

# Contractual Liability Policy



## ABOUT MECON INSURANCE PTY LTD

MECON Insurance Pty Ltd (MECON) A.B.N. 29 059 310 904 and AFSL No. 253106 has established a professional insurance service specialising in providing insurance solutions for many business requirements.

If you would like any further information about MECON, please visit our website [www.mecon.com.au](http://www.mecon.com.au) or contact our staff at [customerservice@mecon.com.au](mailto:customerservice@mecon.com.au) or by phoning (02) 9252 1040.

MECON administers this policy on behalf of AIG Australia Pty Ltd as its agent.

## ABOUT THE INSURER

This insurance is issued/insured by AIG Australia Limited (AIG), ABN 93 004 727 753, AFSL 381686, Level 19, 2 Park Street, Sydney, NSW 2000.

AIG issues/insures this product pursuant to an Australian Financial Services Licence granted to them by the Australian Securities and Investments Commission.

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AIG is the marketing name for the worldwide property-casualty, life and retirement, and general insurance operations of American International Group, Inc. (AIG Inc.) AIG Inc. is a leading international insurance organisation serving customers in more than 100 countries and jurisdictions. AIG Inc. companies serve commercial, institutional, and individual customers through one of the most extensive worldwide property-casualty networks of any insurer. In addition, AIG Inc. companies are leading providers of life insurance and retirement services in the United States. AIG Inc. common stock is listed on the New York Stock Exchange and the Tokyo Stock Exchange.

## GENERAL INFORMATION

### Basis of Agreement

If you have fulfilled your Duty of Disclosure and observed the principles of Utmost Good Faith, then, upon payment of the required premium, we will insure you during the Period of Insurance in the manner and to the extent specified in the policy.

The insurance coverage provided by the policy takes in to account the answers provided in the Proposal Form or disclosed elsewhere to us at the time this insurance was arranged. These answers and disclosures are called 'material facts'. Should you wish to alter a material fact, you must do so in writing and the alteration will only apply if we write to you and confirm that the alteration is acceptable.

### Headings

The headings of clauses in this policy are for reference purposes only. No specific meaning can be placed on any heading.

### Protection of Your Interests

Over the years, a number of legislative and industry reforms have been introduced that protect the rights of consumers and assist them in their dealings with insurance companies. An example of some of the more important reforms are contained in the:

- Insurance Contracts Act 1984 (Cth)
- Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)
- Terrorism Insurance Act 2003 (Cth)
- General Insurance Code of Practice

Please refer to pages 7 to 9 for further information.

### Your Insurance Policy Information

Your insurance policy is made up of:

- this document.
- the Schedule (this also tells you who the insurer is).
- any endorsement or notice we give you in writing.
- information supplied to us in submissions made by you or your insurance broker, whether verbal or in writing.

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## GLOSSARY OF TERMS

Please read this Glossary first. It will help you to understand the policy. Defined terms appear (as shown below) throughout the policy wording.

**Aircraft** means craft intended to float in or travel through air or space.

**Contract** means written contract signed by the parties to it and in which the insured specified in the Schedule is a party.

**Contract Value** means Contract price or value.

**Deductible** means, unless stated otherwise in this policy, the amount stated in the Schedule which is first deducted from a claim covered by this policy. The insurance only covers loss in excess of that amount. You must pay the deductible amount before any claim amount is paid.

**Employee** means person engaged by you under a contract of service or apprenticeship. This includes both statutory and common law employees.

**Insurer** means AIG Australia Pty Ltd ABN 93 004 727 753 and AFSL No. 381686.

**Limit of Indemnity** means maximum amount we will pay under the policy as specified in the Schedule.

**Market Value** means cost of replacing lost or damaged property with property of similar age, condition and capacity. This includes any necessary installation and commissioning costs.

**MECON** means MECON Insurance Pty Ltd (ABN 29 059 310 904 and AFSL 253106).

**Occurrence** means event that you neither expect nor intend. It includes any continued or repeated exposure of people or property to conditions that are generally the same.

**Period of Insurance** means period shown as such in the Schedule.

**Personal Injury** means:

- a. bodily injury, death, sickness, disease, shock, fright, mental anguish or mental injury;
- b. false arrest, false detention, wrongful imprisonment, or malicious prosecution;
- c. defamation;
- d. wrongful entry or wrongful eviction or other invasion of privacy; or
- e. assault committed by any of your Employees while engaged in the Contract, but not if the assault was committed at your direction for any reason other than to avoid or reduce harm to people or property.

**Product** means anything that you have (or are deemed to have) manufactured, grown, extracted, produced, processed, sold, supplied, distributed, repaired, serviced, treated, installed, assembled, erected or constructed in the course of the Contract. This includes any packaging and containers. However, none of these things is deemed to be a Product until after it has left your physical custody and legal control.

**Property Loss** means physical loss of or damage to tangible property resulting from an Occurrence.

**Schedule** means schedule of cover attaching to and forming part of this policy.

**Territorial Limit** means anywhere within Australia or elsewhere shown in the Schedule.

**Vehicle** means machine of any type on wheels or on self-laid tracks made or intended to be propelled other than by manual or animal power and any trailer made or intended to be drawn by, or attached to, any such machine.

**Watercraft** means anything made or intended to float or travel on, through or under water.

**we, us, our** means MECON Insurance Pty Ltd [ABN. 29 059 310 904 and AFSL No. 253106] acting as agent for the Insurer.

**you / your** and its derivatives means entity or entities named as “Insured” in the Schedule. It includes your Employees.

For the avoidance of doubt, liquidators, receivers, administrators and the like are not insured by this policy and neither is any company in liquidation, receivership, administration or which is insolvent, has ceased trading or which has been wound-up.

## COVER

### INSURANCE PROVIDED

#### 1.0 Insuring Clause

We will indemnify you up to the Limit of Indemnity shown in the Schedule for all sums that you become legally liable to pay under Contract as compensation for Personal Injury or Property Loss that:

- a. happens in connection with the business shown in the Schedule within the Territorial Limit during the Period of Insurance; and
- b. results from an Occurrence in connection with the Contract but which does not arise from a Product.

#### 1.1 Legal and Other Costs

Within the Limit of Indemnity, together with the compensation referred to in the Insuring Clause (1.0 above), we will indemnify you for legal defence costs incurred in relation to a claim covered by this policy. You must obtain our prior written consent before incurring any legal defence costs.

In addition, we will indemnify you for the following costs:

##### 1.1a Other Policies

The cost of fulfilling an obligation under Contract:

- i. to provide insurance for a risk, when such insurance was effected, but is inadequate to meet the obligation; or
- ii. relating to your payment of an excess or deductible under a policy arranged by someone other than you.

Unless a different sub-limit is shown in the Schedule for this item, the sub-limit for this item 1.1a is \$50,000 with respect to any one event resulting in a cost indemnifiable under this item and \$250,000 in the aggregate of all such costs during the Period of Insurance.

##### 1.1b Hire Lease or Bailment

This item covers the cost of fulfilling your obligations (to provide insurance or otherwise) under a Contract for hire, lease or bailment.

Unless a different sub-limit is shown in the Schedule for this item, the sub-limit for item 1.1b is \$50,000 in the aggregate of all such costs indemnifiable under this item during the Period of Insurance.

##### 1.1c Contractual Disputes

Provided our prior written consent has been obtained, this item covers you for the legal costs and expenses necessarily and reasonably incurred by you in:

- a. pursuing your legal rights to obtain a civil remedy or to recover civil damages and costs from other parties; and/or
- b. defending any claim or counter claim made against you;

in relation to payment under a Contract for services or work (including disputes over retention money, bonds or liquidated damages), where the issue or dispute in relation to such payment first arose during the Period of Insurance and was reported to MECON during that same Period of Insurance.

We reserve the right to take over, or become involved in, the administration of the issue or dispute on your behalf, and, prior to giving its written consent as specified above, we have the right to consider whether or not there are reasonable grounds for pursuing or defending any matter specified in a. and/or b. above.

Unless we are satisfied that such reasonable grounds exist, our consent as described above will not be given.

Unless a different sub-limit appears in the Schedule for this item, the sub-limit for this cover is \$20,000 in the aggregate of all such legal costs and expenses during the Period of Insurance.

A special Deductible of \$5,000 applies to any issue or dispute resulting in a claim under this item.

For the avoidance of doubt:

- (i) this item does not alter the operation of General Exclusions 3.4 (Delay in Contract), and 3.13 (Penalties and Damages), and
- (ii) a payment by MECON under this item 1.1c is not contingent upon there being a valid claim under any other item or provision of this policy. This includes item 1.0 (Insuring Clause).

“reasonable grounds” means

- a. you have reasonable prospects of success in obtaining a civil remedy or recovering civil damages in respect of the subject of the issue or dispute, or
- b. you have reasonable prospects of success in defending a claim or counter claim made against you in relation to that issue or dispute,

and that having regard to the likely legal costs and expenses involved in pursuing or defending the issue or dispute it is reasonable for such issue or dispute to be pursued or defended.

#### 1.1d Underground Services

This item covers your liability in Contract for Property Loss to underground pipes or cables. Unless a different sub-limit appears in the Schedule for this item, the sub-limit for this item 1.1d is \$20,000 in the aggregate of all such costs during the Period of Insurance.

#### 1.1e Mitigation Costs

This item covers the necessary cost of temporary repairs first undertaken during the Period of Insurance to prevent any immediate threat of Property Loss or Personal Injury, the liability for which would otherwise be indemnifiable under this policy.

Except where stated to the contrary, our liability will not exceed the Limit of Indemnity for all items above (from 1.1 to 1.1e. inclusive).

#### 1.2 Hold Harmless / Release

Where a Contract contains a clause that requires you to release another party in the Contract from responsibility or liability and/or to waive your recovery rights against that other party, the subrogation rights under item 4.9 (Subrogation) will not be exercised.

### How Premium Is Calculated

#### 2.0 Premium is calculated as follows:

2.1 For Insuring Clause (1.0 above), a minimum deposit premium will be calculated by applying the rate of premium to your estimated turnover in the Period of Insurance.

On expiry of the Period of Insurance, you must declare your actual turnover for the Period of Insurance. If this is greater than the estimated turnover, the premium will be adjusted on the difference. The additional premium will then be immediately payable by you.

2.2 For the items in Legal and Other Costs (1.1 to 1.1e. inclusive above), at our sole discretion, the premium is either a fixed premium or it is calculated by applying a rate of premium to the applicable Limit of Liability.

### GENERAL EXCLUSIONS

3.0 Cover under this policy is subject to the following exclusions.

#### 3.1 Asbestos

This policy does not cover any loss, damage, liability or cost connected in any way with asbestos, or with any product or material containing asbestos.

#### 3.2 Breach of Contract or Agreement

This policy does not cover:

- a. liability you incur through your failure to arrange or maintain an insurance required by any law or statute; or
- b. liability or cost which is covered by any of the policies listed in the proposal form or elsewhere in the information you provided to your insurance broker or us; or
- c. any liability or cost that would have been recoverable from another party but for your release, waiver or limitation of that liability. However, this exclusion does not apply to any such waiver or limitation that is required by Contract.

#### 3.3 Contract Work

This policy does not cover your liability for Property Loss to property under construction:

- a. if there is no material damage insurance policy effected on such property; or
- b. that happens during any defects liability period specified in any construction Contract applicable to such property.

#### 3.4 Delay in Contract

This policy does not cover liability for loss of use of any property resulting from any delay in or lack of your performance of work under Contract.

#### 3.5 Design, Material and Workmanship

This insurance does not cover liability for loss of or damage to and the cost necessary to replace, repair or rectify:

- i. any component part or individual item of property the subject of a Contract which is defective in design plan specification materials or workmanship; or
- ii. such property lost or damage to enable replacement repair or rectification of the otherwise undamaged property excluded by i. above.

Note: i. above shall not apply to other parts or items of property the subject of a Contract which are free from defect but are damaged in consequence thereof.

For the purpose of the policy and not merely this exclusion, property the subject of a Contract shall not be regarded as lost or damaged solely by virtue of the existence of any defect in design plan specification materials or workmanship in the property or any part thereof.

#### 3.6 Explosives

Unless the Schedule states otherwise, this policy does not cover liability connected in any way with blasting operations or the handling or use of explosives.

#### 3.7 Hire Agreement

This policy does not cover liability for Property Loss relating to property the subject of any hire lease, loan, or similar agreement, for any amount exceeding \$50,000 (unless a different amount appears in the Schedule).

#### 3.8 Injury to Employees

This policy does not cover:

- a. liability for Personal Injury to any Employee arising directly or indirectly out of the Employee's employment in the Contract except that this exclusion shall not apply to the liability of another for such Personal Injury where you have assumed that liability under Contract; or
- b. any claim arising under worker's compensation legislation or under any industrial award or agreement or determination; or
- c. any claim that is or would be within the scope of compulsory workers' or worker's compensation insurance, even if the compulsory insurance has not been taken out; or
- d. any claim connected with an Employee's contract of employment.

### 3.9 Insurance Sanctions

If, by virtue of any law or regulation which is applicable to us, our parent companies or our ultimate controlling entity, at the inception of this policy or at any time thereafter, providing coverage to you is or would be unlawful because it breaches an applicable embargo or sanction, we will provide no coverage and have no liability whatsoever nor provide any defense to you or make any payment of defense costs or provide any form of security on your behalf, to the extent that it would be in breach of such embargo or sanction.

### 3.10 Internet Operations

This policy does not cover liability for any loss, damage, liability or cost directly or indirectly caused by or arising from your Internet Operations.

'Internet Operations' means any of the following:

- a. the use of any electronic mail system by you or by anyone else at your order or with your consent; or
- b. access through your network to the World Wide Web or a public Internet site by you or by anyone else at your order or with your consent; or
- c. access to your internal company information and computing resources that is made available through the World Wide Web; or
- d. the operation and maintenance of your web site.

This exclusion will not apply to liability arising out of any material reproduced on your web site that is already in print by a manufacturer in support of its products. However, the exclusion will apply to any other advice or information located on your website for the purpose of attracting customers.

### 3.11 Legal Liability in Tort

This policy does not cover any legal liability unless:

- a. you have expressly assumed it in Contract; and
- b. the liability would not have attached in the absence of that Contract.

### 3.12 Penalties and Damages

This policy does not cover liability for any:

- a. aggravated or exemplary damages;
- b. any fine; or
- c. any liquidated damages or other penalty imposed under the terms of Contract, or any warranty or agreement.

### 3.13 Personal Injury to Relatives

This policy does not cover liability for Personal Injury to any of your relatives. For the avoidance of doubt, a 'relative' is a person related to you by birth or marriage and includes de-facto's or adoptees.

### 3.14 Pollution

This policy does not cover:

- a. liability arising directly or indirectly out of the discharge, dispersal, release or escape of any Pollutant; or
- b. liability for any cost incurred in removing, nullifying or cleaning up any Pollutant; or
- c. liability for any cost of preventing the escape of any Pollutant.

However, this exclusion does not apply where the discharge, dispersal, release or escape results from a sudden identifiable event:

- i. that you neither expected nor intended; and
- ii. that took place in its entirety at a specific time and place.

'Pollutant' means any solid, liquid, gaseous, biological or thermal irritant or contaminant, including but not limited to dust, smoke, vapour, soot, fumes, chemicals, organisms or waste. 'Waste' includes but is not limited to any material destined to be recycled, reconditioned or reclaimed.

### 3.15 Professional Advice

This policy does not cover liability arising out of your giving or failing to give any professional advice in consideration for a fee. Nor does it cover liability arising out of any error or omission in any such advice.

### 3.16 Property in Care, Custody or Control

This policy does not cover liability for any property in your care, custody or control arising out of Property Loss:

- a. caused to the part of that property by work that you have done on that part; or
- b. to any property owned by any of your relatives or by anyone who normally resides with you.

### 3.17 Radioactive Contamination

This policy does not cover liability for any loss, damage, liability or cost directly or indirectly caused by, or contributed to, or arising from:

- a. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion or fission of nuclear fuel; or
- b. radio-active toxic explosive or other hazardous properties of any nuclear assembly or nuclear component thereof.

### 3.18 Specification, Formula or Design

This policy does not cover liability arising directly or indirectly out of:

- a. any design, plan, specification, formula or pattern that you provide for a fee; or

- b. any error or omission associated with any such design, plan, specification, formula or pattern; or
- c. your failure to comply with any design or specification supplied to you.

#### 3.19 Terrorism

This policy does not cover liability for any loss, damage, liability or cost of any nature directly or indirectly caused by, resulting from or in connection with any act of Terrorism regardless of any other contributing cause or event.

For the purpose of this exclusion, 'Terrorism' means an act, including but not limited to the use or threat of force, or violence by any person or group of people, whether acting alone or on behalf of or in connection with any organisation or government which, from its nature or context, is committed for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government or put the public or any section of the public in fear.

This insurance also excludes liability for any loss, damage, liability or cost of any nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of Terrorism.

#### 3.20 Vehicles

This policy does not cover liability directly or indirectly arising out of the use of any Vehicle that is:

- a. required by law to be registered for road use; or
- b. required by law to be insured for third party bodily injury liability.

However, where the Vehicle is unregistered (or is registered and the third party bodily injury liability insurance has been effected but does not apply) and is, at the time of Occurrence:

- c. on or within 100 meters of the site where it is, or has been, used for work that is necessary under the Contract; or
- d. within 100 meters of the place where it is normally stored; or
- e. crossing a road which divides a farm;

this exclusion will not apply.

#### 3.21 Watercraft or Aircraft

This policy does not cover liability arising out of or connected with the ownership, use or operation of:

- a. any Watercraft exceeding 10 metres in length; or
- b. any Aircraft.

#### 3.22 War

This policy does not cover liability for any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, or military or usurped power.

## GENERAL CONDITIONS

4.0 The following General Conditions apply to the policy. The General Conditions impact the way the policy works and if you fail to fulfil your obligations under them it may have an adverse effect on the cover provided to you under the policy.

#### 4.1 Admission of Liability

Unless you have obtained our prior written consent, neither you nor any of your Employees, agents or others acting on your behalf may:

- a. admit liability, fault or guilt in connection with any Occurrence; or
- b. do anything that might be seen as an admission of liability, fault or guilt unless permissible in law; or
- c. settle any third party claim, even though it may be within the amount of the Deductible.

#### 4.2 Alteration of Risk

You must immediately advise us of any alteration, addition, design or work methodology that differs from that previously disclosed to us and you will pay any such additional premium as we require - if we decide to accept such differences.

#### 4.3 Cancellation

Your policy may be cancelled:

- a. By you at any time by giving notice to us in writing. The cancellation will take effect from the date we receive your notice. To the extent that the premium is minimum and deposit, you will be entitled to a pro rata refund of premium for any unexpired Period of Insurance or premium paid which exceeds the minimum and deposit, less 20% for our costs.
- b. By us in accordance with the provisions of the Insurance Contracts Act 1984 and its amendments. You are entitled to a pro rata refund of premium for any unused Period of Insurance.

Because it is no longer the risk we agreed to insure, your policy will automatically be cancelled from the time your business becomes insolvent or is wound up or is permanently discontinued or a liquidator, administrator, receiver, manager and / or trustee in bankruptcy is appointed to you or any of your assets.

#### 4.4 Claim Conduct

If any loss, damage or allegation of liability occurs that may give rise to a claim under your policy, you must:

- a. inform us of this as soon as you can; and
- b. provide such written documents and information as we may require and, if asked, include verification of particulars on oath; and
- c. take all steps within your power to minimise the extent of loss, damage or liability;
- d. preserve any property affected and make it available for us or our representatives; and

- e. inform the Police if the loss or damage has been caused by any malicious act, theft or other crime; and
- f. forward to us every letter, writ, summons and process in relation to your claim as soon as you receive it; and
- g. advise us in writing as soon as you receive notice of any prosecution or inquest that involves you and is relevant to your claim; and
- h. provide any assistance that we may reasonably require.

#### 4.5 Fraud or Dishonesty

If you make a claim that is fraudulent or dishonest in any way we may refuse the claim and will have the right to cancel this policy and may seek legal recourse against you.

#### 4.6 Inspection

You must allow us or our representative to inspect any Contract documents and to audit any financial or other records relevant to this insurance at any reasonable time.

#### 4.7 Jurisdiction

The construction of the terms, and the validity and effect, of this policy are governed by the laws of the state in which the policy was effected in Australia.

#### 4.8 Risk Management

Without exception, you and your Employees must:

- a. take all reasonable steps to prevent incurring any loss, damage or liability; and
- b. ensure that only suitably qualified operators operate plant and equipment and that suitably skilled workers perform work.

#### 4.9 Subrogation

If you have a right to recover your loss from any other party, then, on accepting liability and indemnifying you under your policy, we will be entitled to exercise that right in your name and for our own benefit. This is called 'subrogation'. You must fully co-operate with us in exercising that right. If you are another party insured under this policy, we will not exercise subrogation against you as long as you have not forfeited your right to indemnity under this policy.

## IMPORTANT INFORMATION

### Contacting Us and Confirming Transactions

You can contact MECON by:

Telephone: (02) 9252 1040

Fax: (02) 9252 1050

E-mail: customerservice@mecon.com.au

By Post: PO Box R1789 Royal Exchange NSW 1225

If you need confirmation of any of the policy details please contact MECON.

### 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.

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.

### Disputes

If a situation arises where you feel we are not listening to you, or you are dissatisfied with our service and have a complaint, we want to know about it. We are committed to handling any complaints about our products or services efficiently and fairly.

#### *The first step*

Any enquiry or complaint relating to this insurance should be referred to MECON in the first instance. Please contact MECON's staff. If you prefer, address the matter in writing to:

*MECON Insurance Pty Ltd PO Box R1789 Royal Exchange NSW 1225 or by emailing customerservice@mecon.com.au*

The Customer Service team is trained to respond to your concerns efficiently and professionally. If they are not able to resolve the matter to your satisfaction, they will request that their Supervisor or Manager address your concern.

#### *The next step*

You will be notified of our decision within 15 working days of us receiving notice of the complaint. If we need more information or more time to respond properly to your complaint, we will contact you to agree an appropriate timeframe to respond. Provided we have the information needed, this review will be completed within 15 business days.

If this does not resolve the matter or you are not satisfied with the way a complaint has been dealt with, you can contact the Insurer on their dedicated complaints line – 1800 339 669 and/or in writing to:

Head of Compliance, AIG, Level 12, 717 Bourke Street, Docklands VIC 3008.

If your complaint is not satisfactorily resolved, you may request that the matter be reviewed by the Insurer's Internal Dispute Resolution Committee ('Committee') by writing to the person who signed the response letter or alternatively, you can contact the Insurer on their dedicated complaints line – 1800 339 669 and request to be referred to the Chairperson of IDRC. The Insurer will respond to you with the Committee's findings within

15 (fifteen) working days. You can also write directly to the Chairperson of the IDRC at the following address:

The Chairperson IDRC, AIG, Level 12, 717 Bourke Street, Docklands VIC 3008.

If you are not satisfied with the finding of the Committee, you may be able to take your matter to an independent dispute resolution body, the Financial Ombudsman Service. This external dispute resolution body can make decisions with which the Insurer is obliged to comply. Contact details are:

Financial Ombudsman Service Australia

Telephone: 1800 367 287

Fax: (03) 9613 6399

Email: [info@fos.org.au](mailto:info@fos.org.au)

Web: [www.fos.org.au](http://www.fos.org.au)

Address GPO Box 3, Melbourne, VIC 3001

### General Insurance Industry Code of Practice

The Insurer is a signatory to the General Insurance Code of Practice. This aims to raise the standards of practice and service in the insurance industry, improve the way that claims and complaints are handled and help people better understand how general insurance works. Information brochures on the General Insurance Code of Practice are available upon request.

### GST

GST, Input Tax Credit (ITC), Business Activity Statement (BAS) and Acquisition have the same meaning given to those terms in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and related legislation. Taxable Percentage (TP) is your entitlement to an ITC on the premium expressed as a percentage.

The premium for this policy includes an amount of GST. You must advise your correct Australian Business Number and TP to MECON. Any GST liability resulting from incorrect advice is payable by you. When we pay a claim, your GST status will determine the GST amount we pay.

When you are not registered for GST, the sums insured and limits of liability in the policy include GST and we will pay your claims inclusive of GST. When you are registered for GST, the sums insured and limits of liability in the policy exclude GST and we will pay your claims excluding GST unless you are liable to pay GST for a "relevant Acquisition" (such as goods and services to repair a damaged item insured by the policy) and we pay the supplier directly for such goods and services, in which case we will also pay the GST amount.

We will reduce the GST amount it pays by the amount of any ITC to which you are, or would be, entitled if you made a "relevant Acquisition", in which case, the ITC may be claimable through your BAS. When settlement of any claim is less than the total amount claimed, we will only pay the amount of GST (less your entitlement for ITC) applicable to the settlement amount.

### Non-disclosure

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.

### Privacy Statement

We are committed to protecting your privacy in accordance with the *Privacy Act 1988* (Cth) (Privacy Act) and the Australian Privacy Principles (APPs). This Privacy Statement outlines how we collect, disclose and handle Your personal information (including sensitive information) as defined in the Act.

#### Why We Collect Your Personal Information

We collect your personal information (including sensitive information) so we can:

- identify you and conduct necessary checks;
- determine what service or products we can provide to you e.g. offer our insurance products;
- issue, manage and administer services and products provided to you or others, including claims investigation, handling and settlement;
- improve our services and products e.g. training and development of our representatives, product and service research and data analysis and business strategy development, and
- make special offers of other services and products provided by us or those we have an association with, that might be of interest to you.

#### What Happens If You Don't Give Us Your Personal Information

If you choose not to provide us with the information we have requested, we may not be able to provide you with our services or products or properly manage and administer services and products provided to you or others.

#### How We Collect Your Personal Information

Collection can take place by telephone email, or in writing and through websites (from data you input directly or through cookies and other web analytic tools). We collect it directly from you unless you have consented to collection from someone other than you, it is unreasonable or impracticable for us to do so or the law permits us to. If you provide us with personal information about another person, you must only do so with their consent and agree to make them aware of this privacy notice.

#### Who We Disclose Your Personal Information To

We share your personal information with third parties for the collection purposes noted above.

The third parties include: our related companies and our representatives who provide services for us, the Insurer, other insurers and reinsurers, your agents, our legal, accounting and other professional advisers, data warehouses and consultants, social media and other



similar sites and networks, membership, loyalty and rewards programs or partners, providers of medical and non-medical assistance and services, investigators, loss assessors and adjusters, other parties we may be able to claim or recover against, and anyone either of us appoint to review and handle complaints or disputes and any other parties where permitted or required by law.

We may need to disclose information to persons located overseas. Who they are may change from time to time.

You can contact us for details or refer to our Privacy Policy available at our website <http://mecon.com.au/about-us/privacy-policy/>. In some cases we may not be able to take reasonable steps to ensure they do not breach the Privacy Act and they may not be subject to the same level of protection or obligations that are offered by the Act. By proceeding to acquire our services and products you agree that you cannot seek redress under the Act or against us (to the extent permitted by law) and may not be able to seek redress overseas.

#### More Information, Access, Correction or Complaints

For more information about our privacy practices including how we collect, use or disclose information, how to access or seek correction to your information or how to complain in relation to a breach of the Australian Privacy Principles and how such a complaint will be handled, please refer to our Privacy Policy available at our website or by contacting us (our contact details are below).

#### Contact Us and Opting Out

By proceeding with your application or submitting your claim, you and any other person included on this policy, consent to this use and these disclosures unless you tell us otherwise. If you wish to withdraw your consent, including for things such as receiving information on products and offers by us or persons we have an association with, please contact us:

By phone: 02 9252 1040

By email: [customerservice@mecon.com.au](mailto:customerservice@mecon.com.au)

In writing: MECON Insurance Pty Ltd PO Box R1789 Royal Exchange NSW 1225

#### Terrorism Insurance Act 2003 (Cth)

The Commonwealth Government established the Australian Reinsurance Pool Corporation (ARPC) in response to increasing concerns over terrorism. The ARPC is a statutory corporation established under the *Terrorism Insurance Act 2003* (Cth) to offer reinsurance for terrorism risk in Australia.

The *Terrorism Insurance Act 2003* (Cth) renders terrorism exclusion clauses in eligible insurance contracts ineffective in relation to loss or liabilities arising from a declared terrorist incident affecting eligible property located in Australia. If the loss is as a result of a terrorist act then the Treasurer will be responsible for paying your claim in accordance with the Policy terms and conditions.

The requirements of the Act are compulsory and under the present terms of the scheme insurers are required to submit to ARPC a percentage of the premium you pay.

If you require further information on the scheme please contact MECON, your insurance adviser or the ARPC.

#### Your Cooling Off Rights

You can return the policy to us within 14 days of the commencement of your insurance. This date is documented on your Schedule. If we receive your written request to cancel the policy within the 14 day period we will give you a full refund (less any taxes or duties payable that we are unable to have refunded).

You cannot return the policy where, before the 14 day period ends, you have exercised or at any stage exercise, any of your rights or powers under the policy (e.g. you have made a claim). After the cooling off period ends you continue to have cancellation rights under the policy. These rights are set out in Cancellation (Item 4.3) of this document.

END OF POLICY

## ENDORSEMENTS

Each of these endorsements will only apply if the Schedule says it applies. The endorsement then forms part of this policy. It overrides anything in this policy to the contrary. All terms of this policy otherwise remain in full effect.

### Contractors and Subcontractors Insurance

This policy extends to insure any of your contractors (which includes any of their or your subcontractors) in relation to their particular liability which arises from their involvement in the Contract.

This endorsement is conditional upon the following:

- a. where you have a written contractual obligation to assume the contractual liability of those contractors; and
- b. the obligation was in effect before anything happened that could give rise to a claim involving the contractor and / or your direct employer; and
- c. if the value of the work performed by the contractor is included in your declaration of Contract Value; and
- d. to engineering consultants and other consultants but only for liability resulting from manual activities they perform on the Contract site.

This endorsement does not extend to insure:

- i. Property Loss to any tools, plant, machine or reusable equipment of any kind belonging to, or loaned or hired by, the parties covered by this endorsement; or
- ii. any indemnity a contractor is required to provide to you under the terms of any contract or agreement you issue them with; or
- iii. your contractor in any dispute with you.

### Errors and Omissions Cover

This policy is extended to include the following cover:

We will pay to you or on your behalf all sums that you become legally obligated to pay as compensation in respect of financial loss solely and directly attributable to any negligent act, error or omission committed or alleged to have been committed by you or on your behalf within the Territorial Limit in connection with your business.

Cover under this endorsement is subject to:

- a) the act, error or omission occurring after the inception date of the policy or the retroactive date specified in the Schedule,, whichever is the earlier; and
- b) a demand for compensation being first made against you and notified to us during the Period of Insurance; and
- c) a Deductible of \$5,000 applies to each separate claim under this endorsement; and
- d) the maximum aggregate amount for which we will indemnify you in respect of all claims made in any one Period of Insurance will be \$250,000.

Exclusion 3.15 (Professional Advice) and 3.18 (Specification, Formula or Design) shall not apply to this endorsement.

### Liquidated Damages

This endorsement applies to residential building Contracts only and then only to such Contracts which commence after the date that this endorsement is added to the policy.

This endorsement is not activated by Item 1.00 (The Insuring Clause). It becomes effective if liquidated damages are claimed from the person or entity named as the insured in the Schedule and it applies only to cover and benefit that person or entity. This endorsement does not apply to cover any other person or entity insured by the policy.

Despite exclusion 4.03 (Consequential Loss), where the Contract includes a liquidated damages amount, we will cover such liquidated damages you are legally obligated to pay (under the building contract) for an amount of up to \$2500 per day for up to 60 days (unless a different amount and/or time is specified in the Schedule), but only if the following conditions are met:

- a. The liquidated damages were specified in the Contract before work commenced on the Contract site, and
- b. the date (initial or re-negotiated) for practical completion (or its equivalent) as defined in the Contract, has been exceeded by at least five calendar days, and
- c. cover under this endorsement does not begin until that five days has elapsed. (For the avoidance of doubt, cover begins on the sixth day after such practical completion), and
- d. you have maintained a comprehensive site diary which clearly specifies the reason for any delays whatsoever to work on the Contract site (and the time for each delay is also recorded in the diary), and
- e. the reason for delay must be attributable to, one or more of:
  - i. damage to the Contract works,
  - ii. industrial action,
  - iii. intervention by, or delay caused by, authorities,
  - iv. late delivery of materials expected on a specified day,
  - v. the influence of weather,

however, if any delay results from, or is exacerbated by, a "Pollutant" (refer to exclusion 3.14, Pollution for definition), such delay is not covered by this endorsement, and

- f. you agree that we can negotiate or dispute the amount of liquidated damages being claimed from you as we see fit.

### Products Liability

#### 5.0 Insuring Clause

Notwithstanding anything contained in this policy to the contrary, but subject always to all its remaining terms as far as they apply, We will indemnify you up to the Limit of Indemnity shown in the Schedule in respect of Products for all sums that you become legally liable to pay under Contract as compensation for Personal Injury or Property Loss that

- a. happens within the Territorial Limit during the Period of Insurance; and
- b. results from an Occurrence in connection with the Products shown in the Schedule. This endorsement will not apply when the Single Contract Cover Endorsement is applicable.

## 5.1 Legal and Other Costs

Within the Limit of Indemnity shown in the Schedule in respect of Products, together with the compensation referred to in the Insuring Clause (1.0 above), we will indemnify you for legal defence costs incurred in relation to a claim covered by this endorsement. You must obtain our prior written consent before incurring any legal defence costs.

In relation further to a claim covered by this endorsement, the following additional provision and exclusions shall apply:

1. the Limit of Indemnity shown in the Schedule in respect of Products shall represent the total amount of compensation and associated legal defence costs payable by us in respect of all claims covered by this endorsement during the Period of Insurance
2. the following new exclusions shall apply:

### 3.23 Product Recall/Replacement

This endorsement does not cover liability resulting from, or connected with, the withdrawal, recall, inspection, removal, reinstallation, repair or replacement of a Product, or of any property of which such Product forms a part.

### 3.24 Aircraft Products

This endorsement does not cover liability resulting from, or connected with, any Product that is intended:

- i. for use, or is in fact used, as Aircraft component parts; or
- ii. for incorporation, or is in fact incorporated, into the hull, controls, electronics or machinery of an Aircraft.

### 3.25 Products Exported to North America

This endorsement does not cover liability resulting from, or connected with, any Product that is exported to the United States of America and/or Canada ('North America'), or to any country or territory which is subject to the laws of North America.

## Single Contract Cover

- a. The definition of 'Contract' in the Glossary is replaced with the following:

'Contract' means a written contract signed by all parties, in which the business and / or the Insured specified in the Schedule is a party, connected to the Project described in the Schedule.

- b. Item 2.1 is replaced by the following:

2.1 For item 1.0, a minimum deposit premium will be calculated by applying the rate of premium to the estimated total Contract Value.

On expiry of the Period of Insurance, you must declare the actual Contract Value. If this is greater than the estimated Contract Value, the premium will be adjusted on the difference. The additional premium will then be payable by you.

- c. The words in Insuring Clause (1.0) are replaced by the following words:

1.0 We will indemnify you for all sums that you become legally liable to pay under Contract as compensation for Personal Injury or Property Loss that:

- a. happens within the Territorial Limit during the Period of Insurance; and
- b. results from an Occurrence in connection with the Contract, up to the Limit of Indemnity shown in the Schedule.

- d. The following exclusion applies:

This policy does not cover liability arising out of a Product.

## Welding and Hot Work

This policy does not cover loss or damage resulting directly or indirectly from heat-producing equipment such as welders, metal or masonry cutters or grinders used by you or any contractor or subcontractor that you engage unless all of the following precautions have been taken:

- a. where the operator's view is obstructed or impaired by any device, such as a visor or spark shield, another person must be standing-by to watch for incipient fire; and
- b. adequate fire fighting equipment and extinguishing agents must be readily at hand, together with a sufficient number of workers on site trained in their use; and
- c. combustible materials must be located a safe distance away from the area where the equipment is being used. Any materials that cannot be moved must be protected by overlapping sheets of non-combustible material; and
- d. if practical, the area where the equipment is to be used must be damped; and
- e. any flammable gas-line in the vicinity of the operation must be disconnected and purged of gas; and
- f. glass must be located a safe distance away from the area where the equipment is being used. Any glass that cannot be moved must be protected by overlapping sheets of non-combustible material; and
- g. About an hour, after use of the equipment has ceased for the day, the area in the vicinity of the work, including floors above and below, the other side of walls and ducts, voids and conduits, must all be examined.

This section has been left intentionally blank