

Contractors Plant 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 construction project activities and contractors plant and equipment operation. MECON offers a range of easily understood policies and extensions that are available to meet your requirements.

If you would like any further information about MECON, please visit our website www.mecon.com.au or contact our staff at 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.

Notice to Retail Clients

If you are a retail client under the Corporations Act 2001 (Cth), this document forms part of the Product Disclosure Statement for this insurance product. You should read this document with the Combined Product Disclosure Statement and Financial Services Guide for Contractors Plant document provided to you at the same time as this document.

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 12 to 14 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 the Glossary first. This will help you to understand the Policy. Defined terms appear (as below) in the Policy wording.

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

Business means business described in the Schedule. It includes incidental operations such as the occupation of premises by you (whether or not you own the premises); the operation of any canteen or other facility for the benefit of employees; internal first aid services; fire brigade services and private work undertaken by Employees for any director or senior executive of yours. For the purpose of Products Liability cover, “business described in the Schedule” is deemed to include business of the same type as that to which this insurance applies.

Deductible means amount shown in the Schedule or elsewhere in the Policy which will be deducted from the amount payable to you or a third party (whichever the case may be), in accordance with the Policy.

Dry Hire means hired out by you without an operator.

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

Insured Event means event that causes any loss or damage insured against under Section One of this Policy.

Insured Plant means plant, machinery and equipment shown in the Schedule to be insured under Section One of this Policy.

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

Market Value means cost (established by a registered valuer of plant and machinery) 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 AFSL No. 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 current period specified in the Schedule for which the Policy is in force.

Personal Injury means:

- bodily injury, death, sickness, disease, shock, fright, mental anguish or mental injury. In Section Three of the Policy, ‘Personal Injury’ also includes:
- false arrest, false detention, wrongful imprisonment, humiliation or malicious prosecution;
- defamation;
- wrongful entry or wrongful eviction or other invasion of privacy; or
- assault not committed by you or at your direction, unless committed for the purpose of prevention or eliminating danger to people or property.

Policy means this document including the Schedule and any endorsement or notice we give you in writing and any information supplied to us in submissions made by you or your insurance broker, whether verbal or in writing.

Product means anything that you have manufactured, grown, extracted, produced, processed, sold, supplied, distributed, repaired, serviced, treated, installed, assembled, erected or constructed in the course of the Business. 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. It includes consequent loss of use of the property.

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

Territorial Limit means territorial limit shown as such in the Schedule.

Vehicle means any type of machine 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 acting as agent for the Insurer.

Wet Hire means hired out by you including an operator who is an Employee.

you / your means you in your capacity as the insured entity specified as the “Insured” in the Schedule.

Sections Two and Three of this Policy also insures the following parties as beneficiaries under this Policy.

- a. any of your directors or Employees while acting as such within the scope of their duties;
- b. the operator of Insured Plant, but only where the operation is at your order or with your consent. (For the avoidance of doubt, this does not include the operator of any Insured Plant hired out by you on Dry Hire);
- c. the principal named as such in any contract that you enter into, but only for its liability as principal arising out of the contract and to no greater extent than that required by the contract conditions;
(For the avoidance of doubt, this does not include the principal, or equivalent, in any Dry Hire agreement);
- d. any office bearer or member of any of the following organisations formed with your consent:
 - i. any canteen operated for the benefit of your Employees; and
 - ii. any first aid or fire brigade service;

but only while the office bearer or member is acting in their capacity as such.

Accordingly, ‘you’ also means any of the above where necessary to give effect to the insurance.

Liquidators, receivers, administrators and the like are not insured under this Policy and neither is any entity in liquidation, receivership, administration or which has ceased trading or which has been wound-up.

Note: We will not exercise our rights to recover off you (this is sometimes referred to as our “subrogation rights”).

SECTION ONE

MATERIAL DAMAGE

Insurance Provided

1.00 Insuring Clause

We will indemnify you for sudden and accidental physical loss of or damage to Insured Plant happening within the Territorial Limit during the Period of Insurance.

Cover under this Section of the Policy is subject to all terms of this insurance in so far as they can apply. Except where stated to the contrary, our liability will not exceed the sum insured on any Insured Plant or cost.

1.01 Sums Insured, Insured Property and Insured Costs

Items 1.02 to 1.07 describe what each sum insured covers. Some of the clauses include special conditions applying to insurance under that Item.

Additional Benefits

Following damage indemnified under clause 1.00 we will indemnify you up to the sums insured shown in the Schedule for costs and expenses incurred by you for items 1.02 to 1.07.

1.02 Insured Plant Value

The sum insured for this Item specifies the insured value of Insured Plant.

“Average” applies in some circumstances (Refer to 3.01 (d)).

1.03 Expediting Costs

The sum insured on this Item covers the extra cost of expediting repair or replacement of lost or damaged Insured Plant. This applies to the cost of express delivery, overtime wages and airfreight. The airfreight must be by a licensed airline on a regular scheduled service. The cost of chartering an Aircraft is not insured. Cover under this Item only applies where the loss or damage is insured under Item 1.02.

Unless a different sum insured appears in the Schedule for this Item, the sum insured will be limited to \$20,000 any one Insured Event.

1.04 Accessories and Tools

The sum insured on this Item covers accessories fitted to Insured Plant and tools; but only where their value is not included in the sum insured on Item 1.02.

Unless a different sum insured appears in the Schedule for this Item, the sum insured will be limited to \$5,000 any one Insured Event.

1.05 Debris Removal

The sum insured on this Item covers the cost of removing debris and cleaning-up the area made necessary by damage to Insured Plant.

Unless a different sum insured appears in the Schedule for this Item, the sum insured will be limited to \$50,000 any one Insured Event.

1.06 Removal and Recovery

The sums insured on this Item cover the cost of recovering any Insured Plant made necessary by loss or damage or which is undamaged but has become immobilised, bogged or stranded. This includes the cost of moving the unit to the nearest place of safety. This cover does not apply to undamaged Insured Plant where the sole cause of the event was a careless act or omission by the unit's operator. If the cost of recovery will exceed \$10,000, then you will require our consent to incur any greater cost.

Unless a different sum insured appears in the Schedule for this Item, the sum insured for lost or damaged Insured Plant will be limited to \$250,000 any one Insured Event and limited to \$50,000 any one Insured Event for undamaged Insured Plant.

1.07 Windscreen Replacement

The sum insured on this Item covers damage to the windscreen of any unit of Insured Plant where there is no other damage to the same unit. The cover is not subject to any Deductible.

The most we will pay under this Item during the Period of Insurance for any one windscreen and in the aggregate for all windscreens is \$5,000. Any further windscreen damage is included in the sum insured for Item 1.02 and is subject to the same terms as apply to any other damage.

Cover under this Item does not apply to Insured Plant used in the forestry or agricultural industries.

How Premium is Calculated

2.00 we will apply a rate of premium to the sum insured on each unit of Insured Plant.

2.01 The premium under Item 2.00 also pays for cover under the other Items. Lowering their sums insured will not reduce the premium.

2.02 Additional premium will be payable for any optional endorsement that increases the amount of cover.

Basis Upon Which Claims are Paid

3.00 Items 3.01 to 3.04 set out the basis on which claims will be settled.

3.01

- a. If the cost of repair is less than the Market Value of the Insured Plant, the insured loss will be the necessary cost of repair to restore it to its pre-damage condition. We will pay the lesser of such repair cost or the sum insured, less the Deductible;
- b. If the cost of repair is greater than the Market Value of the lost or damaged Insured Plant, and provided the Insured Plant is not more than 24 months past its date of manufacture at the time of the loss or damage, the insured loss will be the new replacement value of the Insured Plant at the time of loss to a condition equal to but not better or more extensive than its condition when new. We will pay the lesser of such amounts or the sum insured, less the Deductible;
- c. If the cost of repair is greater than the Market Value of the lost or damaged Insured Plant, and the Insured Plant is more than 24 months past its date of manufacture at the time of loss or damage, the insured loss will be the Market Value of the lost or damaged Insured Plant, less the Deductible.

"Average" applies in some circumstances (refer to 3.01 d.).

- d. Average Clause: If the sum insured on any unit of Insured Plant is less than 85% of the Market Value, the difference is deemed a 'shortfall'. In that case, you will not be paid the proportion of any loss that would otherwise be insured. Your proportion will be the same proportion as the shortfall is to 85% of the Market Value (this method of allowing for under-insurance is called "Average").
- e. If the Agreed Insured Plant Value endorsement applies, we will pay the sum insured, less the Deductible.

3.02. The most that we will pay under any of Items 1.03 to 1.07 is the insured cost less the Deductible (if it applies), but not more than the Item sum insured.

3.03 Claims made on any extension of this insurance will be settled on the basis specified in the relevant extension clause.

3.04 Where Insured Plant has been destroyed and you have been indemnified for the loss, any remaining salvage value of that property will belong to us. Salvage may not be abandoned to us without our prior written consent.

Section One - Exclusions

4.00 Cover under Section One of the Policy is subject to the following exclusions:

4.01 Breakdown

This insurance does not cover the cost of repairing or replacing any part of Insured Plant made necessary by:

- a. wear and tear or the effects of normal working, corrosion or erosion on that part; or
- b. mechanical, electrical, or electronic breakdown or derangement of that part.

However, this does not apply to consequent loss or damage to any other part of the Insured Plant.

4.02 Design

This insurance does not cover damage resulting from any defect in the design of the Insured Plant.

4.03 Dry Hired Insured Plant

This insurance does not cover loss of or damage to any Insured Plant while it is hired out by you without an operator.

4.04 Financial Loss

This insurance does not cover consequential financial loss such as any penalty; any loss due to delay, lack of performance or loss of contract; or any liquidated damages.

4.05 Lubrication

This insurance does not cover damage to Insured Plant caused by incorrect or deficient lubrication or coolant.

4.06 Multiple Crane Lift

This insurance does not cover damage to any crane while in use for a lifting operation in which a load is shared or rigged for sharing with any other crane.

4.07 Operation

This insurance does not cover loss of or damage happening to Insured Plant resulting from:

- a. its use or preparation for use in any manner contrary to the manufacturer's instructions or guidelines;
- b. its use in a manner or for a purpose other than that for which it was designed; or
- c. it undergoing any form of test other than a test required by law.

4.08 Relinquished Custody

This insurance does not cover theft of any Insured Plant by:

- a. anyone posing as a prospective purchaser; or
- b. anyone to whom you have entrusted the Insured Plant under any form of hire purchase or lease agreement; or
- c. anyone in whose debt the Insured Plant stands as security.

4.09 Tidal Area

This insurance does not cover loss of or damage to Insured Plant which becomes bogged, stranded or immobile within a tidal area nor any cost associated with recovering it. For the avoidance of doubt, "tidal area" is all of the area between high tide and low tide including the seaward side of low tide where the Insured Plant may be driven.

4.10 Tyres and Tracks

This insurance does not cover damage to any tyre or track caused by:

- a. the application of brakes; or
- b. any puncture, cut, rupture, or other damage occurring during use.

However, this does not apply where the damage is accompanied by other insured damage to the same unit of Insured Plant.

SECTION TWO

ROAD RISK LIABILITY

Insurance Provided

5.00 Insuring Clause

We will indemnify your legal liability to pay compensation for any Occurrence of Personal Injury or Property Loss that happens within the Territorial Limit during the Period of Insurance and arises from the use of Insured Plant which is also a Vehicle registered or licenced in accordance with any law relating to such use of that Vehicle.

For the avoidance of doubt, cover also applies when you are driving such Vehicles in places which are not public roads.

5.01 We will also indemnify you for the following costs, but only if they are incurred by us or with our consent, which will not be unreasonably withheld. Cover for this cost is in addition to the Limit of Liability shown in the Schedule.

- a. Legal and associated costs incurred in connection with any liability or allegation of liability to which this insurance applies.
- b. The cost of temporary repairs undertaken to prevent any immediate threat of Property Loss or Personal Injury.

Limit and Type of Liability

6.00 Except where stated to the contrary, and subject to Items 5.00 to 5.01, MECON's liability under each of the following Items will not exceed the Limit of Indemnity shown in the Schedule for that Item.

6.01 Public Liability

Apart from the costs covered by 5.01, the Limit of Indemnity under this Item is the most that MECON will pay for all costs and liability arising out of an Occurrence. The limit is available in full for each Occurrence.

6.02 Dangerous Goods

This insurance does not cover liability arising out of any Occurrence while the Insured Plant is being used to carry dangerous goods to which the *Australian Code of Transport of Dangerous Goods* applies. However, this exclusion will not apply where you have complied with that *Code*, in which case cover will be included in the indemnity under Item 6.01.

If no Limit of Indemnity appears in the Schedule for this cover, the Limit of Indemnity is deemed to be \$500,000 in the aggregate for the Period of Insurance. The limit is within, and not additional to, the Limit of Indemnity under Item 6.01.

6.03 Removal of Debris

This insurance extends to cover your liability for the cost of demolishing and disposing of property where necessary following an Occurrence to which Item 5.00 applies.

If no Limit of Indemnity appears in the Schedule for this Item, the Limit of Indemnity is deemed to be \$50,000 any one Occurrence. This limit is included in, and not additional to, the Limit of Indemnity for Item 6.01.

How Premium Is Calculated

7.00 The Premium is calculated by applying a premium to each unit of Insured Plant registered for use on public roads.

7.01 Additional premium will be payable for any optional endorsement that increases the amount of cover or extends the scope of cover.

Section Two - Exclusions

8.00 Cover under Section Two is subject to the following exclusions:

8.01 Penalties and Damages

This insurance does not cover liability for any:

- a. aggravated or exemplary damages; or
- b. any fine; or
- c. any liquidated damages or other penalty for which you are liable under the terms of any contract, warranty or agreement.

8.02 Personal Injury

- a. This insurance does not cover liability that is covered in whole or in part by any compulsory insurance or accident compensation scheme. This exclusion also applies where such cover would be available but for your failure to meet a statutory requirement or to pursue a claim under that scheme.
- b. This insurance does not cover liability for Personal Injury to anyone who, at the time of an Occurrence, was:

- i. the Insured Plant's designated operator; or
- ii. the Insured Plant's substitute operator; or
- iii. an Employee; or
- iv. your relative; or
- v. someone who normally resides with you.

8.03 Property in Care, Custody or Control

This insurance does not cover liability arising out of loss or damage to:

- a. your own property; or
- b. third party property that was in your care, custody or control at the time of the Occurrence.

8.04 Railway Lines

This insurance does not cover liability occurring while the Insured Plant is on, or over any railway line unless it is a Vehicle crossing a railway line at a level crossing on a public road.

8.05 Trade Use of Vehicles

This insurance does not cover liability arising out of the use of or operation of a Vehicle and / or any attachment, equipment, tool or apparatus which forms part of the Vehicle, but only whilst engaged in and undertaking its designed purpose of digging, scraping, shovelling, grading, boring, drilling, compacting, harvesting, ploughing, shredding, lifting, clearing, levelling, hosing, vacuuming or suction activities, pumping, spraying or similar activities.

SECTION THREE

PUBLIC LIABILITY

Insurance Provided

9.00 Insuring Clause

We will indemnify you for all sums that you become legally liable to pay 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 Business.

Cover under this Section of the Policy is subject to all terms of this insurance in so far as they can apply.

9.01 We will also indemnify you for the following costs, but only if they are incurred by us or with our consent - which will not be unreasonably withheld. Cover for these costs is in addition to the Limit of Indemnity specified in the Schedule.

- a. Defence and associated costs incurred in connection with any liability or allegation of liability to which this insurance applies even if the allegation is groundless, false or fraudulent. This includes bringing or defending appeals in connection with such liability.
- b. The cost of temporary repairs undertaken to prevent any immediate threat of Property Loss or Personal Injury.
- c. Legal costs incurred at any coronial inquest or inquiry.
- d. The costs of rendering first aid, surgical or medical relief at the time of any Personal Injury.

Limit and Type of Liability

10.00 Items 10.01 to 10.04 describe how the Limits of Indemnity will apply. Except where stated to the contrary, and subject to Item 9.00 and 9.01, our liability under each Item will not exceed the Limit of Indemnity for that Item.

10.01 Public Liability

Apart from the costs covered by Item 9.01, the Limit of Indemnity under this Item is the most that we will pay for all costs and liability arising out of an Occurrence. The limit is available in full for each Occurrence.

10.02 Products Liability

The Limit of Indemnity under this Item applies to your liability for Personal Injury or Property Loss caused by or arising out of your Products. It is the most that we will pay for the aggregate of liability and costs arising out of all Personal Injury and Property Loss during the Period of Insurance.

10.03 Vibration, Weakening or the Removal of Support

The Limit of Indemnity under this Item applies to liability for Personal Injury and Property Loss caused by vibration, or by the weakening or removal of any support. It is the most that we will pay for the aggregate of liability and costs arising out of all Personal Injury and Property Loss during the Period of Insurance.

10.04 Property in Care, Custody or Control

The Limit of Indemnity under this Item applies to liability for Property Loss to property that you do not own, but is in your care, custody or control. It is the most that we will pay for the aggregate of liability and costs arising out of all Property Loss during the Period of Insurance.

How Premium Is Calculated

11.00 Premium is calculated as follows:

11.01 At our option, the premium for cover under Items 10.01 and 10.02 may be a fixed amount for each unit of Insured Plant.

Alternatively, the premium will be based on the turnover of the Business. In that case, a deposit premium will be calculated by applying the rate of premium to the estimated annual turnover of the Business. At the end of the Period of Insurance, you must declare the annual turnover actually earned from the Business. If this is greater than the estimated annual turnover, the premium will be adjusted on the difference. The additional premium will then be payable by you.

Breach of this condition will not invalidate your Policy; but if there is any shortfall in the amount declared as your annual turnover for any period insured by us, then any work for which turnover is omitted from the declaration will be deemed excluded from cover under Section Three of this Policy.

11.02 At our option, the premium for cover under Items 10.02, 10.03 and 10.04 will be either:

- a. a fixed sum; or
- b. calculated by applying a rate of premium to the Limits of Indemnity; or
- c. included within the premium for Item 10.01.

Section Three - Exclusions

12.00 Cover under Section Three is subject to the following exclusions:

12.01 Asbestos

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

12.02 Contract or Agreement

This insurance does not cover liability that you have assumed under any contract or agreement requiring you to:

- a. effect insurance over property, either real or personal; or
- b. accept liability for Personal Injury or Property Loss regardless of fault.

However this does not apply to:

- i. liabilities that would have been implied by law in the absence of such contract or agreement; or
- ii. liabilities assumed under incidental contracts; or
- iii. terms relating to merchantability, quality, fitness or care of Products which are implied by law or statute; or
- iv. liabilities assumed under construction contracts; or
- v. liabilities assumed under contracts shown on the Schedule.

“Incidental contracts” means any rental or lease agreement, any written contract with any authority (or entity) for the supply of electricity, fuel, gas, air, steam, water or sewerage reticulation or other essential services, or with any railway authority for the unloading and / or transport of material, including contracts relating to the operation of railway sidings. It does not include contracts in connection with work done for such authorities or entities.

12.03 Defamation

This insurance does not cover liability arising out of defamation:

- a. made before the beginning of the Period of Insurance; or
- b. made by you or at your direction if you could reasonably have known that it was false or unlawful.

12.04 Demolition

This insurance does not cover liability arising directly or indirectly out of demolition work on any structure over 15 metres high. This does not apply to internal demolition work on non-structural property.

If the Schedule says that demolition work is insured, the exclusion will not apply to that work to the extent that the Schedule says it is insured.

12.05 Explosives

This insurance does not cover liability arising directly or indirectly out of any blasting operation or the handling or use of explosives.

12.06 Insured Plant

This insurance does not cover liability for damage to Insured Plant.

12.07 Loss of Use

This insurance does not cover liability for loss of use of any property that has not been physically lost or damaged resulting from:

- a. any delay in or lack of your performance of contract work; or
- b. any design defect; or
- c. Your failure to comply with any contract specification.

12.08 Penalties and Damages

This insurance does not cover liability for any:

- a. aggravated or exemplary damages; or
- b. any fine; or
- c. any liquidated damages or other penalty for which you are liable under the terms of any contract, warranty or agreement.

12.09 Personal Injury to Employees

This insurance does not cover liability for Personal Injury to any Employee arising directly or indirectly out of their employment in the Business.

This insurance does not cover any claim arising under workers' compensation legislation or under any industrial award or agreement or determination.

This insurance does not cover any claim that is within the scope of compulsory workers' or workmen's compensation insurance, even if the compulsory insurance has not been taken out.

12.10 Products

This insurance does not cover liability for Property Loss to that part of any Product containing a defect nor any costs incurred to correct that defect.

12.11 Professional Services

This insurance does not cover liability arising out of:

- a. your giving or failing to give any professional advice; or
- b. any design, plan, specification, formula or pattern that you provide for a fee; or
- c. any error or omission associated with any such advice, design, plan, specification, formula or pattern.

12.12 Property in Care, Custody or Control

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

- a. to the part of that property by work that you have done on that part. However, this item a. does not apply to damage to property, materials or goods not belonging to you but in your care, custody or control whilst on hook or whilst being lifted, lowered, positioned, re-positioned, located or re-located by means of a crane or any other similar mechanical lifting device. Further, the indemnity available for such damage to property will be that shown in the Schedule for item 10.04 (Property in Care, Custody or Control); or
- b. to any Vehicle with a Market Value greater than \$100,000; or
- c. to any property owned by any of your relatives or by anyone who normally resides with you.

For the avoidance of doubt, exclusion 12.15 (Vehicles) applies to any Vehicle.

12.13 Schedule Items

This insurance only applies to items with a Limit of Indemnity set against them in the Schedule.

This applies to liability under each of the following headings:

- ▼ 10.01 Public Liability; and
- ▼ 10.02 Products Liability; and
- ▼ 10.03 Vibration, Weakening or the Removal of Support; and
- ▼ 10.04 Property in Care, Custody or Control.

Items with no Limit of Indemnity set against them are excluded from cover.

12.14 Underground Services

This insurance does not cover liability arising from damage to any underground pipe or cable unless you can show that:

- a. you obtained written details or plans of its position from the appropriate authority; and
- b. using that detail or plan, you took reasonable care to locate the position of the pipe or cable; and
- c. you took reasonable care while working to avoid contact or impact with the pipe or cable.

Reasonable care includes, where possible, following relevant State guidelines on safe work practice in that State.

12.15 Vehicles

This insurance 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 metres of the site where it is, or has been, working;
- d. within 100 metres of the place where it is normally stored;
- e. crossing a road which divides a farm;

this exclusion will not apply.

12.16 Vibration, Weakening or the Removal of Support

This insurance does not cover liability arising out of the vibration, weakening or the removal of support of any property unless the work that vibrated, weakened or removed the support was performed in strict accordance with plans and specifications for the work which were not provided by you.

12.17 Watercraft or Aircraft

This insurance does not cover liability arising directly or indirectly out of the ownership, use or operation of:

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

SECTION FOUR

BUSINESS INTERRUPTION

13.00 Insuring Clause

If any Damage that happens to Insured Plant during the Period of Insurance interrupts or interferes with the Business, we will indemnify you for consequent loss of Revenue. You must notify us of the Damage within 28 days of it happening.

No indemnity will be paid if you are late in notifying us and we are prejudiced by the delay.

13.01 Definitions

'Damage' means loss or damage for which a claim is payable under Section One, or would be payable but for application of a Deductible.

'Indemnity Period' means the period during which the Revenue of the Business is affected by the Damage. It begins on the date of the Damage and ends on the earliest of the following.

- a. When repair or replacement of the Damaged Insured Plant has been completed.
- b. The end of the maximum Indemnity Period stated in the Schedule.

'Revenue' means the money paid or payable to you for services rendered in the course of the Business.

13.02 The Indemnity

a. Loss of Revenue

Subject to item 13.00 the amount payable as indemnity will be:

- i. the amount by which Revenue earned during the Indemnity Period falls short, in consequence of Damage, of the Revenue that would have been earned during that period had there been no Damage; plus
- ii. any increase in cost incurred solely to avoid or diminish the shortfall in Revenue; but not more than the amount by which the reduction in Revenue is thereby avoided or diminished.

If the estimated annual Revenue shown on the Schedule is less than the actual annual Revenue assessed at the time of Damage, the difference is deemed to be 'shortfall'. In that case, you will not be paid the proportion of any loss that would otherwise be insured. Your proportion will be the same proportion as the shortfall is to 90% of the assessed annual Revenue. For the avoidance of doubt, you may declare an increase in annual Revenue at any time during the Period of Insurance and the increase will apply from the date shown on the Schedule.

b. Savings

If any costs payable out of Revenue cease or are reduced during the Indemnity Period in consequence of the Damage; the saving will be deducted from the amount payable as indemnity.

c. Deductible

The amount payable as indemnity will be further reduced by the Deductible. This is shown in the Schedule as a number of days. The amount to be deducted will be the number of days multiplied by the average daily loss during the Indemnity Period.

d. **Claim Preparation Costs**

We will also indemnify you for the reasonable cost of preparing any valid claim for loss of Revenue. This includes, among other things, professional fees paid to a qualified accountant or loss adjuster.

e. **Sums Insured**

The most that we will pay for loss of Revenue and Claim Preparation Costs is the sum set against each of these items in the Schedule.

13.03 **Exclusions**

1. This insurance does not cover loss during any interruption to or interference with the Business except as a direct result of the Damage.
2. This insurance does not cover loss caused by a public or mining authority having forbidden the removal of the Damaged Insured Plant from the site of the Damage.
3. This insurance does not cover loss resulting from Insured Plant having been abandoned, even if it is abandoned because of Damage.
4. This insurance does not cover loss during any period for which the time required for repairing the Damage is extended for any work, such as improvements or remedial work, that is not a necessary part of that repair.
5. This insurance does not cover the cost of any fine or penalty for breach of contract; even where the breach was an inevitable consequence of the Damage.
6. This insurance does not cover loss arising out of insolvency, liquidation or receivership of any party; even where the loss is concurrent with loss that would otherwise have been sustained during the Indemnity Period.
7. This insurance does not cover loss arising out of Damage that has resulted from oil or gas drilling or from loss of any drill stem/string or cutting head below ground.

13.04 **Conditions**

1. Cover under Section Four is subject to all terms of the Policy in so far as they can apply.
2. Premium for Section Four is calculated on annual Revenue from all Business activities. You must declare your total estimated annual Revenue at the beginning of the Period of Insurance and your actual annual Revenue at the end of the Period of Insurance. (Refer to Loss of Revenue above to see what will happen if there is a shortfall in your declared Revenue).

13.05 **Claim Conditions**

In addition to your obligations under the Claim Conduct condition of the Policy (15.04), any claim under Section Four will be subject to these conditions:

1. You must take all reasonable steps to minimise any interruption to or interference that the Damage may cause to the Business.
2. You must deliver to us a written statement setting out particulars of your claim, and furnish us with such records as we may reasonably require for the purpose of investigating or verifying the claim. You must do this at your own expense. The written statement must be delivered within 28 days after the beginning of the Indemnity Period, or within such extra time as we may allow in writing.
3. You must provide us with such other particulars as we may reasonably require and, if asked, include verification of them on oath.

4. We will pay the indemnity under Section Four within one month after final determination of the amount payable. We may also make progress payments of the indemnity in such amounts and at such intervals as we, at our sole discretion, decides.
5. Despite what item 3.00 says in Section One of the Policy; where the cost of repairs would be greater than the Market Value, we will have the option of settling your claim by payment or by replacement. The replacement unit will be one of similar age, condition, capacity and value (as established by a registered valuer). If we exercise that option, you must reimburse us for the Section One Deductible; or we may deduct this from the amount otherwise payable under Section Four from its commencement.

Your failure to observe any of these conditions, in so far as you are to comply with them, may result in your claim being declined or reduced, or may result in cancellation of Section Four.

13.06 **Other Insurance**

You must notify us of any other insurance covering the same loss as covered in Section Four.

SECTION FIVE

GENERAL EXCLUSIONS

(Applicable to Sections One, Two, Three and Four).

14.00 The following exclusions apply to cover under all sections of the Policy.

14.01 **Alcohol and Drugs**

This insurance does not cover any loss, damage, liability or cost caused by an Employee or operator who, at the time and place of the Insured Event or Occurrence:

- a. was under the influence of any drug or intoxicating liquor; or
- b. had a percentage of alcohol or drug in their breath, blood or urine in excess of the percentage permitted by law; or
- c. subsequently refused to provide a sample of breath, blood or urine for testing.

However, this exclusion will not apply to you (as distinct from the Employee or operator) if you did not know and could not reasonably have known, of these circumstances.

14.02 **Electronic Data**

This insurance does not cover any loss, damage, liability or cost arising in connection with Electronic Data. However, this does not apply to cover under Section One where the loss is a direct consequence of loss or damage to Insured Plant.

‘Electronic Data’ means data that can be, or has been, distributed or stored by electronic, electrical or electro-mechanical equipment and includes programs, software and coded instructions for such equipment.

14.03 **Improper Use**

This insurance does not cover any loss, damage, liability or cost incurred as a result of the Insured Plant being used for:

- a. illegal purpose with your knowledge and consent; or
- b. race, trial, test, contest or preparation for any of them; or

- c. carrying a number of passengers in excess of the number the Insured Plant was designed to carry.

14.04 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 beginning 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.

14.05 Internet Operations

This insurance does not cover 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.

14.06 Operator Licence

This insurance does not cover any loss, damage, liability or cost arising in connection with the operation of Insured Plant by anyone not licenced, trained or authorised to operate it.

14.07 Overloading

This insurance does not cover any loss, damage, liability or cost caused by or contributed to by:

- a. deliberate or reckless overloading any unit of Insured Plant; or
- b. having loaded, set up or configured it contrary to the manufacturer’s design or contrary to any applicable law.

14.08 Pollution

This insurance does not cover:

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

- d. that you neither expected nor intended; and

- e. 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.

14.09 Radioactive Contamination

This insurance does not cover any loss, damage, liability or cost directly or indirectly caused by, or contributed to by, 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.

14.10 Requisition of Insured Plant

This insurance does not cover any loss, damage, liability or cost that results from lawful requisition, seizure or commandeering of Insured Plant by a public authority.

14.11 Terrorism

This insurance does not cover 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 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.

14.12 Underground Work

This insurance does not cover any loss, damage, liability or cost:

- a. arising out of tunnelling or any other underground work;
- b. arising out of any Insured Event happening to Insured Plant while it is underground.

This does not apply to open excavation, micro-tunnelling or directional boring up to one metre (1m) in diameter.

14.13 Unroadworthy Condition

This insurance does not cover any loss, damage, liability or cost arising out of the unsafe or unroadworthy condition of any Insured Plant. However, this will only apply if you knew or could reasonably be expected to have known of that condition.

14.14 War

This insurance does not cover 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.

SECTION SIX

GENERAL CONDITIONS

15.00 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.

15.01 Admission of Liability

This condition applies to insurance under Sections Two and Three. Unless you have obtained our prior written consent, neither you nor any of your Employees may:

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

15.02 Alteration of Risk

You must immediately advise us of any material alteration in the risks insured against. This includes any change in the facts disclosed to us in your application for this insurance. This insurance does not apply to liability arising in connection with any business that is not included in the Business described in the Schedule.

15.03 Cancellation

The 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. You will be entitled to a pro rata refund of premium for any unused Period of Insurance, 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 business we agreed to insure the Policy will be cancelled from the time your business is wound up or carried on by a liquidator or receiver or is permanently discontinued.

15.04 Claim Conduct

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

- a. inform us of this as soon as you can;
- b. provide such written documents and information as we may require and, if asked, include verification of particulars on oath;
- 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;
- e. inform the Police if the loss or damage has been caused by any malicious act, theft or other crime;
- f. forward to us every letter, writ, summons and process in relation to your claim as soon as you receive it;
- 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;

h. provide any assistance that we may reasonably require.

15.05 Cross Liability

Each party insured under Section Three of this Policy will be insured as if a separate Policy had been issued to each. Accordingly, each party will be insured for their liability to any other party. However, this does not increase any Limit of Indemnity. A Limit of Indemnity applies to all of the insured parties collectively (This paragraph or its equivalent is known as a 'Cross Liability' clause.)

Liquidators, receivers and the like are not insured under this Policy and neither is any company in liquidation, receivership or which has ceased trading or which has been wound-up.

15.06 Fraud

If you make a claim that is fraudulent in any way, or if you collude with anyone in making a claim, we will have the right to cancel this Policy and may seek legal recourse against you.

15.07 Inspection

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

15.08 Reinstatement of Sums Insured and Limits of Indemnity

This condition applies to Material Damage in Section One and Public Liability (Items 6.01 and 10.01) in Sections Two and Three) only. Where a sum insured is reduced by payment of a claim, it will be automatically reinstated to its original amount. This will take effect from the time of the loss or damage. You may have to pay extra premium for the reinstatement at the original rate of premium.

15.09 Risk Management

Without exception, you and your Employees must:

- a. fully comply with manufacturer's instructions; and
- b. fully comply with all legal requirements and relevant work place authority regulations regarding safety, and maintenance of property, including but not limited to observance of the Occupational Health and Safety Act applicable in your state; and
- c. ensure that anything that is fitted or is required to be fitted for the purpose of safety is in place and fully functional at all times; and
- d. take all reasonable steps to prevent incurring any loss, damage or liability; and
- e. ensure that only suitably qualified operators are employed for the operation of Insured Plant and that suitably skilled workers are employed to perform work.

15.10 Subrogation

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

SECTION SEVEN

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.

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. Both we and the Insurer 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 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

Web: www.fos.org.au

Address GPO Box 3, Melbourne, VIC 3001

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.

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.

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.

Privacy Notice

This notice sets out how MECON and AIG collect, use and disclose personal information about:

- you, if an individual; and
- other individuals you provide information about.

In this section dealing with privacy, “we”, “our” and “us” refer to both MECON and AIG as applicable.

Further information about our Privacy Policies is available at:

- for MECON, at www.mecon.au/about/privacy-policy/ or by contacting us at customerservice@mecon.com.au or on 02 9252 1040; and
- for AIG, at www.aig.com.au or by contacting us at australia.privacy.manager@aig.com or on 1300 030 886.

How We Collect Your Personal Information

We usually collect personal information from you or your agents.

We may also collect personal information from:

- our agents and service providers;
- other insurers;
- people who are involved in a claim or assist us in investigating or processing claims, including third parties claiming under your policy, witnesses and medical practitioners;
- third parties who may be arranging insurance cover for a group that you are a part of;
- providers of marketing lists and industry databases; and
- publically available sources.

Why We Collect Your Personal Information

We collect information necessary to:

- underwrite and administer your insurance cover;
- maintain and improve customer service; and
- advise you of our and other products and services that may interest you.

You have a legal obligation under the Insurance Contracts Act 1984 to disclose certain information. Failure to disclose information required may result in us declining cover, cancelling your insurance cover or reducing the level of cover, or declining claims.

To Whom We Disclose Your Personal Information

In the course of underwriting and administering your Policy we may disclose your information to:

- entities to which we are related, reinsurers, contractors or third party providers providing services related to the administration of your Policy;
- banks and financial institutions for Policy payments;

- assessors, third party administrators, emergency providers, medical providers, in the event of a claim;
- government, law enforcement, dispute resolution, statutory or regulatory bodies, or as required by law; and
- in the case of MECON and AIG, to each other.

AIG is likely to disclose information to some of these entities located overseas, including in the following countries: United States of America, United Kingdom, Singapore, Malaysia, the Philippines, India, Hong Kong, New Zealand as well as any country in which you have a claim and such other countries as may be notified in our Privacy Policy from time to time.

Access To Your Personal Information

Our Privacy Policies contain information about how you may access and seek correction of personal information we hold about you. In summary, you may gain access to your personal information by submitting a written request to MECON or AIG.

In some circumstances permitted under the Privacy Act 1988, we may not permit access to your personal information. Circumstances where access may be denied include where it would have an unreasonable impact on the privacy of other individuals, or where it would be unlawful.

Complaints

Our Privacy Policies also contain information about how you may complain about a breach of the applicable privacy principles and how we will deal with such a complaint.

Consent

If applicable, your application includes a consent that you and any other individuals you provide information about consent to the collection, use and disclosure of personal information as set out in this notice.

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

Utmost Good Faith

The law obligates all parties to a contract of insurance to act towards each other in ‘utmost good faith’.

The main implications from the duty of utmost good faith for an insured include:

- Fulfil your duty of disclosure
- Make honest statements in the proposal form
- Fulfil the requests of the insurer

We are obliged to:

- settle claims quickly
- disclose restrictions in the Policy.

Failure to act with the utmost good faith may prejudice any claim you have.

Terrorism Insurance Act 2003

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 15.03) of this document.

END OF POLICY

This section has been left intentionally blank

ENDORSEMENTS

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

Acquisitions

If, during the Period of Insurance, you acquire any unit of plant that is of similar kind to the Insured Plant, then:

- a. if the unit is valued at more than \$500,000, it will not be insured under this Policy until you notify MECON requesting cover and we confirm its acceptance in writing.
- b. if the unit is valued at no more than \$500,000, it will be insured under this Policy, but only if you notify us within sixty (60) days of acquiring it and we confirm its acceptance in writing.

Adjustable Premium (Section Three)

Despite anything to the contrary in Section Three of this Policy, the initial Premium for cover under Items 10.01 and 10.02 is a deposit Premium. This is based upon the estimated total turnover of the Business during the Period of Insurance. At the end of that period, you must declare the actual turnover of Business.

The premium will then be adjusted at the same rate as applied to the initial premium. If the adjusted premium is greater than the initial premium, you must pay the difference. If the adjusted premium is less than the initial premium, we will refund the difference up to but not more than 25% of the initial premium.

Agreed Insured Plant Value

Despite anything to the contrary in Section One of this Policy, the basis of claim settlement under Item 3.00 will be Agreed Value instead of Market Value. The 'Agreed Value' of any unit will be the sum insured on that unit as shown in the Schedule. However, this will not be so unless the sum insured is the same as the value certified by a registered valuer. The valuer must be one who has been approved by us. Unless you supply us with the valuation certificate before the Period of Insurance begins, this endorsement will be void.

Appreciation of Insured Plant Value

Where, at the time of an Insured Event;

- a. the Market Value of the lost or damaged unit of Insured Plant is greater than its sum insured; and
- b. the sum insured is not less than 80% of that Market Value; then the sum insured on that unit will be increased to that Market Value.

Basis Upon Which Claims are Made

(Applicable to any Insured Plant used in any form of mining).

Item 3.01 a. and b. are deemed to be deleted and replaced with the following:

- a. If the cost of repair is less than Market Value, the insured loss will be the necessary cost of repair to its pre-damage condition, less the Deductible. We will pay the lesser of this amount and the sum insured.

- b. If the cost of repairs would be greater than the Market Value, the insured loss will be the Market Value less the Deductible, MECON will pay the lesser of this amount and the sum insured.

Breakdown

Exclusion 4.01 (Breakdown) is deleted in full.

Section One of the Policy covers damage caused solely by a defect in any mechanical, electrical or electronic part of Insured Plant happening during, and which prevents, normal use.

This insurance does not cover:

- a. wear and tear or the effects on any part of normal working, corrosion or erosion. For the avoidance of doubt, this does not apply to any other part of the Insured Plant damaged as a consequence;
- b. damage to any safety or protection device caused by its operation;
- c. damage to cutting edges, drill bits, or to hammering, crushing or grinding surfaces, or to flexible pipes, trailing cables, driving bands or belts, or any parts requiring periodic replacement.

Contractors and Subcontractors Insurance

This Policy extends to insure any of your contractors (which includes any of their or your subcontractors) and your employers involved in construction work with you as if they were you.

This endorsement applies:

- a. where you have a written contractual obligation to provide the contractor and / or employer with insurance as afforded by this Policy; and
- b. the obligation was in effect before anything happened that could give rise to a claim involving the contractor and / or employer; and
- c. the value of the work performed by the contractor is included in your declaration of the annual turnover of the Business for Section Three of the Policy; and
- d. to your subcontracted engineering consultants and other consultants but only for loss, damage or liability resulting from manual activities they perform on the construction site.

Other than Insured Plant shown in the Schedule, this endorsement does not extend to insure any tools, plant or equipment belonging to, or loaned or hired by, the parties covered by this endorsement.

For the avoidance of doubt, "employer" in this endorsement does not mean a person or party in a Dry Hire agreement with you or the principal named as such in any contract. (Such principals are automatically insured by this Policy unless they are principals in a Dry Hire agreement).

Contractors Pollution Liability Cover

Claims-made and Notified Insurance Notice

This endorsement contains coverage on a claims-made and notified basis. This means that this endorsement only covers Claims first made against you during the Period of Insurance and notified to us in writing during the Period of Insurance. This policy does not provide cover for any Claims made against you during the Policy Period if at any time prior

to the commencement of the Policy Period you became aware of facts which might give rise to those Claims being made against you.

1.0 Insuring Clause

The following additional insuring clause is added to Section Three, Item 9.00 (Insurance Provided):

Subject to the terms and conditions of the Policy, Section Two is extended to indemnify you for Contractors Pollution Liability happening within the Territorial Limit during the Period of Insurance:

- 1.1 resulting from an Occurrence in connection with the Business; and
- 1.2 Claims for Loss in connection with the Business being first made against you and notified to us during the Period of Insurance.

2.0 Definitions

The following definitions are added and apply to this endorsement only:

- 2.1 Claim means written demand received by you seeking a remedy and alleging your liability or responsibility for Loss.
- 2.2 Claim Expenses means defence and associated costs incurred with any liability or allegation of liability to which this endorsement applies even if the allegation is groundless, false or fraudulent.
- 2.3 Clean-Up Costs means expenses incurred in the investigation, removal, or remediation of Pollution Conditions including the associated monitoring, or disposal of soil, surface water, groundwater or other contamination:
 - a. to the extent required by environmental laws; or
 - b. which have been actually incurred by the Environmental Protection Authority or any other relevant governmental department or agency or third party and which are recovered by any of them from you.
- 2.4 Contractors Pollution Liability means Loss that you become legally liable for as a result of Clean Up Costs, Personal Injury or Property Loss arising from Pollution Conditions.
- 2.5 Loss means:
 - a. a compensation for Personal Injury or Property Loss; and/or
 - b. Clean-up Costs; and/or
 - c. Claim Expenses.
- 2.6 Pollution Conditions means the emission, discharge, migration, release or escape, after the effective date of this endorsement, of Pollutants, provided such are not naturally occurring.

The entirety of any such emission, discharge, release or escape or any series of interrelated, associated, repeated, or continuous emissions, discharges, releases or escapes shall be deemed to be one Pollution Condition.

3.0 Limits and Deductibles

The following additional limit and Deductible apply to cover under this endorsement:

- 3.1 A special Deductible of \$5,000 is applicable to each separate Claim and each separate Occurrence under this endorsement.

- 3.2 Unless stated contrary in the Schedule, the maximum aggregate amount for which we will indemnify you under the endorsement in respect of all Claims made, and all Occurrences happening, in one Period of Insurance will be \$500,000. This limit is in addition to the Limit of Liability listed in the Schedule for Section Two of this Policy.
- 3.3 Our duties and obligations under this endorsement end when the maximum aggregate amount specified, covered by this endorsement, is exhausted.

4.0 Specific Conditions

The following additional conditions apply to cover under this endorsement:

- 4.1 This extension does not cover liability which is subject to indemnity or for which a claim may be made under other sections of this Policy.
- 4.2 You must provide us with written notice of any Claim first made against you as soon as practicable and during the Period of Insurance.
- 4.3 Any Claim or Claims arising out of, based upon or attributable to:
 - (i) the same cause; or
 - (ii) a single Loss; or
 - (iii) a series of continuous, repeated or related Losses;shall be considered a single Claim for the purposes of this endorsement and shall be considered made against you and reported to us at the time notice was first given.

5.0 Exclusions

- 5.1 For the purpose of this endorsement, exclusion 12.01 (Asbestos) is deleted and replaced with the following:

This insurance does not cover liability arising from the presence, removal or abatement of Asbestos or Asbestos containing materials, including but not limited to Asbestos which is in-situ and undisturbed within any structure or part thereof. However, this exclusion shall not apply to the inadvertent disturbance of Asbestos or Asbestos containing materials by you in connection with your Business.
- 5.2 This insurance does not cover Loss arising from any Pollution Conditions caused by your Business which occurred prior to the Period of Insurance if you knew, or could have reasonably foreseen, that such Pollution Conditions would result in an Occurrence, Claim, Clean Up Costs, Personal Injury or Property Loss.
- 5.3 This insurance does not cover Loss arising from your intentional, wilful or deliberate non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order or instruction of any governmental agency or body.
- 5.4 This insurance does not cover any loss, damage, liability or cost arising from or in connection with any real property or facility wholly owned, leased or managed by you. This exclusion does not apply to property on a third party's contract site.
- 5.5 This insurance does not apply to Loss arising out of, based upon or attributable to:
 - a. allegations made against you and circumstances which should have been notified under any previous policy, or
 - b. any legal action of any kind, or investigation by an environmental enforcement body, at or before the commencement date of the Policy Period.

5.6 This insurance does not cover liability that you have assumed under any contract or agreement requiring you to accept liability for Clean Up Costs regardless of fault.

However this does not apply to:

- a. liabilities that would have been implied by law in the absence of such contract or agreement; or
- b. liabilities assumed under Incidental Contracts; or
- c. terms relating to merchantability, quality, fitness or care of Products which are implied by law or statute; or
- d. liabilities assumed under construction contracts; or
- e. liabilities assumed under contracts shown on the Schedule.

“Incidental Contracts” means any rental or lease agreement, any written contract with any authority (or entity) for the supply of electricity, fuel, gas, air, steam, water or sewerage reticulation or other essential services, or with any railway authority for the unloading and / or transport of material, including contracts relating to the operation of railway sidings. It does not include contracts in connection with work done for such authorities or entities.

This endorsement (and any endorsement issued in substitution and/or any endorsements hereto) attaches to and forms part of the Policy and any word or expression to which a specific meaning has been attached shall have the same meaning wherever it appears. No aggregation provisions of any kind apply for the purposes of any retention. All other terms, conditions and exclusions remain unchanged.

Damage to Goods Lifted

Where any unit of Insured Plant is lifting any object, then, providing the unit is designed for such lifting - Section One of this Policy extends to indemnify you for accidental loss or damage happening to the object during the lifting operation. This does not apply to loss or damage resulting from any defect in the object (which includes its container) or due to its fragile nature.

Unless a different sum insured appears in the Schedule for this endorsement, the sum insured will be limited to \$5,000 any one Insured Event.

Dry Hire

Exclusion 4.03 (Dry Hired Insured Plant) is deemed to be deleted and the definition of ‘you’ as it applies to Section Two of this Policy is extended to include the hirer of Insured Plant, but only if you meet the following conditions:

- a. Your hire agreement must specify, that the operator must comply with all the legal requirements for operating the hired unit, and currently holds any relevant licence, permit or ticket required for its operation.
- b. The hire must be subject to a written and fully completed hire agreement that has been drafted by you or on your behalf to protect your interests.
- c. If the agreement will contain any clause that could release the hirer from liability for loss or damage, you must give us the opportunity to formally agree to its terms in writing. If we do not agree to those terms, this insurance will not cover any loss that would, but for the agreement, have been recoverable from the hirer.

Where the agreement contains a release clause to which have agreed, any loss that is consequently non-recoverable will be subject to the Damage Waiver Deductible shown in the Schedule. If no such Deductible is shown, a special Deductible will apply, being the greater of:

- i. \$5,000; and
- ii. 2% of the sum insured on the hired unit.

Neither the hirer nor the operator of the hired Insured Plant is entitled to any indemnity under Section Three of this Policy.

Any obligation imposed on you by the terms of Sections One or Two of this insurance with the object of avoiding or minimising insured loss will apply equally to the hirer and its operator. Breach of such an obligation by the hirer or operator will have the same effect as if you had committed the breach.

Finance Gap

Where settlement of a claim under Section One, Item 3.00 is less than the amount you owe under a valid financial agreement, we will cover the difference up to but not more than 20% of the Market Value or the sum insured for the item of Insured Plant, whichever is the lesser amount. This applies to any hire purchase, leasing or other financing agreement on the lost or damaged Insured Plant.

Financier’s Interests

Where any other party has a financial interest in your Insured Plant, and that interest has been disclosed to us, we will indemnify that party under Section One, Item 3.00 of the Policy as if they were you, but only to the extent of their interest. Any balance remaining after the claim proceeds have been used to discharge your financial obligation to that party will be payable to you.

Hire Cost or Finance Payment

Hire Cost

Section One of this Policy extends to cover you for the cost of hiring a substitute for lost or damaged Insured Plant, but only if a claim is payable for the loss or damage. The cost will be covered for hire of up to the duration shown in the Schedule. If no duration is shown, the duration will be limited to three months. However, there is no cover on hire costs incurred during the first seven days after the Insured Event.

Finance Payment

If hiring a substitute for lost or damaged Insured Plant is not practical, then, if you are making payments under a hire purchase, leasing or other finance agreement, Section One of this Policy extends to cover those payments. The amount payable will be the equivalent of the daily proportion of your actual Finance Payments from the time of the Insured Event to the time the lost or damaged Insured Plant is repaired or replaced. If the Insured Plant is not repaired or replaced and your claim is settled in cash, the cover on Finance Payments will end when the claim for loss or damage is settled.

No payment will be made under this clause unless the period between the Insured Event and the completion of repairs or replacement or cash settlement is more than 14 days. You must comply with any request that we make for the purpose of minimising the time it

takes to carry out repairs or replacement. In any case, the cover on Finance Payments will end no later than six months after the Insured Event.

‘Finance Payment’ means the lesser of:

- a. the amount shown as such in the Schedule; or
- b. the actual finance payment due and paid by you for the period, less:
 - i. any balloon or residual payments that fall due during the period; and
 - ii. 10% of the amount claimed under this endorsement.

The most that we will pay under this clause (for either Hire Cost or Finance Payment) for the Period of Insurance is the amount shown in the Schedule or, if no such amount is shown, \$50,000.

Hired-in Insured Plant

Section One of this Policy extends to cover units of plant hired in by you and for which you are responsible. However, this only applies to units whose Market Value does not exceed the amount shown for hired-in plant in the Schedule. If no such amount is shown, it is deemed to be \$50,000. This amount is also the most that we will pay in the aggregate for the Period of Insurance.

If Sections Two and Three (or either of them) are in effect, they will apply in the same manner and to the same extent as applies to other Insured Plant.

Hold Harmless (Subrogation Waiver)

Where you have entered into a contract that contains a clause requiring you to ‘hold harmless’ or ‘waive subrogation rights’ against another party to that contract, we will indemnify such other party in terms of this Policy to the extent required by such contract, and, further, will waive any rights it may have against such other party in respect of a matter so indemnifiable under this Policy.

Provided that:

- a. Nothing in this endorsement shall increase MECON’s liability under Item 10.00 (Limit of Liability) of this Policy; and
- b. Such other party shall be the subject to and / or comply with all the terms and conditions of this Policy.

Incidental Cover

a. Incidental Items

Section One of the Policy provides additional cover for the following incidental items in the event of loss or damage to the Insured Plant.

i. Employees Property

Loss or damage to Employees property for a maximum sum insured of \$5,000.

ii. Return to Worksite

Item 1.06 is extended to include costs necessarily incurred to return the lost or damaged Insured Plant from its place of repair or replacement back to the site where it was working.

iii. Travel Costs

Travel costs necessarily incurred to return drivers or operators to the site where loss or damage occurred in order for them to resume driving or operating the Insured Plant (once it has been repaired or replaced) for a maximum sum insured of \$5,000.

iv. Sign Writing

The cost to replace lost or damaged sign writing on any Insured Plant.

b. Key Replacement

Section One of this Policy provides additional cover for the replacement of lost or damaged keys of Insured Plant even when there is no damage to the Insured Plant. The cover applies to only one such replacement for only one unit of Insured Plant during the Period of Insurance, but is not subject to any Deductible. The maximum sum insured is \$5,000.

c. Funeral Expenses

Section Three of the Policy provides additional cover for funeral expenses for any Employee where death of that Employee resulted from a loss or damage to Insured Plant. The maximum Limit of Liability is \$5,000.

Multiple Crane Lift

Exclusion 4.06 (Multiple Crane Lift) is deemed to be deleted.

This insurance covers damage to Insured Plant comprising any crane while in use for a lifting operation in which a load is shared or rigged for sharing with any other crane.

However:

- a. the safe working load of each crane for the required jib length and operating radius must be:
 - i. where two cranes are lifting, at least 20%;
 - ii. where three cranes are lifting, at least 30%;
 - iii. where more than three cranes are lifting, at least 50%;more than the calculated share of the load to be handled by each crane during the lift.

The safe working load must nevertheless comply with relevant state regulations.

- b. a competent person must supervise the lift and be in a position to give clear signals and to remain in constant radio communication with each crane operator during the entire lifting operation.
- c. if any lift involves more than two cranes:
 - i. the area in and around where the lift is taking place must be clear of anyone other than those directly involved in the lifting operation;
 - ii. the lift must be overseen by a suitably accredited engineer;
 - iii. the lift must be rehearsed; and
 - iv. the Deductible will be applied in full to each crane.

Ongoing Hire Costs

If any Insured Plant that is hired in or out by you suffers loss or damage and the ‘Hire Cost or Finance Payment’ Endorsement cannot, for any reason, be applied, then Section One of this Policy extends to cover the hire costs incurred by you or owed to you while the hired Insured Plant is being repaired or replaced. However, this does not include hire costs for the first seven days after the Insured Event. The most that we will pay under this clause in the aggregate for the Period of Insurance is the amount shown for it in the Schedule. If no amount is shown, it is deemed to be \$50,000.

The cover for Ongoing Hire Costs will end for any damaged item of Insured Plant not later than 6 months after the Insured Event.

Spraying Operations

This insurance does not cover liability arising out of any kind of agricultural spray.

Trailers Used But Not Owned

Should loss or damage occur to a trailer which you don't own or haven't leased or hired but which is in your physical or legal control or possession, Section One of the Policy covers loss or damage to that trailer. The most that we will pay under this clause is the amount shown in the Schedule or, if no such amount is shown, \$50,000.

This endorsement does not apply to trailers if it is temperature controlled or it is a tanker for liquid, gas or powder.

Underground Work

General Exclusion 14.12 is deemed to be deleted and replaced with the following:

14.12 Underground Work

Sections Two and Three of this Policy do not cover any liability or cost arising out of tunnelling or any other underground work. This does not apply to open excavation, micro-tunnelling, pier boring or directional boring up to one metre (1m) in diameter.

Unintentional Overload

Despite anything to the contrary in Policy exclusion 14.07 (Overloading), loss, damage liability or cost caused by or contributed to by overloading any unit of Insured Plant will not be excluded if the unit was operated by a licensed operator and:

- a. you can prove that the overloading was not intentional and that actions taken by the operator and other Employees leading to the overloading were within acceptable industry practice; or
- b. your records show that the operator had been trained in the use of the unit to a standard that is within acceptable industry practice; and
- c. you were not the operator and you can prove that you were not aware of the operator's actions that led to the loss, damage, liability or cost.

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 on your work site unless 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, all must be examined.

World-Wide Travel

Where any of your Australian domiciled directors or Employees temporarily visits any place outside the Territorial Limit, the Territorial Limit for Section Three of the Policy will be extended to include that place. However, this only applies to liability arising out of Occurrences in connection with the Business.

Cover under this endorsement does not apply to Occurrences in the United States of America or Canada if you have any branch or subsidiary operation there.

Cover under this endorsement does not apply to liability arising out of:

- a. any work performed in, on, or in connection with any Product; or
- b. the ownership, possession, control, maintenance or use of any Vehicle or Watercraft.

Where liability covered by this endorsement arises from any Occurrence in the United States of America or Canada, the Limit of Indemnity is the most that MECON will pay in the aggregate for the Period of Insurance.

For the purpose of this endorsement, the United States of America and Canada include any territory under their jurisdiction.

This section has been left intentionally blank