

Pollution Legal Liability Policy Fixed Site Coverage

Important Notice - Please note that this is a Claims Made Policy. Accordingly, LIU will only cover the Insured in respect of Claims which are first made against the Insured during the Period of Insurance and reported to LIU during the Period of Insurance. The Insured should carefully read all of this Policy, including all definitions and, in particular, the exclusions, to ascertain the precise scope of cover afforded by this Policy. The Insured is advised to consult its insurance agent or broker to ensure a clear understanding of the Insured's rights and obligations under this Policy.



Pollution Legal Liability Policy Fixed Site Coverage

In consideration of the premium being paid by the Insured to LIU and in reliance upon the written statements and declarations contained in the proposal or insurance broker's quotation submission, LIU agrees to pay to or on behalf of the Insured in accordance with the attached Schedule, Policy wording and endorsements where applicable.

SECTION I - COVERAGE

1. Insuring Agreements

The following coverages are applicable only if noted in the Schedule:

a. Clean-up Costs Resulting From Pollution Conditions

LIU will pay to or on behalf of the Insured those sums the Insured becomes legally obliged to pay for Loss arising from:

- (i) Claims for Clean-up Costs caused by Pollution Conditions at or emanating from a Covered Location. Such Pollution Conditions must commence on or after the Retroactive Date stated in the Schedule. Claims for such Clean-up Costs must first be made against the Insured during the Period of Insurance or Extended Reporting Period and reported to LIU in writing during the Period of Insurance or Extended Reporting Period, or
- (ii) Clean-up Costs caused by Pollution Conditions discovered during the Period of Insurance and reported to LIU in writing during the Period of Insurance, provided such Pollution Conditions are reported to the appropriate governmental agency in compliance with applicable Environmental Laws in effect on the date of discovery. Such Pollution Conditions must commence on or after the Retroactive Date stated in the Schedule.

For the purposes of this coverage provision, discovery takes place when any Responsible Insured first becomes aware of Pollution Conditions at or under any Covered Location.

b. Bodily Injury and Property Damage Resulting From Pollution Conditions

LIU will pay to or on behalf of the Insured those sums the Insured becomes legally obliged to pay for Loss arising from Claims for Bodily Injury or Property Damage caused by Pollution Conditions at or emanating from a Covered Location. Claims for such Loss must first be made against the Insured during the Period of Insurance or Extended Reporting Period and reported to LIU in writing during the Period of Insurance or Extended Reporting Period. Such Pollution Conditions must commence on or after the Retroactive Date stated in the Schedule.

c. Bodily Injury, Property Damage and Clean-up Costs Resulting From Transported Cargo

LIU will pay to or on behalf of the Insured those sums the Insured becomes legally obliged to pay for Loss arising from Claims for Bodily Injury, Property Damage or Clean-up Costs caused by Pollution Conditions from Transported Cargo. Claims for such Loss must first be made against the Insured during the Period of Insurance or Extended Reporting Period and reported to LIU in writing during the Period of Insurance or Extended Reporting Period. Such Pollution Conditions must commence on or after the Retroactive Date stated in the Schedule.

2. Investigation and Defence

LIU shall be entitled to take over the conduct in the name of the Insured of the defence or settlement of any Claim or to prosecute in the name of the Insured for its own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any Claim. The Insured shall give all such information and assistance as LIU shall require.

Within the Limits of Insurance, LIU will pay Defence Expense in connection with any Claim for which the Insured is indemnified by this Policy.

In the event the Insured is a party to a demand, legal proceeding, inquiry or hearing which is covered only in part by this Policy, the Insured and LIU will use their best efforts to agree upon a fair and proper allocation of Defence Expense or any other amount insured under this Policy which relates solely to what is covered under this Policy.

In the event that an agreement on reasonable prospects for success cannot be reached between LIU and the Insured, a Senior Counsel (to be mutually agreed upon by LIU and the Insured) shall, as an expert and not an arbitrator, make such allocation determination of legal costs and/or Defence Expense. Until the Senior Counsel has made a determination LIU may, in its absolute discretion, pay such legal costs and/or Defence Expense or any other amount insured under this Policy as it considers appropriate.

In the event that agreement on the appointment of a Senior Counsel cannot be reached, such Senior Counsel shall be appointed by the then President of the Law Society or the Law Institute in the relevant State or Territory.

All LIU's duties under this Policy end when the applicable Limits are exhausted. This applies to Claims pending at the time and those filed thereafter. Defence Expenses are included in Loss, reduce the applicable Limits and are included within the Deductible stated in the Schedule.

SECTION II – EXCLUSIONS

This Policy does not apply to:

1. Asbestos and Lead Paint

Loss arising from the actual or alleged presence of or exposure to lead based paint or asbestos, asbestos-containing material, asbestos-based products, asbestos fibres, asbestos dust or asbestos waste installed, stored or applied in or upon any building or structure at the Covered Location.

2. Contractual Liability

Loss arising from the Insured's assumption of liability in a contract or agreement. This exclusion does not apply to liability for Loss that the Insured would have had in the absence of the contract or agreement, or assumed in a contract or agreement that is an Insured Contract.

3. Civil and Criminal Fines and Penalties

Loss arising from civil fines, civil penalties, criminal fines and criminal penalties.

4. Employer's Liability

Loss arising from Bodily Injury to:

- a. An employee of an Insured arising out of and/or in the course of employment by the Insured or while performing duties related to the conduct of the Insured's business; or
- b. Any person whose right to assert a Claim against the Insured arises by reason of any employment, blood, marital or other relationship with the employee.

This exclusion applies whether the Insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the Bodily Injury. This exclusion does not apply to liability assumed by the Insured under an Insured Contract.

5. Insured vs. Insured

Loss arising from any Claim made by or on behalf of an Insured, including any trustee in bankruptcy, receiver or any other successor-in-interest to the Insured, against any other Insured.

This exclusion does not apply to Claims that arise out of an indemnification given by one Insured to another Insured in an Insured Contract.

- 6. Intentional or Illegal Acts**
Loss arising from an intentional or illegal act or omission of any Responsible Insured if it was reasonable to expect that Pollution Conditions would result.
- 7. Known Pollution Conditions**
Loss arising from Pollution Conditions which occurred prior to the Period of Insurance if any Responsible Insured knew or could have reasonably foreseen that such Pollution Conditions would give rise to a Claim.
- 8. Material Change in Risk**
Loss arising from a material change to the risk which is the subject of this Policy. Such change includes but is not limited to any material change to the operations at the Covered Location which would materially increase the risk covered under this Policy or would increase the remediation standards applied to the Covered Location.
- 9. Mould**
Loss directly or indirectly caused by, arising out of or in any way connected with:

 - a. Any actual, alleged or threatened inhalation, discharge, dispersal, seepage, migration, absorption, release, exposure to, or escape of any mould, mildew or fungus in any form from any source, at any time;
 - b. The prevention of the actual, alleged, or threatened inhalation, discharge, dispersal, seepage, migration, absorption, release, exposure to, or escape of any mould, mildew or fungus in any form from any source; or
 - c. Any testing, monitoring, clean up, removal, containment, treatment, disposal, detoxifying or neutralising or in any way responding to or assessing the effects of mould, mildew or fungus in any form from any source, at any time.
- 10. Non-compliance**
Loss arising from any Responsible Insured's intentional, knowing, wilful or deliberate non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order or instruction of any government agency or body.
- 11. Owned Property**
Loss arising from Property Damage to real or personal property owned, leased, loaned or rented by or to the Insured. However this exclusion does not apply to:

 - a. Property Damage to personal property of others in the Insured's care, custody or control for the purpose of sale, storage, safekeeping or for the purpose of having operations performed on such property on the Insured's behalf; or
 - b. Restoration Costs.
- 12. Property Damage to Cargo**
Loss arising from Property Damage to Cargo.
- 13. Property Damage to Conveyances**
Loss arising from Property Damage to any Conveyance resulting from Pollution Conditions caused by Transported Cargo.
- 14. Radioactive Matter**
Loss arising from the existence of, required removal of or abatement of naturally occurring radioactive materials, including but not limited to radon.
- 15. Relinquishment of Control**
Loss arising from Pollution Conditions at any Covered Location which commence after such Covered Location is sold, leased, given away, abandoned or operational control has been relinquished by an Insured.
- 16. Terrorism**
Loss arising from any actual or threatened act of Terrorism or any action taken to, or taken in an attempt to control, prevent or suppress any act of Terrorism.

17. Underground Storage Tanks

Loss arising from any Underground Storage Tank System that is located at a Covered Location.

This exclusion does not apply to any Underground Storage Tank System that is:

- a. Located in any underground structure, provided such Underground Storage Tank System is installed entirely above the surface of the floor of such underground structure and the entire surface area of the tank can be visually inspected; or
- b. Designated in a Scheduled Underground Storage Tank endorsement if LIU attaches such an endorsement to this Policy.

18. War

Loss arising from war and military action which includes without limitation the following:

- a. War, including undeclared or civil war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), military or usurped power or confiscation, nationalisation, requisition, destruction of or damage to property by or under the order of any government or public or local authority;
- b. Warlike action by military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

19. Wrongful Delivery

Loss arising from the delivery of any Cargo into a wrong receptacle or to a wrong address or the erroneous delivery of one Cargo for another.

SECTION III – COVERAGE TERRITORY

This Policy applies to Claims made in Australia and New Zealand.

SECTION IV – LIMITS AND DEDUCTIBLE

The Limits shown in the Schedule and this section prescribe the maximum LIU will pay regardless of the number of Insureds, Covered Locations, Pollution Conditions, Claims or persons or organisations making Claims.

The Limits apply to the entire Period of Insurance and not separately to any portion (whether annual or otherwise) thereof. If the Period of Insurance is extended after the Policy comes into effect, the additional period will be deemed part of the last preceding period for the purposes of determining the applicable Limits.

1. Policy Aggregate Limit

The Policy Aggregate Limit stated in the Schedule is the most LIU will pay for all Loss under Insuring Agreements 1.a. to 1.c. covered under this Policy.

2. Each Coverage Limit

Subject to the Policy Aggregate Limit, the applicable Each Coverage Limit stated in the Schedule is the most LIU will pay for all Loss under each of Insuring Agreements 1. a., b., and c. arising from any one Pollution Condition.

3. Multiple Periods of Insurance and Claims

- a. When LIU has issued claims made pollution liability coverage for the Covered Location in one or more Periods of Insurance and a Claim for Loss is first made against the Insured and reported to LIU in writing in accordance with the terms and conditions of this Policy during this Period of Insurance, then all Claims for all Loss arising out of the same, related or continuous Pollution Conditions shall be deemed to have been first made and reported or incurred during this Period of Insurance, provided that the Insured has maintained pollution liability coverage substantially the same as this

coverage with LIU on a continuous uninterrupted basis since the first such Claim for Loss was made against the Insured, and reported to LIU. All such Claims for Loss will be subject to the terms, conditions and Limits of this Policy.

- b. All Claims for Loss first made against an Insured and reported to LIU during the Period of Insurance and arising out of the same, continuous, repeated or related Pollution Conditions shall be deemed to be a single Claim and shall be deemed to have been made at the time the first of those Claims is made.

4. **Deductible**

LIU's obligation to make payments under this Policy for Loss is excess of the Deductible amount shown in the Schedule.

LIU may advance payment of part or all of the Deductible and, upon notification of such payment made, the Named Insured shall promptly reimburse LIU within 30 days. The Named Insured stated in the Schedule is responsible for the payment of all Deductible amounts on behalf of all persons or organisations insured. Under Coverages 1a., 1b., and 1c., the Deductible includes Defence Expense. Payment of Defence Expense or amounts within the Deductible will not create any obligations or be construed as a waiver or estoppel of LIU's rights under this Policy.

5. **Multiple Coverages**

Subject to clause 3. above, if the same, related or continuous Pollution Conditions result in coverage under one or more Insuring Agreements, 1.a to 1.c., only the highest Deductible amount stated in the Schedule amongst all coverage sections applicable to the Claim for Loss will apply.

SECTION V – CONDITIONS

1. **Acknowledgment of Shared Limits**

By acceptance of this Policy, all Insureds understand, agree and acknowledge that this Policy contains a Policy Aggregate Limit and Each Coverage Limits that are applicable to and will be shared by, the Named Insured and all other Insureds who are or may become insured under this Policy. As such, the Named Insured and all other Insureds understand and agree that prior to making a Claim, the Policy Aggregate Limit or Each Coverage Limit may be exhausted or reduced by prior payments for other Claims under this Policy.

2. **Bankruptcy**

Bankruptcy or insolvency of the Insured or of the Insured's estate will not relieve LIU of its obligations under this Policy.

3. **Cancellation**

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

LIU may cancel this Policy at any time where:

- a. It is entitled to do so pursuant to the *Insurance Contracts Act 1984* or any amendments thereto;
- b. The Insured has failed to notify LIU of any specific act or omission where such notification is required under the terms or conditions of this Policy; or
- c. The Insured has acted in contravention of or omitted to act in compliance with any term of this Policy which empowers LIU to refuse to pay a claim in the event of such contravention or omission.

Any notice of cancellation given by LIU shall take effect either at the time when another contract of insurance between the Insured and LIU or some other insurer (being a contract that is intended by the Insured to replace this Policy) is entered into or at 4pm on the 3rd business day after the date on which notice was given to the Insured by LIU, whichever is the earlier.

4. **Changes**

This Policy contains all the agreements between the Insured and LIU concerning the insurance afforded. LIU's consent is necessary for any changes to the terms of this Policy and any such terms will be amended, deleted or waived only by endorsement issued by LIU and made a part of this Policy.

5. Discharge of Liability

LIU may at any time discharge its total liability to the Insured in respect of any one Claim or series of Claims arising from one Pollution Condition by paying to or on behalf of the Insured up to the Policy Aggregate Limit as stated in the Schedule:

- a. The total amount in respect of such Claim to which the Insured is entitled to indemnity under this Policy;
- b. The total amount sought by the claimant for such Claim; or
- c. The total amount for which such Claim can be settled.

In such an event, LIU will pay Defence Expense incurred up to the date of payment of any Claim or series of Claims. That payment together with the Claim payment will not exceed the Policy Aggregate Limit.

Upon such payment, LIU shall relinquish conduct or control of such Claim and be under no further liability under this Policy in connection with such Claim including but not limited to Defence Expense.

6. Duties in the Event of Pollution Conditions or Claim

- a. The Insured must notify LIU in writing as soon as practicable of any Pollution Conditions. To the extent possible, such written notification must include:
 1. How, when and where the Pollution Conditions took place;
 2. The names and addresses of any injured persons and of any witnesses; and
 3. The nature and location of any injury or damage arising out of the Pollution Conditions.

All Pollution Conditions reported to LIU in accordance with this provision shall be subject to the Automatic Extended Reporting Period provisions of this Policy.

- b. If a Claim is received by any Insured, the Insured must:
 1. Immediately record the specifics of the Claim and the date received; and
 2. Ensure that LIU receives written notice of the Claim as soon as practicable, but in no event later than the end of this Period of Insurance.
- c. The Insured must:
 1. Immediately send to LIU copies of any demand, notice, summons or legal paper received in connection with the Claim;
 2. Authorise LIU in writing to obtain records and other information;
 3. Co-operate with LIU in the investigation, settlement or defence of the Claim; and
 4. Assist LIU in the enforcement of any right against any person or organisation which may be liable to the Insured because of Bodily Injury, Property Damage or Clean-up Costs to which this Policy may also apply.
- d. Written notice of Pollution Conditions or a Claim must be sent to:

The Claims Department,
Liberty International Underwriters,
Level 27, 'Gateway',
1 Macquarie Place,
Sydney, New South Wales, Australia, 2000
Tel: 61-2-8298-5800
Fax: 61-2-8298-5887
- e. The Insured shall have the duty to incur Mitigation Expense and to clean up Pollution Conditions to the extent required by Environmental Laws by retaining competent professionals or contractors mutually acceptable to LIU and the Named Insured. LIU shall have the right but not the duty to review and approve all such actions. The Named Insured shall notify LIU of actions and measures taken pursuant to this paragraph.

7. Duties of Named Insured

The Named Insured shown in the Policy Schedule shall act for all Insureds for the following purposes:

- a. To pay all premiums and Deductibles when due and to be the payee for any return premiums which LIU pays;
- b. To give written notice of any Pollution Conditions or Claim in accordance with this Policy;
- c. To give and receive notice of cancellation or non-renewal;
- d. To request changes made to this Policy and to receive and accept any endorsements to this Policy; and
- e. To report material changes in operations at any Covered Location to LIU.

8. Inspections and Surveys

LIU has the right but is not obliged to make inspections, surveys or to give the Insured reports on the conditions LIU finds or any recommendations which result from any inspections or surveys. Any inspections, surveys, reports or recommendations relate only to insurability of the risk and the premiums to be charged. LIU does not make safety inspections. LIU does not undertake to perform the duty of any person or organisation to provide for the health or safety of workers or the public. LIU does not warrant that conditions are safe or healthy or comply with laws, regulations, codes or standards. This condition applies not only to LIU but also to LIU's representatives who may conduct such inspections or surveys and make reports for LIU.

9. Joint Duties in a Non-admitted Jurisdiction

For Loss arising in a Non-admitted Jurisdiction, LIU has the right but not the duty to investigate, defend or settle such Claims for Loss.

If LIU does not exercise the right to investigate, defend or settle such Claims for Loss, the Insured may under LIU's supervision:

- a. Make such investigation and defence as is reasonably necessary; or
- b. Effect settlement of such Claims for Loss.

LIU shall reimburse the Insured for the reasonable cost of such actions, subject to all other terms and conditions of this Policy.

This Policy shall not serve as proof of insurance in any country of Non-admitted Jurisdiction. LIU may issue, at its sole discretion, proof of insurance documents to a third party upon the Insured's request but LIU is not obliged to do so.

10. Legal Action Against LIU

No person or organisation has a right under this Policy:

- a. To join LIU as a party or otherwise bring LIU into a Claim asking for damages from an Insured; or
- b. To bring an action under this Policy,

unless all of the terms of the Policy have been fully complied with.

Any person or organisation may bring an action to recover on an Agreed Settlement or on a final judgment against an Insured obtained after an actual trial in a civil, arbitration or alternative resolution proceeding but LIU will not be liable for damages that are not payable under the terms of this Policy or that are in excess of the applicable Limits.

11. Singular/Plural

- a. Words importing persons shall include corporations and other legal entities;
- b. References in the singular shall be deemed to include the plural and vice versa; and
- c. Words depicting any gender include references to all other genders.

12. Representations

By accepting this Policy, the Insured agrees:

- a. the statements in the Proposal and any material submitted in connection with such Proposal are the Insured's agreements and representations;
- b. that this Policy is issued in reliance upon the truth of such representations; and
- c. that this Policy embodies all agreements existing between the Insured and LIU relating to this insurance.

13. Rights of LIU in the Event of Pollution Conditions

LIU shall have the right but not the duty to clean-up or mitigate Pollution Conditions upon receiving written notice as provided in SECTION V, clause 6. of this Policy.

Any sums expended by LIU under the preceding paragraph will be deemed incurred or expended by the Insured, shall be subject to the applicable Deductible and shall reduce the Limits.

14. Separation of Insureds

Except with respect to the Limits, Section II- Exclusion 5 and any rights or duties specifically assigned to the Named Insured, this Policy applies:

- a. as if each Insured were the only Insured; and
- b. separately to each Insured against whom a Claim is made.

Misrepresentation, concealment, breach of a term or condition or violation of any duty under this Policy by one Insured shall not prejudice another Insured under this Policy. Notwithstanding the foregoing, this condition shall not apply to any Insured that is a parent, subsidiary or related entity of the Named Insured.

15. Transfer of Duties When a Limit of Insurance is Exhausted

- a. When a Limit has been exhausted in payment of Loss:
 1. LIU will notify the Named Insured and any other Insured against whom a Claim is pending in writing as soon as practicable that:
 - (i) Such Limit has been exhausted; and
 - (ii) LIU's defence of any Claim subject to that Limit has also ended, regardless of whether such Claim is still pending.
 2. The Named Insured and any other Insured against whom a Claim is pending will, as soon as practicable, arrange for the transfer of control of the defence from LIU of all such Claims against any Insured.
 3. LIU will assist and all Insureds must cooperate in the transfer of control of the defence of all Claims which are subject to that Limit and which are reported to LIU before that Limit is exhausted.
 4. LIU will take steps which LIU deems appropriate to avoid a default in or to continue the defence of such Claims until the transfer is completed, provided the appropriate Insured is cooperating in completing such transfer. The Named Insured and any other Insured against whom a Claim is pending will reimburse LIU for any Defence Expense LIU incurs (for which Defence Expense each Named Insured and each other Insured against whom a Claim is pending are jointly and severally liable) to take such steps on and after the date on which the applicable Limit is exhausted.
 5. LIU will take no action whatsoever with respect to any Claim reported to LIU after the applicable Limit has been exhausted.
- b. The duty to reimburse LIU will begin on the date the applicable Limit is exhausted. The exhaustion of any Limit by the payment of Loss will not be affected by LIU's failure to comply with any of the provisions of this condition.

16. Subrogation

In the event of any payment under this Policy, LIU shall be subrogated to all of the Insured's rights of recovery against any person or organisation and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights including without limitation, assignment of the Insured's rights against any person or organisation who caused Pollution Conditions on account of which LIU has made any payment under this Policy. The Insured shall do nothing to prejudice LIU's rights under this condition. Any recovery as a result of subrogation proceedings arising out of the payment of Loss covered under this Policy shall accrue first to the Insured to the extent of any payments in excess of the limit of coverage; then to LIU to the extent of its payment under this Policy; and then to the Insured to the extent of the Insured's Deductible. Expenses incurred in such subrogation proceedings shall be apportioned among the interested parties in the recovery in the proportion that each interested party's share in the recovery bears to the total recovery.

17. Assignment

The Insured's rights and duties under this Policy may not be assigned without LIU's written consent except in the case of death of an individual Named Insured.

If the Insured dies, the Insured's rights and duties will be assigned to the Insured's legal representative but only while acting within the scope of duties as the Insured's legal representative. Until the Insured's legal representative is appointed, anyone having proper temporary custody of the Insured's property will have the Insured's rights and duties but only with respect to that property.

18. Voluntary Payments

Except for Mitigation Expense, no Insured will, except at their own cost, voluntarily make a payment, assume any obligation or incur any expense, other than for first aid, without LIU's written consent.

19. Governing Law & Exclusive Jurisdiction

The Policy is governed by the law in force in the Australian State or Territory in which the Policy is issued. All matters arising from or relating to the construction or operation of the provisions of the Policy shall be submitted to the exclusive jurisdiction of the courts exercising jurisdiction under the law of that State or Territory.

SECTION VI – EXTENDED REPORTING PERIOD

If this Policy is cancelled or not renewed or if LIU renews or replaces this Policy with insurance that:

- a) has a Retroactive Date later than the date shown in the Schedule of this Policy; or
- b) does not apply to coverage on a claims made basis, then

LIU will provide an Automatic Extended Reporting Period, and if purchased, a Supplemental Extended Reporting Period, as defined in this section.

Extended Reporting Periods do not extend the Period of Insurance or change the scope of coverage provided. Extended Reporting Periods do not reinstate or increase the Aggregate Limit and may not be cancelled once in effect. Extended Reporting Periods apply only to Claims arising from Pollution Conditions that commence before the end of the Period of Insurance but not before the applicable Retroactive Dates, if any, shown in the Schedule.

1. Automatic Extended Reporting Period

LIU will provide the Named Insured an Automatic Extended Reporting Period. Under this provision the Named Insured shall have 60 days from the end of the Period of Insurance to report to LIU in writing any Claims first made against the Insured during the Period of Insurance or Automatic Extended Reporting Period. This Automatic Extended Reporting Period does not apply to Claims that are covered under the Supplemental Extended Reporting Period described below or covered under any subsequent insurance purchased by the Insured, or that would be covered but for the exhaustion of the amount of insurance applicable to such Claim.

2. Supplemental Extended Reported Period

An additional Supplemental Extended Reporting Period of 1 year is available but only by an endorsement and for an additional premium. This Supplemental Extended Reporting Period does not apply to any Claims arising from Pollution Conditions covered under the Automatic Extended Reporting Period provisions described above. This Supplemental Extended Reporting Period commences from the end of the Automatic Extended Reporting Period. Any Claim first made against the Insured and reported to LIU in writing within the Supplemental Extended Reporting Period will be deemed to have been made on the last day of the Period of Insurance. The Insured must give LIU a written request for the Supplemental Extended Reporting Period within 30 days after the end of the Period of Insurance. The Supplemental Extended Reporting Period will not be effected unless the Insured pays the additional premium promptly when due. The additional premium will not exceed 200% of the annual premium for this Policy.

The Supplemental Extended Reporting Period endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for Claims first made and reported to LIU during such period is in excess to any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period commences.

SECTION VII – DEFINITIONS

1. “Agreed Settlement” means a settlement and release of liability signed by LIU, the Insured and the claimant or the claimant’s legal representative.
2. “Bodily Injury” means physical injury or sickness, disease, or when accompanied by physical injury, mental anguish or emotional distress, sustained by any person including death resulting therefrom.
3. “Cargo” means waste, products or materials carried or delivered on or within a Covered Conveyance.
4. “Claim” means a written or oral demand received by the Insured seeking a remedy or asserting liability or responsibility on the part of the Insured for Loss and includes any writ, statement of claim, summons, application or other originating legal or arbitral process, cross claim, counterclaim or third or similar party notice issued against or served upon the Insured. Any Claim must be made against the Insured during the Period of Insurance and the Insured must notify LIU in writing of such Claim during the Period of Insurance.
5. “Clean-up Costs” means costs, charges and expenses, including reasonable and necessary legal expense incurred with LIU’s written consent to investigate, neutralise, remove, remediate, monitor or dispose of Pollutants to the extent required by Environmental Laws, or costs, charges and expenses that have actually been incurred by any governmental entity duly acting under the authority of Environmental Laws, or that have actually been incurred by third parties. “Clean-up Costs” also includes Restoration Costs.
6. “Conveyance” means any owned, leased or rented Motor Vehicle, aircraft, watercraft or railway rolling stock.
7. “Covered Conveyance” means any owned, leased or rented Motor Vehicle, aircraft, watercraft or railway rolling stock listed on any Covered Conveyance endorsement attached to this Policy.
8. “Covered Location” means any location designated in the Schedule.
9. “Defence Expense” means fees charged by any lawyer designated by LIU and all other fees, costs and expenses resulting from the investigation, adjustment, defence and appeal of a Claim if incurred with LIU’s prior written consent but without any obligation on LIU’s part to appeal a Claim. “Defence Expense” shall not include the wages, overtime, or travel of the Insured’s employees.
10. “Environmental Laws” means any legislatively or administratively enacted law, rule, regulation or order applicable within the jurisdiction in which the Covered Location lies.
11. “Insured” means:
 - a. The Named Insured;

- b. Any person or organisation named in the Schedule or any endorsement attached to this Policy;
 - c. Any past or present director, officer, partner or employee of each Insured as identified in a. and b. above, while acting within the scope of their duties as such.
12. “Insured Contract” means a contract or agreement designated in any Insured Contract endorsement to this Policy.
13. “LIU” means Liberty International Underwriters. Liberty International Underwriters is a trading name of Liberty Mutual Insurance Company (ABN 61 086 083 605). Incorporated in Massachusetts, USA (The liability of members is limited).
14. “Loss” means:
- a. Monetary awards or settlements of compensatory damages arising out of Bodily Injury or Property Damage, and where allowable by law punitive, exemplary, aggravated, liquidated or multiple damages for such Bodily Injury and Property Damage;
 - b. Clean-up Costs; or
 - c. Defence Expense.
15. “Mitigation Expense” means:
- a. reasonable and necessary costs incurred to mitigate Pollution Conditions constituting an emergency situation whereby in the absence of such mitigation, Bodily Injury or Property Damage to third parties is imminent; or
 - b. Clean-up Costs which are incurred pursuant to Environmental Laws.
16. “Motor Vehicle” means a motor vehicle, trailer or semi trailer designed for travel on public roads, including any attached machinery or equipment.
17. “Named Insured” means the person or entity named in the Schedule of this Policy.
18. “Non-admitted Jurisdiction” means a jurisdiction where LIU is not licensed or permitted by law to issue insurance or is prevented by law or otherwise from investigating, defending or settling any Claim.
19. “Period of Insurance” means the period of time specified in the Schedule unless the Policy is cancelled in which event the Period of Insurance will end on the effective date of the cancellation.
20. “Policy” means this Policy wording, any endorsements to it, the Schedule and the Proposal.
21. “Pollutants” means any solid, liquid, gaseous, thermal irritant or contaminant including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
22. “Pollution Conditions” means the emission, discharge, dispersal, migration, release or escape 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.
23. “Property Damage” means:
- a. Physical damage to or destruction of tangible property of parties other than the Insured including all resulting loss of use and diminution in value of that property; or
 - b. Loss of use but not diminution in value of tangible property of parties other than the Insured that is not physically damaged.
- Property Damage does not include Clean-up Costs.
24. “Responsible Insured” means:
- a. An officer, director or partner of the Insured;

- b. Any manager of the Covered Location; or
 - c. The manager or supervisor of the Insured responsible for environmental affairs, control or compliance.
25. “Restoration Costs” means reasonable and necessary costs incurred by the Insured with LIU’s consent, which shall not be unreasonably withheld or delayed, to restore, repair or replace real or personal property to substantially the same condition it was in prior to being damaged during work performed in the course of incurring Clean-up Costs. However such restoration shall not exceed the net present value of such property immediately prior to incurring Clean-up Costs or include costs associated with improvements or betterments.
26. “Terrorism” means an act or acts by any person or group of persons or government causing or threatening to cause any harm of any nature for political, religious, ideological, ethnic or similar purpose or to intimidate or influence any government or the public or any section of the public.
27. “Transported Cargo” means Cargo after it is moved from the place where it is accepted by or on behalf of the Insured for movement into or onto a Covered Conveyance until the Cargo is moved from the Covered Conveyance to the place where it is finally delivered by or on behalf of the Insured.
- Transported Cargo also includes Cargo during the loading or unloading to or from a Covered Conveyance, provided that the loading or unloading is performed by the Insured.
- Transported Cargo does not include Cargo at rest for a period longer than 72 hours after it has been accepted by or on behalf of the Insured for movement into or onto a Covered Conveyance.
28. “Underground Storage Tank System” means a tank or tanks including any connected underground piping, underground ancillary equipment and containment system that are on, within or under a Covered Location and has at least 10 percent of its volume beneath the surface of the ground.

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



N. MacCarthy
Senior Vice President, Casualty – Asia Pacific