured.

2. Acquisitions of companies and other legal entities

'Insured' shall not mean any company or other legal entity:

- (a) acquired by an Insured;
 - (b) coming under the control of an Insured; or
 - (c) becoming associated with an Insured;
- after the commencement of the Period of Insurance.

(Note: the Insured may apply to the Underwriters during the Period of Insurance for cover for such companies and entities).

3. Legal Liability in connection with Products

The Underwriters shall not indemnify the Insured against Legal Liability:

- (a) caused directly or indirectly by, arising from or in connection with:
 - (1) an Insured's breach of General Condition F.19 or an Insured's failure, after becoming aware of a Product Defect, to locate and recall the Product;
 - (2) any Product that is or an Insured could reasonably be expected to know is installed in or used in an aircraft, hovercraft or Watercraft;
- (b) in respect of:
 - (1) damage to Products;
 - (2) loss of use, without damage, of tangible property caused directly or indirectly by or arising from:

(A) defective design; or

(B) failure of a Product to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented;

- (3) repairing, recalling, inspecting or testing Products or any property of which Products form part;
- (4) costs or expenses caused directly or indirectly by, arising from or in connection with:
 - (A) repairing, replacing, inspecting or testing Products;
 - (B) recalling any property (including Products);
- (5) paying or refunding the price or value of Products;
- (6) work completed by or for the Insured, or any costs or expenses incurred, in repairing, replacing or making any refund in respect of such work;
- (7) the failure of Products to cure, alleviate, prevent, monitor, detect, eliminate or retard any Personal Injury or Property Damage.

4. Information technology and computer data, programmes and storage media

- (a) The Underwriters shall not indemnify the Insured against Legal Liability caused directly or indirectly by, arising from or in connection with:
 - (1) Internet Operations, but this exclusion does not apply to Legal Liability arising:
 - (A) from any material that is already in print by the manufacturer or supplier in support of its product, including but not limited to product use and safety instructions or warnings, and which is also reproduced on its Internet site; or
 - (B) irrespective of the environment of the Insured's Internet Operations;
 - (2) damage to computer data or programmes and their storage media caused directly or indirectly by, arising from or in connection with:
 - (A) the use of computer hardware or software;

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

(B) the provision of computer or telecommunications services by or on behalf of an Insured;

(C) the use of computer hardware or software belonging to any third party, whether authorised or unauthorised, including the effect or any computer virus.

(b) **Internet Operations** means:

(1) transfer of computer data or programmes by the use of electronic mail systems by an Insured or Employees (including but not limited to, for the purpose of this definition only, part-time and temporary staff, contractors and others within the Insured's organization), whether or not such data or programmes contain any malicious or damaging code, including but not limited to computer viruses, worms, logic bombs and Trojan Horses;

(2) access through an Insured's network to the world wide web for a public internet site by Employees (including but not limited to, for the purpose of this definition only, part-time and temporary staff, contractors and others within the Insured's organization);

(3) access to an Insured's intranet (meaning internal company information and computing resources) which is made available through the world wide web for the Insured's customers or others outside the Insured's organization;

(4) operation and maintenance of an Insured's web site.

(c) Nothing in this exclusion shall be construed to extend the liability of the Underwriters to indemnify the Insured against any liability that would not have been covered in the absence of this exclusion.

5. Interested parties

The Underwriters shall not indemnify a person or company not named as an Insured even if his, her or its interest is noted in the Schedule.

F. GENERAL CONDITIONS

1. Average

(a) For Sections 1, 2 and 5, if the Sum Insured for a Machine is less than 90% of its Market Value immediately prior to the Damage or Breakdown Damage, the indemnity shall be reduced according to the formula:

$$\frac{(\text{Indemnity} \times \text{Sum Insured})}{(9/10) \times \text{Market Value}}$$

(b) For Section 4, if the Sum Insured is less than 90% of the Annual Income, the indemnity payable under Section 4 shall be reduced according to the formula:

$$\frac{(\text{Indemnity} \times \text{Sum Insured})}{(9/10) \times \text{Annual Income}}$$

(c) Annual Income means the total revenue to the Insured directly from all the Machines for the 12 consecutive months immediately preceding the Damage, after deducting the aggregate of the Costs of Working for all the Machines for the same period.

2. Compliance with recommendations, guidelines, standards and legislation

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

(a) service, maintain, use and operate the Machines and any vehicles strictly in accordance with:

- (1) manufacturers' and distributors' recommendations and guidelines;
- (2) systems and procedures imposed or recommended by law, International Standards, Australian Standards and industry standards;

(b) ensure that anyone servicing, maintaining, using, or engaging in the operation of the Machines and any vehicles complies strictly with:

- (1) manufacturers' and distributors' recommendations and guidelines;
- (2) systems and procedures imposed or recommended by law, International Standards, Australian Standards and industry standards;

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

- (c) not permit unqualified or inadequately experienced persons to engage in the operation or use of the Machines and any vehicles.

3. Claims procedure

- (a) As soon as an Insured becomes aware of anything that gives rise to or could give rise to a claim under the Policy, the Insured shall:
 - (1) immediately notify UAA by telephone;
 - (2) take all precautions to prevent or reduce Damage, Breakdown Damage, Property Damage, Personal Injury, Consequential Loss, Liability to Hirer or Legal Liability (including carrying out necessary minor repairs without first obtaining the approval of the Underwriters);
 - (3) retain any damaged Machine or vehicle or parts thereof; and
 - (4) provide to UAA full details of the claim in writing within three days.
- (b) Any notice, process or summons to be served by the Insured on any of the Underwriters may be served on UAA, which is authorised to enter an appearance on the Underwriters' behalf.

4. Co-operation in claims

The Insured shall, as soon as possible after the occurrence of Damage, Breakdown Damage, Property Damage or Personal Injury that might give rise to a claim under the Policy, notify UAA and provide to UAA and its agents (including assessors, investigators and legal representatives) all co-operation and assistance required by UAA, including but not limited to providing or making available:

- (a) all information and documents to establish the cause of the Damage, Breakdown Damage, Property Damage or Personal Injury;
- (b) written statements and all documents and records as to Market Value, Income and Costs of Working;
- (c) all documents and records as to the servicing, maintenance and operation of the Machine;
- (d) all documents constituting the contract of hire between the Insured and a hirer; and
- (e) all relevant persons for interviews, statements and assistance.

5. Fraud / Utmost good faith

- (a) The Insured shall at all times comply with his, her or its duty of utmost good faith and shall not provide false or misleading information to the Underwriters or UAA.
- (b) The Insured shall answer truthfully, honestly and with due diligence any requests for information by the Underwriters or UAA.

6. Defence of Legal Liability claims

If a claim for Liability to Hirer under Section 2 or Legal Liability under Sections 6 or 7 is made against the Insured, the Underwriters shall have the right to:

- (a) instruct lawyers to advise on the claim and represent the Insured;
- (b) conduct the Insured's defence;
- (c) direct the settlement of the claim.

7. Basis of the Sum Insured

(See also General Conditions F.1 (Average) and F.8 (Premium Adjustment).)

- (a) The Sum Insured for Sections 1, 2 and 5 shall be the Market Value at the commencement of the Period of Insurance, which the Insured shall declare to the Underwriters at that time.
- (b) The Sum Insured for Section 4 shall be the Annual Income declared by the Insured to the Underwriters at the commencement of the Period of Insurance.
- (c) **Annual Income** means the Insured's estimate of the total revenue that the Insured will receive directly from all the Machines during Period of Insurance, after deducting the estimated Costs of Working for all the Machines during the Period of Insurance.

8. Premium adjustment

- (a) If Section 2 applies, the Premium for Section 2 is calculated at the commencement of the Period of Insurance as a minimum deposit premium, based on the Insured's estimate of total hiring charges for Machines to be hired in by the Insured during the Period of Insurance.
- (b) If the total hiring charges paid by the Insured during the Period of Insurance for Machines hired in by the Insured is different from the estimate provided at the commencement of the Period of Insurance, the Premium shall be

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

adjusted and the Insured shall pay or receive the difference between the adjusted Premium and the minimum deposit premium.

9. Right of inspection

- (a) The Underwriters shall have the right to inspect or examine any Machines at any time during the Period of Insurance.
- (b) The Insured shall assist in inspections or examinations of the Machines.

10. Notification of changes materially affecting the insurance

- (a) The Insured shall notify the Underwriters 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.
- (b) The Underwriters shall not indemnify against the risks arising from the material changes unless, before Damage, Breakdown Damage, Property Damage or Personal Injury in connection with those risks occurs, the Underwriters have agreed in writing to extend the Policy.
- (c) Following the Insured's notification to the Underwriters of such material changes the Underwriters shall have the right to vary the Sums Insured, Excess, Premiums or the terms of the Policy.

11. Use of Machines underground

- (a) The Insured shall not use or operate a Machine underground unless, prior to such use or operation:
 - (1) the Insured has notified the Underwriters in writing that such use or operation is intended; and
 - (2) the Underwriters have agreed in writing to extend the Policy to cover such use or operation.
- (b) The Policy shall not include cover to a Machine while used or operated underground unless the Underwriters have agreed in writing to extend the Policy to cover such use or operation.

12. Use of Machines in connection with drilling or wells

- (a) The Insured shall not use or operate a Machine for or in connection with oil, gas or geothermal drilling or wells unless, prior to doing so:
 - (1) the Insured has notified the Underwriters; and
 - (2) the Underwriters have agreed in writing to extend the Policy to cover such use or operation.
- (b) The Policy shall not cover Damage to a Machine occurring while being used or operated in connection with oil, gas or geothermal drilling or wells unless, prior to such use or operation the Underwriters have agreed in writing to extend the Policy to cover such use or operation.

13. Placement of Machines on Watercraft

- (a) The Insured shall not place a Machine on a Watercraft unless, prior to doing so:
 - (1) the Insured has notified the Underwriters; and
 - (2) the Underwriters have agreed in writing to extend the Policy to cover the Machine while on the Watercraft.
- (b) The Policy shall not cover Damage to a Machine while on a Watercraft unless, prior to such placement, the Underwriters have agreed in writing to extend the Policy to cover such placement.

14. Subrogation

- Upon Damage, Breakdown Damage or Legal Liability:
- (a) the Underwriters shall be entitled immediately to pursue;
 - (b) the Insured shall consent to the Underwriters' pursuing; and
 - (c) the Insured shall co-operate with and assist the Underwriters in pursuing;
- the Insured's legal rights to recover compensation from others for the Damage, Breakdown Damage, Consequential Loss, Liability to Hirer and Legal Liability.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

GENERAL SECTION

15. Salvage

In the event of the destruction of a Machine or part of a Machine against which the Underwriters have agreed to indemnify the Insured, the ownership of the Machine or part shall pass immediately to the Underwriters, unless the Underwriters notify the Insured in writing otherwise.

16. Jurisdiction

The Policy shall be interpreted by the courts of and according to the laws of the Australian State or Territory in which the Policy was issued.

17. Cancellation of the Policy

- (a) The Insured may cancel the Policy or any Section of it at any time by providing three days' notice in writing to UAA.
- (b) If the Insured cancels, the Underwriters shall refund to the Insured 80% of the Premium relating to the cancelled part of the Policy for the unexpired part of the Period of Insurance.
- (c) The Underwriters may cancel the Policy or any Section of it in accordance with the Insurance Contracts Act, 1984.
- (d) If the Underwriters cancel, the Underwriters shall refund to the Insured the Premium relating to the cancelled part of the Policy for the unexpired part of the Period of Insurance.

18. Several Liability of the Underwriters

Each of the Underwriters shall be liable to pay no more than its own underwriting proportion and shall not be liable on the part of any of the other Underwriters.

19. Discovery of Products Defects

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

20. Two or more named as the Insured (cross-liability)

If two or more persons or companies are named as the Insured in the Schedule:

(a) for Sections 1-5:

- (1) each one is both individually and collectively responsible for the Insured's compliance with the conditions of the Policy; and
- (2) the Underwriters shall be entitled to raise against each Insured any defence available against any other Insured;

(b) for Sections 6 and 7, each Insured shall be treated as if a separate policy had been issued to that Insured, but this Condition shall not operate to increase the Underwriters' liability beyond:

- (1) the limits of liability in the Policy; and
- (2) the liability of the Underwriters had this Condition not been included in the Policy.

21. Payment of Excess

The Underwriters shall not be liable to indemnify an Insured under Sections 6 or 7 if the Insured does not pay the Excess within 14 days after being requested to do so.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY
SECTION 1 – DAMAGE

A. THE COVER

The Underwriters shall indemnify the Insured against Damage to a Machine that occurs during the Period of Insurance.

B. THE INDEMNITY

1. The indemnity against Damage per Machine under this Section shall not exceed the least of:
 - (a) the reasonable cost of repair to a condition equal to the condition immediately prior to the Damage, including:
 - (1) the reasonable transportation, commissioning, erection and installation costs; and
 - (2) the reasonable cost of dismantling; necessarily incurred for the purpose of repair;
 - (b) the Market Value immediately prior to the Damage;
 - (c) an amount that indemnifies the Insured against the Damage;
 - (d) the Sum Insured less the aggregate of all amounts already paid by the Underwriters in respect of the Machine under this Section.
2. The aggregate of all indemnity against Damage to two or more Machines caused by the one event shall not exceed the Limit Any One Loss, if shown in the Schedule.
3. The aggregate of all indemnity under this Section during the Period of Insurance shall not exceed the Maximum Aggregate Limit, if shown in the Schedule.
4. The Underwriters shall, at their option, indemnify the Insured in accordance with B.1 by:
 - (a) repairing the Machine to a condition equal to its condition immediately prior to the Damage; or
 - (b) paying the indemnity to the Insured.
5. If repair requires a part that is no longer available, the Underwriters shall not pay a price to purchase a replacement that exceeds the manufacturer's or supplier's last published price for that part.
6. The Excess shall apply to each Machine for each event of Damage.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

SECTION 2 – HIRED-IN PLANT (LIABILITY TO HIRERS)

A. THE COVER

1. The Underwriters shall indemnify the Insured against Liability to Hirer arising from Damage to a Machine hired in by the Insured that occurs:
 - (a) during the Period of Insurance;
 - (b) during the period of hire; and
 - (c) while the Machine is in the physical possession and control of the Insured.
2. **Liability to Hirer** means the Insured's liability under the express terms of the hire contract to pay to the hirer in the event of Damage:
 - (a) the cost of repair or replacement of the Machine; and
 - (b) hiring charges for the Machine for the period during which the Machine remains continuously unable to be used from the time of the occurrence of and in consequence of the Damage;and does not include liability for demurrage and any other direct or consequential loss of the hirer.

B. THE INDEMNITY

1. The indemnity against Liability to Hirer per Machine for the cost of repair or replacement shall not exceed the least of:
 - (a) the reasonable cost of repair to a condition equal to the condition immediately prior to the Damage, including:
 - (1) the reasonable transportation, commissioning, erection and installation costs; and
 - (2) the reasonable cost of dismantling; necessarily incurred for the purpose of repair;
 - (b) the Market Value immediately prior to the Damage;
 - (c) an amount that indemnifies the hirer against the Damage;
 - (d) the Insured's liability for repair or replacement of Damage under the hire contract;
 - (e) the Sum Insured less the aggregate of all amounts already paid by the Underwriters for cost of repair or replacement in respect of the Machine under this Section.
2. The indemnity against Liability to Hirer per Machine for hiring charges shall be the lesser of:
 - (a) the amount shown for 'Hiring Charges' in the

Schedule less the aggregate of all amounts already paid by the Underwriters for hiring charges in respect of the Machine under this Section;

- (b) the amount of hiring charges for the Machine payable by the Insured under the hire contract for the period commencing after the fourteenth day after the Damage and ending at the earlier of:
 - (1) the end of the number of weeks shown for the 'Indemnity Period' in the Schedule;
 - (2) repair or replacement of the Machine.

(Note: The Insured's obligation to mitigate its loss under General Condition F.3(a)(2) includes exercising any right under the hire contract to minimise the Insured's liability to the hirer).

3. The aggregate of all indemnity against Liability to Hirer in respect of Damage to two or more Machines arising from the one event shall not exceed the Limit Any One Loss, if shown in the Schedule.
4. The aggregate of all indemnity under this Section during the Period of Insurance shall not exceed the Maximum Aggregate Limit, if shown in the Schedule.
5. The Excess shall apply to each Machine for each event of Damage.

C. ADDITIONAL BENEFIT

Legal Costs

1. If a claim for Liability to Hirer is made against an Insured, the Underwriters shall also pay the Legal Costs in relation to that claim to which the Underwriters have agreed in writing before the Legal Costs are incurred.
2. The indemnity for Legal Costs shall not exceed the balance of the aggregate of the Sum Insured and the amount shown for Hiring Charges in the Schedule after deducting:
 - (a) the aggregate of all amounts for Liability to Hirer and Legal Costs already paid by the Underwriters under this Section; and
 - (b) the amount paid for the Liability to Hirer to which the Legal Costs relate.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

SECTION 3 – ADDITIONAL BENEFITS

A. INTRODUCTION

1. Additional Benefits B.1 – B.6 shall apply automatically to Sections 1 and 2.
2. Additional Benefit B.7 shall apply automatically to Section 1 and shall apply to Section 2 only if shown in the Schedule as applying to Section 2.
3. Additional Benefits B.8, B.9, B.10 and B.11 shall apply to Section 1 or 2 only if shown in the Schedule as applying to Section 1 or 2.

B. ADDITIONAL BENEFITS

1. Damage to lifted goods

- (a) **Damage** shall also mean sudden and unexpected physical damage or destruction of goods that are both:
 - (1) in the possession and control of the Insured; and
 - (2) suspended from a Machine designed to lift those goods.
- (b) The Sum Insured for goods under this Additional Benefit shall be the amount shown in the Schedule for 'Damage to Lifted Goods'.
- (c) The Underwriters shall not indemnify the Insured under this Additional Benefit against:
 - (1) Damage to goods caused directly or indirectly by or arising from a defect in or the fragility of the goods or their container;
 - (2) any legal liability of whatsoever nature.

2. Multiple Crane Operation

- (a) The Underwriters shall indemnify the Insured against Damage occurring while the Machine is being used in a Multiple Crane Operation during the Period of Insurance.
- (b) **Multiple Crane Operation** means the use of two or more lifting machines together, as described in the edition of Australian Standard AS2550.1 or its equivalent current at the time of the Operation.
- (c) If the Insured or any person engaged in the Multiple Crane Operation did not adopt and comply with the procedures and requirements set out in the edition of Australian Standard AS2550.1 or its equivalent current at the time of the Operation, there shall be no indemnity under this Additional Benefit.

3. Expediting Costs

- (a) If the Underwriters are liable to indemnify the Insured under the relevant Section against Damage to a Machine, the Underwriters shall also indemnify the Insured against the Expediting Costs.
- (b) **Expediting Costs** means the reasonable additional costs necessary to effect immediate temporary repairs or to expedite permanent repairs to the Machine.
- (c) The Sum Insured for this Additional Benefit shall be the lesser of \$10,000 or 20% of the indemnity payable against the Damage under the relevant Section.
- (d) If the Insured has not obtained the consent of the Underwriters prior to incurring the Expediting Costs, there shall be no indemnity under this Additional Benefit.

4. Recovery Costs

- (a) If, during the Period of Insurance, a sudden and unexpected event occurs in the course of the Business that does not cause Damage but renders a Machine inaccessible and unable to be used, the Underwriters shall indemnify the Insured against the Recovery Costs.
- (b) **Recovery Costs** means the reasonable costs necessary to recover the Machine.
- (c) The Sum Insured for this Additional Benefit shall be the lesser of:
 - (1) \$50,000;
 - (2) the nett expense of effecting the recovery of the Machine that the Insured incurred or would have incurred by using its own equipment.

5. Indemnity to hirer

- (a) Where:
 - (1) the Insured has hired out a Machine to a hirer with the Insured's Employee as operator; and
 - (2) the hire agreement between the Insured and the hirer provides:
 - (A) that the Insured shall arrange for the hirer to be insured against Damage; or
 - (B) that the Insured shall release the hirer from liability for Damage;
- the Underwriters shall indemnify the hirer against Damage to the Machine while hired out according to the terms of the relevant Section.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

SECTION 3 – ADDITIONAL BENEFITS

- (b) The indemnity under this Additional Benefit shall not exceed the insurance or release that the hire agreement provides to the hirer.

6. Appreciation in value

If the Market Value appreciates during the Period of Insurance so as to exceed a Machine's Sum Insured under the relevant Section, the Machine's Sum Insured shall increase by the amount of the appreciation of the Market Value up to 25% of the Sum Insured.

7. Additions/deletions of machines

- (a) The relevant Section shall apply to a machine not identified in the Schedule and acquired by an Insured during the Period of Insurance.
- (b) The Insured shall, before the additional machine shall be insured:
 - (1) provide to the Underwriters a written declaration of the additional machine no later than 30 days after its acquisition;
 - (2) comply with the Insured's duty of disclosure in respect of the additional machine.
- (c) The Underwriters shall, after the Insured has complied with the obligations in (b):
 - (1) notify the Insured whether or not the additional machine shall be insured under the relevant Section; and
 - (2) if the additional machine shall be insured, notify the Insured of:
 - (A) the terms of the cover;
 - (B) the Premium;
 - (C) the Excess;for the additional machine.
- (d) If the Insured requests the Underwriters in writing to delete a Machine from the Schedule as from a specified date, the Underwriters shall refund to the Insured the Premium for the deleted Machine for the unexpired part of the Period of Insurance and General Condition F.17(b) shall not apply.

8. Agreed value

- (a) This Additional Benefit shall apply to a Machine only if:
 - (1) the Schedule describes the Sum Insured for the Machine under the relevant Section as 'Agreed Value'; and

- (2) before the commencement of the Period of Insurance:

- (A) the Insured has provided to the Underwriters; and

- (B) the Underwriters have agreed with; a licensed valuer's written assessment of the market value of the Machine.

- (b) If this Additional Benefit applies, B.1(b) of the relevant Section shall not apply.

9. Owner's protection

- (a) Exclusions D.1(a), (b), (c), (d) and D.4(b) and General Condition F.2(a) in the General Section shall not apply to the relevant Section if the Exclusion or General Condition would apply owing to conduct of an Employee.
- (b) There shall be no indemnity under the Additional Benefit if, at the time of the Damage, the Employee:
 - (1) was an owner of the Machine;
 - (2) was an Insured;
 - (3) was a director or partner of an Insured; or
 - (4) was acting with the knowledge of, or was influenced by, an owner of the Machine, an Insured, or a director or partner of an Insured.

10. Owner's protection plus

- (a) Exclusions D.1(a), (b), (c), (d) and D.4(b) and General Condition F.2(a) in the General Section shall not apply to the relevant Section if the Exclusion or General Condition would apply owing to conduct of an Employee, the hirer, or any person engaged in the operation of the Machine.
- (b) There shall be no indemnity under this Additional Benefit if, at the time of the Damage, the Employee, the hirer, or the person engaged in the operation of the Machine:
 - (1) was an owner of the Machine;
 - (2) was an Insured;
 - (3) was a director or partner of an Insured; or
 - (4) was acting with the knowledge of, or was influenced by, an owner of the Machine, an Insured, or a director or partner of an Insured.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY
SECTION 3 – ADDITIONAL BENEFITS

- (c) Nothing in this Additional Benefit shall affect the Underwriters' rights of subrogation, including against the hirer.

(Note: Additional Benefits 9 and 10 are available only as alternatives to each other and the applicable one shall be shown in the Schedule).

11. Hired-out plant (damage waivers)

- (a) Where:
- (1) the Insured has hired out a Machine to a hirer without an Employee as operator; and
 - (2) the hire agreement between the Insured and the hirer provides:
 - (A) that the Insured shall arrange for the hirer to be insured against Damage; or
 - (B) that the Insured shall release the hirer from liability for Damage;the Underwriters shall indemnify the hirer against Damage to the Machine according to the terms of the relevant Section.
- (b) The indemnity under this Additional Benefit shall not exceed the insurance or release that the hire agreement provides to the hirer.
- (c) There shall be no indemnity under the Additional Benefit if, at the time of the Damage, any person engaged in the operation of the Machine:
- (1) was an Insured; or
 - (2) was a director or partner of an Insured.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

SECTION 4 - CONSEQUENTIAL LOSS

A. THE COVER

1. In the event of Damage to a Machine occurring during the Period of Insurance and causing Interruption, the Underwriters shall indemnify the Insured against Consequential Loss occurring during the Indemnity Period stated in the Schedule.
2. There shall be no indemnity under this Section unless the Insured is entitled to recover indemnity against the Damage under Section 1 or under other insurance for Damage similar to Section 1.
3. The Insured shall take all reasonable steps to reduce Consequential Loss, including using or hiring substitutes or alternatives for the Machine.
4. The Underwriters shall have the right to arrange the hire by the Insured of substitutes or alternatives for the Machine.
5. There shall be no indemnity against any Consequential Loss that the Insured could have avoided by using or hiring substitutes or alternatives for the Machine.

B. THE INDEMNITY

1. The indemnity shall not exceed the least of:
 - (a) the Consequential Loss;
 - (b) the Sum Insured;
 - (c) the balance of the Sum Insured after deducting the aggregate of all amounts already paid by the Underwriters under this Section.

C. DEFINITIONS FOR SECTION 4

Interruption means interruption of or interference with the normal use or operation of a Machine caused by its Damage.

Indemnity Period means the period:

1. commencing on the fourteenth continuous day of Interruption after Damage; and
2. ending at the earliest of:
 - (a) the Machine's availability to or return to the Insured within a reasonable time after repair;
 - (b) the Machine's permanent replacement, if destroyed;
 - (c) the expiration of the number of consecutive weeks shown for the Indemnity Period in the Schedule.

Consequential Loss means the Insured's loss caused by the Interruption and occurring during the Indemnity Period, calculated according to the formula:

$$[(A - B) + C] - D$$

where:

- A = the average weekly Income for the 12 month period (or lesser period of the Insured's possession or ownership of the Machine) immediately preceding the Damage, multiplied by the number of weeks of the Indemnity Period;
- B = the Income during the Indemnity Period;
- C = the Increased Costs of Working during the Indemnity Period; and
- D = the savings in Costs of Working resulting from the Damage during the Indemnity Period.

Income means the revenue of the Insured directly from the Machine in the course of the Business, after deducting the Costs of Working of the Machine.

Increased Costs of Working means the additional Costs of Working:

1. caused by Damage; and
2. reasonably and necessarily incurred from when the Damage occurred to the end of the Indemnity Period to reduce Consequential Loss; including the costs of complying with A.3 and A.4.

Costs of Working - see the General Definition.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY
SECTION 5 – BREAKDOWN

A. THE COVER

The Underwriters shall indemnify the Insured against Breakdown Damage occurring during the Period of Insurance.

B. THE INDEMNITY

1. The indemnity against Breakdown Damage per Machine under this Section shall not exceed the least of:
 - (a) the reasonable cost of repair of the part to a condition equal to its condition immediately prior to the Breakdown Damage;
 - (b) the Market Value of the part immediately prior to the Breakdown Damage;
 - (c) an amount that indemnifies the Insured against the Breakdown Damage;
 - (d) the Sum Insured less the aggregate of all amounts already paid by the Underwriters in respect of the Machine under this Section.

2. The aggregate of all indemnity against Breakdown Damage to two or more Machines caused by the one event shall not exceed the Limit Any One Loss, if shown in the Schedule.

3. The Underwriters shall, at their option, indemnify the Insured in accordance with B.1 by:
 - (a) repairing the part to a condition equal to its condition immediately prior to the Breakdown Damage; or
 - (b) paying the indemnity to the Insured.

4. If repair requires a part that is no longer available, the price that the Underwriters shall pay to purchase a replacement part shall not exceed the manufacturer's or supplier's last published price for that part.

5. The Excess shall apply to each Machine for each event of Breakdown Damage.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

SECTION 6 – ROAD RISK

A. THE COVER

The Underwriters shall indemnify the Insured against Legal Liability for Personal Injury or Property Damage first occurring during the Period of Insurance and caused by an Occurrence in the course of Use of a Road Vehicle in connection with the Business.

B. LIMITS OF INDEMNITY

1. The indemnity for Legal Liability arising from the one Occurrence shall not exceed the Sum Insured.
2. For Legal Liability arising from or in connection with Dangerous or Hazardous Goods, the indemnity shall not exceed the balance of the sum of \$500,000 after deducting the aggregate of all amounts already paid by the Underwriters under this Section for Legal Liability of such kind. (See also the Exclusions in the General Section).
3. If the Insured is more than one person or legal entity, the Sum Insured (including as limited in B.2 above) shall apply to the aggregate of all Legal Liability of all such persons and legal entities arising directly or indirectly from the one Occurrence.
4. The Excess shall apply to all indemnity under this Section per Occurrence.

C. ADDITIONAL BENEFITS

1. Legal Costs

- (a) In the event of a claim against an Insured for Legal Liability against which the Insured is entitled to recover indemnity under Section 6, the Underwriters shall also indemnify the Insured against Legal Costs incurred with the Underwriters' written consent.
- (b) The indemnity for Legal Costs shall not exceed the balance of the sum of \$5 million after deducting the aggregate of all amounts already paid by the Underwriters under this Section for Legal Costs.

2. Extended Road Risk cover for drivers and passengers

'Insured' shall include:

- (a) a person:
 - (1) using or operating a Road Vehicle with the Insured's permission;
 - (2) holding a valid driver's licence; and
 - (3) neither ineligible for nor previously refused motor vehicle insurance for property damage of any description; or
- (b) a passenger in the Road Vehicle with the Insured's permission.

3. Extended Road Risk cover for substitute vehicles

The definition of 'Road Vehicle' shall include a Motor Vehicle registered for use as a Motor Vehicle as required by law that is not owned by an Insured but is in an Insured's possession in substitution for a Road Vehicle while the Road Vehicle is undergoing repairs or servicing.

4. Extended Road Risk cover for vehicle additions and deletions

- (a) 'Road Vehicle' shall include a Motor Vehicle not identified in the Schedule but first acquired by the Insured during the Period of Insurance, but only after:
 - (1) the Insured has:
 - (A) provided a written declaration of the additional Motor Vehicle to the Underwriters no later than 30 days after its acquisition; and
 - (B) complied with the Insured's duty of disclosure in respect of the additional Motor Vehicle; and
 - (2) the Underwriters have notified the Insured:
 - (A) that the additional Motor Vehicle shall be insured under this Section; and
 - (B) the terms, Premium and Excess for including that additional Motor Vehicle.
- (b) If the Insured requests the Underwriters in writing to delete a Road Vehicle from the Schedule as from a specified date, the Underwriters shall refund to the Insured the Premium for the deleted Road Vehicle for the unexpired part of the Period of Insurance and General Condition F.17(b) shall not apply.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

SECTION 6 – ROAD RISK

5. Extended Road Risk cover for conditionally or temporarily registered vehicles

'Road Vehicle' shall include a Motor Vehicle identified in the Schedule that is not registered as at the commencement of the Period of Insurance, but is fully or conditionally registered or is operating under a temporary road permit at the time of the Occurrence.

D. EXCLUSIONS

[See also the Exclusions in the General Section.]

1. The Underwriters shall not indemnify the Insured against Legal Liability caused directly or indirectly by, arising from or in connection with:

- (a) use of a Road Vehicle in a race, speed trial or reliability trial;
- (b) carrying a larger number of passengers than allowed by law or by the Road Vehicle's specifications;
- (c) carrying or towing a load heavier or larger than allowed by law or by the Road Vehicle's specifications;
- (d) use of a Road Vehicle in an unsafe or unroadworthy condition;
- (e) use of a Road Vehicle 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;
- (f) use of a Road Vehicle for an unlawful purpose, unless the Insured proves that the Insured was unaware of such use;
- (g) operation of or driving a Road Vehicle by any person:
 - (1) not properly qualified or suitably experienced;
 - (2) not licensed, holding an improperly obtained licence or not complying with licence conditions; or
 - (3) suffering from a physical or mental disability affecting or impairing his or her ability;to operate or drive the Road Vehicle, unless the Insured proves that the Insured:
 - (4) did not consent to the operation or driving of the Road Vehicle by that person; or

(5) was unaware of the matters in (1), (2) and (3) above.

(h) operation of or driving a Road Vehicle by any person:

(1) under the influence of or affected by drugs or alcohol; or

(2) with a level of drugs or alcohol in the breath, blood or urine in excess of that permitted by law to drive the Road Vehicle; unless the Insured proves that the Insured:

(3) did not consent to the Road Vehicle being operated or driven by that person; or

(4) was unaware of the matters in (1) and (2) above;

(i) Use as a Working Tool;

(j) loading or unloading things on or from a Road Vehicle.

2. The Underwriters shall not indemnify the Insured against Legal Liability where the Road Vehicle, at the time and place of the Occurrence, was under a statutory indemnity scheme for, or was required by law to be insured against, liability for personal injury or property damage, except where the scheme or insurance does not, by reason other than an Insured's breach of law, indemnify the Insured against the Legal Liability.

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

SECTION 7 – BROADFORM LIABILITY

A. THE COVER

The Underwriters shall indemnify the Insured against Legal Liability for Personal Injury or Property Damage first occurring during the Period of Insurance and caused by an Occurrence in connection with the Business.

B. LIMITS OF INDEMNITY

1. The indemnity for Legal Liability arising from the one Occurrence shall not exceed the Sum Insured and shall be further limited as follows:

- (a) for Legal Liability arising from Products, the balance of the Sum Insured after deducting the aggregate of all amounts already paid by the Underwriters under this Section for Legal Liability in connection with Products;
- (b) for Legal Liability for such part of Property Damage being physical damage or destruction of, but not resultant loss of use of, tangible property in the physical possession or legal control of:

- (1) an Insured, a director or partner of an Insured, or an Employee, other than:
 - (A) property excluded by Exclusion E.1(e) in the General Section;
 - (B) premises leased, rented or hired to the Insured;
- (2) the driver of a vehicle while such property is suspended from a Machine designed to lift that property (see Exclusion E.1(e)(4) in the General Section);

the balance of the sum of \$100,000 after deducting the aggregate of all amounts already paid by the Underwriters under this Section for Legal Liability for Property Damage of such kind;

- (c) for Legal Liability for Property Damage caused by, arising from or in connection with:
 - (1) vibration;
 - (2) removal or weakening of or interference with support for land or buildings;

the balance of the sum of \$250,000 after deducting the aggregate of all amounts already paid by the Underwriters under this Section for Legal Liability for Property Damage of such kind.

- 2. If the Insured is more than one person or legal entity, the Sum Insured (including as limited in B.1(a)-(c) above) shall apply to the aggregate of all Legal Liability of all such persons and legal entities arising directly or indirectly from the one Occurrence.
- 3. The Excess shall apply to all indemnity under this Section per Occurrence.

C. ADDITIONAL BENEFITS

In the event of a claim against the Insured for Legal Liability against which the Insured is entitled to recover indemnity under Section 7, the Underwriters shall indemnify the Insured:

1. Legal Costs

against Legal Costs incurred with the Underwriters' written consent, but the amount of the indemnity for Legal Costs shall not exceed the balance of the sum of \$5 million after deducting the aggregate of all amounts already paid by the Underwriters under this Section for Legal Costs.

2. Additional Payments

against cost incurred by the Insured:

- (a) in supplying first aid in connection with Personal Injury;
- (b) for temporary repairs, shoring up or protection of physical property necessitated by the Property Damage;

but the indemnity for such cost shall not exceed the balance of the Sum Insured after deducting the aggregate of all amounts already paid by the Underwriters under this Section for Legal Liability and Additional Payments.

3. Cover for Others

'Insured' shall include:

- (a) Employees, directors and partners of the Insured, but in each case only when the Legal Liability arises from their acting within the scope of their duties for the Insured;
- (b) Senior executive Employees, directors and partners of the Insured, but in each case only when the Legal Liability arises from work carried out for them by Employees;

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY

SECTION 7 – BROADFORM LIABILITY

- (c) office-bearers or members of any:
 - (1) canteen or social, sporting, welfare or child-care organisation; or
 - (2) first aid, fire brigade or ambulance service; formed by the Insured or with the Insured's consent, but only when the Legal Liability arises from their acting within the scope of their duties for the Insured;
- (d) a principal for whom the Insured is performing work under a contract whose express terms oblige the Insured to indemnify that principal against Legal Liability for personal injury under the contract; and
 - (1) when the principal's Legal Liability arises as a result of the Insured carrying out the work required under the contract; and
 - (2) to the extent of the Insured's obligation under the contract to indemnify the principal, but no more than the Insured's liability without the indemnity.

D. EXCLUSIONS

[See also the Exclusions in the General Section.]

The Underwriters shall not indemnify the Insured against Legal Liability caused directly or indirectly by, arising from or in connection with:

1. Motor Vehicles

the ownership, maintenance, control or use by or on behalf of an Insured of a Motor Vehicle that, at the time and place of the Occurrence:

- (a) was under a statutory indemnity scheme for, or was required by law to be insured against, liability for personal injury or property damage, except where the scheme or insurance does not, by reason other than an Insured's breach of law, wholly or partially indemnify the Insured against the liability;
- (b) was registered for use as a vehicle, except where the Occurrence resulted from and during:
 - (1) Use as a Working Tool; or
 - (2) loading or unloading things on or from a Motor Vehicle; or
- (c) was required by law to be registered as a vehicle but was unregistered.

2. Professional risks

provision of, failure to provide, or error or omission in provision of a professional service (other than first-aid or any medical or non-medical emergency services to the person) by an Insured or another person or entity; but this Exclusion shall not apply when the service or advice was provided by an Insured for no charge or fee.

3. Designs, plans, specifications, patterns and formulas

any design, plan, specification, pattern or formula provided by an Insured or another person or entity; but this Exclusion shall not apply when such things were provided by an Insured for no charge or fee.

4. Aircraft, hovercraft and Watercraft

the ownership, operation or use of:

- (a) aircraft;
- (b) hovercraft;
- (c) Watercraft greater than 8 metres in length, unless:
 - (1) the Watercraft is being operated by an independent contractor;
 - (2) the Watercraft is not owned by an Insured but is being used for entertainment for the purpose of the Business.

5. Battery and assault

battery or assault committed by anyone other than for the purpose of preventing or removing danger to persons or property.

6. Discrimination, harassment and unfair dismissal

discrimination, harassment or unfair dismissal.

7. Defamation, passing off, privacy and others

- (a) defamation;
- (b) infringement of copyright;
- (c) passing off;
- (d) unfair competition;
- (e) piracy;
- (f) idea misappropriation;
- (g) incorrect description of price;
- (h) breach of privacy.

ISP 01.2004

INDUSTRIAL SPECIAL PLANT INSURANCE POLICY
SECTION 7 – BROADFORM LIABILITY

8. Vibration and removal of support

- (a) vibration;
- (b) removal or weakening of or interference with support for land or buildings;
except as provided in B.1(c).

9. Tobacco

the inhalation or ingestion of, or exposure to:

- (a) tobacco;
- (b) tobacco smoke;
- (c) any ingredient or additive present in any articles, items or goods which contain or include tobacco.



First in Plant Protection

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