

FIRE PROTECTION CONTRACTORS ENDORSEMENTS

STANDARD QBE COMMERCIAL BROADFORM LIABILITY INSURANCE POLICY WORDING (QM192 - 0805) IS TO APPLY ON EACH AND EVERY CASE, SUBJECT TO THE FOLLOWING ENDORSEMENTS:-

Inefficacy Exclusion

This policy does not cover liability in respect of Personal Injury or Property Damage resulting from the failure of Your products, or work completed by or for You, to perform the function or serve the purpose intended by You.

Welding

This Policy does not cover liability in respect of claims caused by or arising out of arc or flame cutting, flame heating, arc or gas welding or similar operation in which welding equipment is used, unless such activity is conducted in strict compliance with the Australian Standard issued by the Standards Association of Australia.

Error in Formula or Design

This Policy does not cover liability in respect of Personal Injury or Property damage caused by or arising out of the nature, condition or quality of Your products which nature, condition or quality result from the use of any design, formula, specification, plan or pattern.

Deductible

This policy is subject to a Deductible \$5,000 each and every claim inclusive of Costs and Expenses but:-
\$10,000 each and every claim inclusive of Costs and Expenses in respect of Water Damage Claims.

Pathogenic Organism

This policy will not provide indemnity

- (a) for loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising there from or any consequential loss, or
- (b) against any legal liability of whatsoever nature

directly or indirectly caused by or contributed to by or arising from any Pathogenic Organism.

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Definition relating to the above Exclusion:-

For the purposes of this Exclusion pathogenic organism shall include but not be limited to the following:

Mould or fungi or its spores bacteria yeasts mildew algae mycotoxins or any other metabolic products enzymes or protein secreted by the above whether toxic or otherwise.

It is understood and agreed that We shall not be under any duty to defend the insured in any proceedings in connection with any Pathogenic Organism claims or incidents.

This exclusion shall apply irrespective of when the claim arose or was made and irrespective of when the exposure to any Pathogenic Organism occurred.

Property in Custody or Control

"When you are not covered" clause 5 of the policy is deleted and replaced by the following:

5. Property in custody or control

Property damage to:

- (a) property owned by or leased or rented to you, or
- (b) money, negotiable instruments, documents or any goods carried or transported by you, or
- (c) property in your physical or legal control.

But this exclusion does not apply to liability for property damage to:

- (d) premises (including landlord's fixtures and fittings) which are leased or rented to you
- (e) premises (or their contents) not owned, leased or rented by you but temporarily occupied by you for work therein
- (f) vehicles (not belonging to or used by you) in your physical or legal control where the property damage occurs while the vehicles are in a car park owned or operated by you, unless you own or operate the car park for reward
- (g) the property of an employee of you or the parties shown in paragraph (1) of 'Word with special meanings' of 'you', 'your' or 'insured'
- (h) property (excluding any vehicle which is registered or which is under any legislation to be registered) in Your physical or legal control which is on temporary hire or loan to You, or for the purpose of repair, service, maintenance or alteration subject to a maximum indemnity of \$25,000 for any one occurrence and in the aggregate for any one period of insurance
- (i) Any other property in Your physical or legal control, other than money, negotiable instruments, documents or any goods being carried or transported by You, subject to a maximum of \$25,000 for any one occurrence and in the aggregate for any one period of insurance

Provided that we will not cover you under this Policy in respect of liability assumed by you under any contract or agreement which requires you to effect material damage insurance on premises, property or goods which you do not own.

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QUEENSLAND ELECTRICAL CONTRACTORS ENDORSEMENT

This Endorsement together with Our Broadform Liability Policy comprises Your Queensland Electrical Contractor Insurance Policy. You should keep this Endorsement with Your Broadform Liability Policy wording.

Definitions applying to this Endorsement:

Consumer protection means:

Any consequential financial loss reasonably incurred by the building owner as a result of any defects or non completion of the electrical work (as described in this Endorsement) including but not limited to:

- (1) Any loss of any deposit or progress payments or any part of progress payments;
- (2) The cost of alternative accommodation, removal and storage costs that are reasonably and necessarily incurred; and

Non completion of electrical work due to:

- (1) The death or legal incapacity of the electrical contractor
- (2) The disappearance of the electrical contractor
- (3) The electrical contractor becoming insolvent under administration
- (4) The cancellation or suspension of the electrical contractor's licence under the Electrical Safety Act 2002.
- (5) The early termination of the contract by the building owner as a result of the electrical contractor's wrongful failure or refusal to complete the electrical work

Defects in Domestic Electrical Work means:

- (a) A failure to carry out electrical work consistent with current electricity legislation, industry practices and standards and in accordance with any plans and specifications set out in the contract.
- (b) A failure to use materials in the electrical work that are good and suitable for the purpose for which they are used.
- (c) The use of materials in the electrical work that are not new unless the contract Expressly permits the use of materials that are not new.
- (d) A failure to carry out the electrical work in accordance with and in compliance with all laws and legal requirements or any applicable Australian or other relevant standard or code of practice including without limiting the generality of this paragraph, the Electrical Safety Act 2002 with any amendments and regulations made under that Act.
- (e) A failure to carry out electrical work with due care or skill and in the case of domestic electrical work a failure to complete the electrical work:
 - (1) by the date or within the period specified by the contract
 - (2) within a reasonable time if no date or period is specified

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- (f) If the contract states the particular purpose for which the electrical work is required or the result which the building owner wishes the work to achieve so as to show that the building owner relies on the electrical contractor's skill and judgement, a failure to ensure that the electrical work and any materials used in carrying out the electrical work:
 - (1) are fit for the purpose
 - (2) are of such a nature and quality that they will achieve that result; or
- (g) A failure to maintain a standard or quality of electrical work specified in the contract;
- (h) A reference to any material in sub-clause (c) (d) or (g) does not include any material that is supplied by the building owner or the owner's agent.

Completed electrical work means:

- (a) Electrical work for which the electrical contractor has issued a certificate of test, or
- (b) Work the electrical contractor has connected to supply.

The Certificate of Test means the certificate required under Section 169 of the Electricity Regulation 1994.

Electrical Work is as defined in the Electricity Act of 1994.

Contract means a written agreement to carry out electrical work and includes a domestic building contract or other building contract that includes electrical work.

Disappearance means cannot be found after due search and enquiry.

Domestic Dwelling

Domestic Dwelling means any residential premises but other than:

- (a) Any residence that is not intended for permanent habitation, or
- (b) A rooming house
- (c) A motel, residential club, residential hotel, or residential part of licensed premises
- (d) A nursing home, hospital, or accommodation associated with a hospital; or
- (e) The common areas under the control of the Body Corporate in residential villas, townhouses, duplex, triplex, quadruplex or home units which make up the body corporate
- (f) Any watercraft

Insolvent

Insolvent means where the electrical contractor enters into any composition or arrangement with its creditors, has a receiver, a receiver and manager or an administrator appointed to it or is the subject of any solution or petition for winding up (other than the purpose of amalgamation or reconstruction while solvent) or comes bankrupt.

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Limit of liability

Limit of liability means the limit of liability that is shown in the Schedule.

Broadform Public Liability

Means policy of insurance covering an occurrence, which causes personal injury to a third party, or property damage of a third party other than the work itself, arising from the activities as an electrical contractor.

Broadform Products Liability

Means policy of insurance covering an occurrence, which causes personal injury to a third party, or any loss or damage to the property of a third party other than the work itself, directly or indirectly arising from the activities as an electrical contractor directly or indirectly arising from the products or activities.

Consumer Protection – Definition of Domestic Work

Domestic work means work for a domestic dwelling proprietor or for individual proprietors of single domestic dwellings forming part of residential villas, townhouses, duplex, triplex, quadruplex or home units.

Trade Practices Liability

Mean any liability that arises as a result of conduct by the electrical contractor that contravenes the Trade Practices Act 1974 (Cth) and the Fair Trading Act 1989 (Qld) other than any fine or penalty imposed by such contravention.

1. Your Cover

In our Broadform Liability Policy you will find cover for Public Liability and Products Liability. In this Endorsement you will find cover for:

- 1.1 Defects in Electrical Works
- 1.2 Any Trade Practices Liability
- 1.3 Liability arising from the testing of Your own work and the work of others
- 1.4 Resultant and Injury, damage or loss arising from incorrect advice or design
- 1.5 Non-completion of Electrical Work
- 1.6 Consumer Protection

2. Limit of Liability

Our liability under this Endorsement is limited to:

- 2.1 In respect of Trade Practices Liability the maximum amount we will pay is the cost of rectifying the relevant electrical work.

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- 2.2 For all other liability referred to in Clauses 1.1, 1.3, 1.4, 1.5 and 1.6 the maximum amount we will pay is \$50,000 per any one claim or service of claim in relation to a certificate of test or if the certificate of test relates to more than one home \$50,000 in respect of each domestic installation.
- 2.3 For the reasonable legal costs and expenses associated with successful Enforcement of a claim against You or Us.

3. Exclusively applicable to this Endorsement

- 3.1 We do not cover You for any loss damage or liability:
 - 3.1.1 Resulting from a Product Defect provided that:
 - 3.1.1.1 We bear the onus of establishing that the claim (or part of a claim) is based on a Product Defect; and
 - 3.1.1.2 We agree that nothing in this exclusion removes the cover given to You by this Endorsement in relation to You supplying or using any appliance, material, substance or other thing that You were aware was defective, or that You should reasonably be aware was defective
 - 3.1.2 Resulting from:
 - 3.1.2.1 Fair wear and tear or depreciation of electrical work or;
 - 3.1.2.2 A failure by the Building Owner to reasonably maintain the Electrical Work
- 3.2 For consequential financial loss resulting from non-domestic Electrical Work
- 3.3 Directly or indirectly caused by, contributed to, or arising from exposure to asbestos
- 3.4 We do not cover you in respect of all legal costs of any person making a Claim against You that are not directly or indirectly related to:
 - 3.4.1 The enforcement of this Policy; or
 - 3.4.2 A liability in respect of which you are covered under this Policy
- 3.5 We do not cover You for claims for liquidated damage for delay or damages for delay that may arise under contract provided that this exclusion does not apply to increases in rectification costs caused by a delay

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CONDITIONS APPLICABLE TO THIS ENDORSEMENT:

4. Period that insurance must cover

- 4.1 For the liabilities referred to in Clauses 1.1, 1.2 and 1.4 of the Endorsement, You are only covered in respect of Electrical Work of which a Certificate of Test is required from the time You agree to carry out that work until:
- 4.1.1 7 years after You last issued the Compliance Certificate in relation to that work; or
 - 4.1.2 if You did not issue a Compliance Certificate in relation to the work, 7 years after You stopped carrying out that work
- 4.2 You are covered in respect of Electrical Work for which a Compliance Certificate is required for Completed Work Liability that arises from personal injury to a third party or loss or damage to the property of a third party (other than property that is part of the Electrical Work itself) that occurs during the Period of Insurance caused by an occurrence that happens in connection with the carrying out of the Electrical Work (regardless of when the Electrical Work was carried out).
- 4.3 The cover provided in Clauses 1.1, 1.2 and 1.4 of this Endorsement continues to apply throughout the relevant period specified in Clause 4.1 of the Endorsement even if You cease to be a Licensed or registered electrician before the end of that period and even if You cease to maintain this Policy.

5. Insurer to comply with court orders.

We agree to comply with any order made against You by a court, a dispute resolution system We are a member or any other competent judicial body, in respect of any liability for which You are indemnified under this Policy (including any excess that You may be obliged to pay to Us).

6. Limitation for common property

- 6.1 This Clause applies if a claim is paid by us in relation to the common property of a building or complex or multiple Homes and the property in which the building or complex stands, and on which Electrical Work is carried out, is subject to the Subdivision Act 1988.
- 6.2 We will reduce the amount We pay under this Policy in respect of any One Home in the building or complex by an amount calculated by dividing the amount of the claim paid by Us by the number of Homes in the building or complex.

7. Limitation concerning non-completion of work

If You fail to complete Electrical Work for any reason then this Policy does not cover You for claims for the whole or a specified part of any payment made under a contract that exceeds the value of the work completed at the time of payment.

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8. Deemed acceptance of claims

8.1 This Clause only applies in relation to Domestic Electrical Work

8.2 This Clause does not apply in relation to Completed Works Liability

8.3 We agree to accept liability for a claim if We do not notify the person making the claim within 90 days from when We receive the claim in writing that We accept or dispute the claim, unless We obtain an extension of time from the person in writing or from the Disputes Tribunal

9. Order to prevail in the case of conflict with this Policy

We agree that if any term of this Policy conflicts, or is inconsistent with the Electrical Contractors Insurance Requirements which outlines the requirements for electrical contractors insurance required under Section 43 of the Electrical Safety Act 2002 then this Policy is to be read and to be enforceable as if it complied with that document.

10. Claims not to be refused on the grounds that Policy obtained by fraud, etc.

10.1 This Clause only applies in relation to Domestic Electrical Work

10.2 We agree that We will not refuse to pay a claim (other than a claim in respect of Completed Work Liability) under this Policy on the ground that this Policy was obtained by misrepresentation, fraud or non-disclosure by You or anyone acting on Your behalf

10.3 You agree that if We make a payment under this Policy to, or for the benefit of, a building Owner under the circumstances contemplated by this Clause, by doing so We are not restricting Our right to recover that payment from You.

11. Right of recovery from You

(a) Claims paid due to the Non completion of domestic electrical work as a result of:

- (1) Your disappearance
- (2) You become insolvent under administration
- (3) The cancellation or suspension of your electrical licence under the Electrical Safety Act 2002 (Queensland)
- (4) The early termination of the contract by the building owner as a result of Your wrongful failure or refusal to complete the domestic electrical work.

(b) Claims paid due to a defect in the domestic electrical work as a result of:

- (1) A failure to carry out domestic electrical work consistent with current legislation, industry practices and standards and in accordance with any plans and specifications set out in the contract.
- (2) A failure to use materials in the domestic electrical work that are good and suitable for the purposes for which they are used.
- (3) A failure to carry out the domestic electrical work in accordance with and in compliance with all laws and legal requirements or any

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applicable Australian or other relevant standard or code of practice including the Electricity Act 1994 as amended.

- (4) A failure to carry out domestic electrical work with due care or skill or a failure to complete the domestic electrical work;
 - (i) by the date or within the period specified in the contract or
 - (ii) within a reasonable time if the date or period is specified
 - (5) If the contract states a particular purpose for which the domestic electrical work is required or the result which the building owner wishes the work to achieve so as to show that the building owner relies on Your skill and judgement, a failure to ensure that the domestic electrical work and any materials used in carrying out the electrical work;
 - (i) are fit for the purpose, or
 - (ii) are of such a nature and quality that they will achieve that result.
 - (6) A failure to maintain a standard or quality of domestic electrical work specified in the contract.
- (c) Claims paid due to non completion of domestic electrical work or a defect in the domestic electrical work as a result of fraudulent or dishonest behaviour by You.
 - (d) Any excess where the claim has been paid directly to the building owner.

12. Insurer must give effect to Certificates

12.1 This Clause only applies in relation to Domestic Electrical Work

12.2 If We give You a Certificate stating that You are covered by insurance,
We agree that We will not refuse to pay a claim on that insurance (other than a claim in respect of Completed Work Liability) under this Policy on the ground that You have not paid the premium for the Insurance

12.3 You agree that if We make a payment under this Policy to, or for the Benefit of, a Building Owner under the circumstances contemplated by this Clause, by doing so We are not restricting Our right to recover that payment from You

13. Deemed notice of Defects

We agree that if a person gives notice of Defects in writing to You or Us, that person is to be taken for the purposes of this Policy to have given notice of every Defects of which the Defect notified are directly or indirectly related, whether or not the claim in respect of the defect that was actually notified has been settled.

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14. Claimant may enforce this Policy directly in some cases

We and You both agree:

14.1 That a person who is entitled to claim against You in respect of any liability for which You are indemnified under this Policy may enforce this Policy directly against Us for the person's own benefit for any event listed in Clause 1.4 if

14.1.1 You refuse to make a claim against Us; or

14.1.2 There is an irretrievable breakdown of communication between You and Us; and

14.2 That for the purpose of such enforcement the person has the same rights and entitlements as You would have had under any legislation applicable to You;

14.3 That We will pay to the person the full amount of any liability for which You are indemnified under this Policy despite any failure by You to pay any excess that You are required to pay

15. Section 54 of the Insurance Contracts Act 1984 to apply

15.1 We acknowledge that Section 54 of the Insurance Contracts Act 1984 (Cth) applies to this Policy

15.2 Despite sub-clause (15.1), We agree that We will not rely on Section 54 to reduce Our liability under this Policy or to reduce any amount that is otherwise payable in respect of a claim by reason only of a delay in a claim being notified to Us if:

15.2.1 The person who makes the claim notifies You, either orally or in writing; or

15.2.2 That person notifies Us in writing:
within 180 days of the date when the person first became aware, or might reasonably be expected to have become aware, of some fact or circumstance that might give rise to the claim

16. Notification concerning claims settled

We and You both agree that We will notify the Electrical Licensing Board in writing of the settling of payment of any claim under this Policy as required by the Electrical Licensing Board

17. Conflicting Provisions

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- 17.1 Nothing in this Endorsement should be read as limiting indemnity under the Endorsement with respect of any Defect as a result of any error in design, specification formula or pattern or the provision of advice that is incidental to any Electrical Work undertaken by the electrician
- 17.2 To the extent that paragraph 16.1 is in conflict with any other provision in this Endorsement, paragraph 16.1 will prevail

18. Excess

You are liable to pay Us in respect of each claim paid by Us under this Policy the amount paid by us or the amount specified in the certificate as the excess under the heading Public Liability or Products Liability whichever is the lesser.

Provided You are not liable to pay an excess more than once in relation to any claim comprising more than one defect or two or more claims that relate to the same defect.

19. You must co-operate with Us

- 19.1 You agree in relation to a claim or prospective claim:
- 19.1.1 To make reasonable efforts to assist and inform Us or Our agent;
 - And
 - 19.1.2 To attend the relevant building site for the purpose of inspecting, rectifying or completing Electrical Work (unless the Building Owner refuses You access to the site)
- 19.2 We may reduce the amount of a claim by a Building Owner by an amount that reasonably represents the cost resulting from an unreasonable refusal by the Building Owner to give You access to a building site if We have asked You to attend the site

20. Provision concerning cancellation

We agree that the cancellation of this Policy:

- 20.1 Will only take effect 30 days after We give both the Electrical Licensing Board and You notice in writing of the cancellation; and
- 20.2 Has no effect on any of Our obligations under this Policy with respect to the liabilities referred to in Clauses 1.1, 1.2 and 1.4 of the Endorsement in relation to Electrical Work that was carried out while this Policy was in force; and
- 20.3 Has no effect on any of Our obligations under this Policy with respect to the liabilities referred to in Clauses 1.3 and 1.4 of this Endorsement in relation to any personal injury to a third party or loss or damage to the

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property of a third party (other than property that is part of the Electrical (Work itself) that occurred while this Policy was in force.

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Victorian Plumbers Liability Extension (this endorsement is only to apply in respect of Plumbing Work performed in Victoria)

1. Definitions applicable to this endorsement (Victorian Plumbers Liability only)

Any word or expression which this Endorsement of the Policy defines as having a particular meaning will have the meaning everywhere it appears in this Endorsement of the policy.

1.1. "Building Owner" means

The person for whom Plumbing Work has been, is being, or is about to be, carried out and includes:

- (a) any occupier of the land, building or Home where the Plumbing Work is carried out; and
- (b) any person who is the owner for the time being of such land, building or Home; and
- (c) if the Plumbing Work is carried out on land in a plan of subdivision containing common property, the body corporate for that land or a building on that land; and
- (d) any assignee of the Building Owner's rights under a Contract; and
- (e) any person who has contracted with another person to provide the Plumbing Work.

1.2. "Contract" means

A contract to carry out Plumbing Work and includes a domestic building contract or other building contract that includes Plumbing Work.

1.3 "Defect" in relation to Plumbing Work includes:

- (a) a failure to carry out the Plumbing Work in a proper and workmanlike manner and in accordance with any plans and specifications set out in the Contract;
- (b) a failure to use materials in the Plumbing Work that are good and suitable for the purpose for which they are used;
- (c) the use of materials in the Plumbing Work that are not new (unless the Contract permits use of materials that are not new);
- (d) a failure to carry out the Plumbing Work in accordance with, and in compliance with, all laws and legal requirements including but without limiting the generality of this clause, the Building Act 1993 (Vic) and any regulations made under that Act;
- (e) a failure to carry out the Plumbing Work with reasonable care and skill and, in the case of Domestic Plumbing Work, a failure to complete the work –
 - (i) by the date (or within the period) specified by the Contract; or
 - (ii) within a reasonable time, if no date (or period) is specified;
- (f) if the Contract states the particular purpose for which the Plumbing Work is required, or the result which the Building Owner wishes the Plumbing Work to achieve, so as to show that the Building Owner relies on Your skill and judgement, a failure to ensure that the Plumbing Work and any material used in carrying out the Plumbing Work:
 - (i) are reasonably fit for that purpose; or
 - (ii) are of such a nature and quality that they might reasonably be

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- expected to achieve that result;
- (g) a failure to maintain a standard or quality of Plumbing Work specified in the Contract.

A reference to any material in sub-clause (b) or (f) does not include any material that is supplied by the Building Owner (or the Building Owner's agent).

1.4 "Defects Liability" means

Liability to pay for the costs of rectifying and Defect in Your Plumbing Work carried out in Victoria.

1.5 "Disappearance" means

Cannot be found after due search and inquiry

1.6 "Domestic Plumbing Work" means

Plumbing Work performed or intended to be performed on or in relation to a Home or any building or structure on land on which a Home is or is intended to be situated.

1.7 "Home" means

Any residential premises and includes any part of a commercial or industrial premises that is used as a residential premises and also includes any houseboat that is less than 8 metres in length, but does not include:

- (a) any residence that is not intended for permanent habitation; or
- (b) a rooming house within the meaning of the Residential Tenancies Act 1997 (Vic); or
- (c) a motel, residential club, residential hotel or residential part of licensed premises under the Liquor Control Reform Act 1998 (Vic); or
- (d) a nursing home, hospital or accommodation associated with a hospital; or
- (e) any residence that the regulations made under the domestic Buildings Contracts Act 1995 (Vic) state is not a home for the purposes of the definition of "home" in that Act.

1.8 "Insolvent Under Administration" means

A person who is a bankrupt in respect of a bankruptcy from which the person has not been discharged and includes:

- (a) a person who has executed a deed of arrangement under Part X of the bankruptcy Act 1966 (Cth) (or the corresponding provisions of the law of another jurisdiction) where the terms of the deed have not been fully complied with ; and
- (b) a person whose creditors have accepted a composition under Part X of the Bankruptcy Act 1966 (Cth) (or the corresponding provisions of the law of another jurisdiction) where a final payment has not been made under the composition

1.9 "Non-Domestic Plumbing Work" means

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Plumbing Work that is not Domestic Plumbing Work

1.10 “Product defect” means

A defect in any appliance, material, substance or other thing that was supplied or used by You in connection with Plumbing Work

1.11 “Trade Practices Liability “ means

Any liability for the cost of rectifying any Defect in Plumbing Work carried out in Victoria that arises as a result of conduct by You in connection with the Plumbing Work that contravenes Section 52, 53, 55A or 74 of the Trades Practices Act 1974 (Cth) or Section 9, 11 or 12 of the Fair Trading Act 1999 (Vic).

1.12 “Compliance Certificate” means

A certificate referred to in Section 221ZH of the Building Act 1993 (Vic).

1.13 “Ministerial Order” means

The Licensed Plumbers general Insurance Order 2002 made under Section 221ZQ and 221ZT of the Building Act 1993 (Vic).

1.14 “Plumbing Work” has the same meaning as in Section 221C of the Building Act 1993 (Vic).

1.15 “Completed Plumbing Work” means

- (a) Plumbing Work for which You have issued a Compliance Certificate; or
- (b) if You do not issue a Compliance Certificate, Plumbing Work which You carried out but only after You stopped carrying out that work.

2. Coverage

We will cover You under this Endorsement of the Policy for ;

2.1 Defects liability

2.2 Trade Practices Liability

2.3 In respect of Domestic Plumbing Work carried out in Victoria any liability arising from:

- (a) any consequential financial loss reasonably incurred by the Building Owner as a result of any Defects or non-completion of the Plumbing Work as described in Clause 2.3 (b) including but not limited to –
 - (i) the loss of any deposit or progress payment (or any part of any deposit or progress payment); and
 - (ii) the cost of alternative accommodation, removal and storage costs that are reasonably and necessarily incurred; and
- (b) non-completion of the Plumbing Work due to:

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- (i) Your death or legal incapacity
- (ii) Your disappearance
- (iii) You becoming an Insolvent Under Administration
- (iv) the cancellation or suspension of Your licence as a licensed plumber under the Building Act 1993 (Vic); or
- (v) the early termination of the Contract by the Building Owner as a result of Your wrongful failure or refusal to complete the Plumbing Work.

The cover provided under clause 2.3 (b) also applies to any Contract for both Domestic and Non-Domestic Plumbing Work in which the Non-Domestic Plumbing component does not exceed 20% of the total Contract value.

3. Limit of Liability

- (a) Our maximum liability in respect of any claim or series of claims in relation to a Compliance Certificate (or, in the case of Domestic Building Work, in relation to each Home if the Compliance certificate relates to more than one Home) shall not exceed the Limit of Liability of \$100,000.
- (b) The maximum total amount that We will pay out under this Endorsement of the Policy for all claims shall not exceed the Limit of Liability of \$100,000.

4. Defence of Claims

In addition to the Limit of Liability we also pay the reasonable legal costs and expenses associated with the successful enforcement of a claim against You or Us. However, we will not pay the legal costs of any person making a claim against You that are not directly or indirectly related to;

- (a) the enforcement of the Endorsement of the policy; or
- (b) a liability in respect of which You are covered under this Endorsement of the policy.

Provided that:

- (i) We will not be obliged to pay any claim or judgment or to defend any claim or legal action after the Limit of Liability has been exhausted by payment of judgments or settlements;
- (ii) if a payment exceeding the Limit of Liability has to be made to dispose of a claim, Our liability to pay any legal costs and expenses under this clause 4 will be limited to that proportion of those legal costs and expenses as the Limit of Liability bears to the amount paid to dispose of the claim.

5. Exclusions applicable to this Endorsement (Victorian Plumbers Liability) only

We do not cover You for:

5.1 any Defects Liability resulting from a Product Defect provided that:

- (a) We bear the onus of establishing that the claim (or part of the claim) is based on a Product Defect; and

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- (b) We agree that nothing in this exclusion removes the cover given to You by this Endorsement of the policy in relation to You supplying or using an appliance, material, substance or other thing that You were unaware was defective or that You should not reasonably have been aware was defective;

5.2 any loss, injury or damage resulting from:

- (a) fair wear, tear or depreciation of Plumbing Work; or
- (b) a failure by the Building Owner to reasonably maintain Plumbing Work;

5.3 any consequential financial loss in relation to Non-Domestic Plumbing Work;

5.4 claims for liquidated damages for delay, or damages for delay, that may arise under a Contract provided that this exclusion does not apply to any increase in rectification costs caused by the delay.

4. Conditions applicable to this Endorsement (Victorian Plumbers Liability) only

6.1 Period of Cover

For Defects Liability, Trade Practices Liability and liabilities referred to in clause 2.4 of this endorsement of the Policy, You are only covered in respect of Plumbing Work for which a Compliance Certificate is required from the time You agree to carry out that work until:

- (a) 6 years after You last issued the Compliance Certificate in relation to that work; or
- (b) if You did not issue a Compliance Certificate in relation to the work, 6 years after You stopped carrying out that work.

The cover provided for Defects Liability, Trade Practices Liability and liabilities referred to in clause 3.2 of this Endorsement of the Policy continues to apply throughout the relevant period specified in this clause 6.1 even if You cease to be a licensed plumber before the end of that period and even if You cease to maintain this Endorsement of the Policy.

6.2 Limitation for common property

This clause applies if Plumbing Work is carried out on land in a plan of subdivision containing common property and a claim is paid by Us in relation to the common property.

We will reduce the amount We will pay under this Endorsement of the policy in respect of any one Home on land in the plan of subdivision by an amount calculated by dividing the amount of the claim paid by Us in relation to the common property by the number of Homes on land in the plan of the subdivision.

6.3 Limitation concerning non-completion of work

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If you fail to complete Plumbing Work for any reason listed in clause 11 of the Ministerial Order, then this Endorsement of the Policy does not cover You for claims for the whole or a specified part of any payment made under a Contract that exceeds the value of the work completed at the time of payment.

6.4 Deemed acceptance of claims

This clause only applies in relation to Domestic Plumbing Work

We agree to accept liability for a claim if We do not notify the person making the claim within 90 days from when we receive the claim in writing that We accept or dispute the claim, unless We obtain an extension of time from the person in writing or from the Victorian Civil and Administrative Appeals tribunal.

6.5 Claims not to be refused on the grounds that the Policy obtained by fraud, etc.

This clause only applies in relation to Domestic Plumbing Work.

We agree that We will not refuse to pay a claim under this Endorsement of the Policy on the ground that this Endorsement of the Policy was obtained by misrepresentation, fraud or non-disclosure by You or anyone acting on Your behalf.

You agree that if We make a payment under this Endorsement of the Policy to, or for the benefit of, a Building Owner under the circumstances contemplated by this clause, by doing so We are not restricting Our right to recover that payment from you.

6.6 We give effect to Certificates

This clause only applies in relation to Domestic Building Work

If we give You a Certificate stating that You are covered by insurance under this Endorsement of the Policy, We agree that We will not refuse to pay a claim on that insurance on the ground that You have not paid the premium for the insurance.

You agree that if We make a payment under this Endorsement of the Policy to, or for the benefit of, a Building Owner under the circumstances contemplated by this clause, by doing so We are not restricting Our right to recover that payment from You.

6.7 Deemed notice of Defects

We agree that if a person gives notice of a defect in writing to You or us, that person is to be taken for the purposes of this Endorsement of the Policy to have given notice of every Defect of which the Defect notified is directly or indirectly related, whether or not the claim in respect of the Defect that was actually notified has been settled.

6.8 Claimant may enforce this Endorsement of the Policy direct to certain cases

We and You both agree that:

- (a) a person who is entitled to claim against You in respect of any liability for which You are indemnified under this Endorsement of the Policy may enforce this endorsement directly against Us for the person's own benefit if –

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- (i) any event listed in clause 2.3 of this Endorsement of the Policy occurs; or
 - (ii) You refuse to make a claim against Us; or
 - (iii) There is an irretrievable breakdown of communication between You and Us;
- (b) for the purpose of such enforcement the person has the same rights and entitlements as You would have had under any legislation applicable to You;
- (c) We will pay to the person the full amount of any liability for which You are indemnified under this Endorsement of the Policy despite any failure by You to pay any deductible that You are required to pay.

6.9 You must co-operate with Us

- (a) You agree in relation to a claim or prospective claim:
- (i) to make reasonable efforts to assist and inform Us or Our Agent; and
 - (ii) to attend the relevant building site for the purpose of inspecting, rectifying or completing Plumbing Work (unless the Building Owner refuses You access to the site).
- (b) We may reduce the amount of a claim by a Building Owner by an amount that reasonably represents the cost resulting from an unreasonable refusal by the Building Owner to give You access to a building site if We asked You to attend the site.

6.10 We will comply with court orders

We agree to comply with any order made against You by a court, the Victorian Civil and Administrative Appeals Tribunal or any other competent judicial body, in respect of any liability for which You are indemnified under this endorsement, (including any excess that You may be obliged to pay to Us).

6.11 Ministerial Order to prevail

We agree that if any term of this endorsement conflicts, or is inconsistent with the Ministerial Order, then this endorsement is to be read and to be enforceable as if it complied with that Order.

6.12 Section 54 of the Insurance Contracts Act

- (a) We acknowledge that Section 54 of the Insurance Contracts Act 1984 (Cth) applies to this policy.
- (b) Despite sub-clause (a), we agree that We will not rely on Section 54 to reduce Our Liability under this endorsement or to reduce any amount that is otherwise payable in respect of a claim by reason only of a delay in a claim being notified to Us if:
- (i) the person who makes the claim notifies You either orally or in writing; or
 - (ii) that person or You notifies Us in writing:

within 180 days of the date when the person first became aware, or might

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reasonable be expected to have become aware, of some fact or circumstance that might give rise to a claim.

- (c) Nothing in clause (b) restricts the operation of clause 6.1 of the Conditions applicable to this Endorsement of the Policy.

6.13 Notification of claims settled

We and You both agree that We will notify the Plumbing Industry Commission in writing in the manner required by the Minister of the settling or payment of any claim under this policy.