Schedule 10 – Insurance Schedule

**Introduction**

There are two parts to this Schedule 10 (*Insurance Schedule*):

Part A — Development Phase Insurances; and

Part B — Operational Phase Insurances.

***[Note: This is a template only. Agencies should amend as appropriate on a project specific basis in consultation with their insurance advisors.]***

**Part A – Development Phase Insurances**

Project Co must procure, or cause to be procured, and thereafter maintained, each of the Insurances specified in this Part A on the terms set out in this Part A. Where any sub-limits are not expressly specified in any such Insurance, the policy limit specified for that Insurance applies.

Summary of cover required:

(a) Contract Works Insurance (Material Damage);

(b) Contract Works Insurance (Public and Products (Completed Operations) Liability);

(c) Contract Works Insurance (Advance Consequential Loss);

(d) Marine Transit Insurance (Material Damage);

(e) Marine Transit Insurance (Delay in Start up);

(f) Contractors’ Plant and Equipment Insurance;

(g) Design and Construct Professional Indemnity Insurance;

(h) Environmental Impairment Liability Insurance;

(i) Workers' Compensation Insurance; and

(j) Motor Vehicle Insurance.

(a) **Contract Works Insurance (Material Damage)**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | Project Co |
| Insured | Each of:   * Project Co; * the Project Co Associates; * the State; * the State Associates; * the D&C Contractor; * the Security Trustee; and * Subcontractors engaged in respect of the Development Activities,   and each other party which has an insurable interest or is required to be insured under any Project Document relating to the Development Activities or the Works. |
| Sum insured | The full cost of reinstatement or replacement of the Works. |
| Scope of cover | Physical loss, destruction or damage to the Works or in respect of the Development Activities, including construction and reinstatement of the Works, and testing and commissioning of plant and equipment insofar as it relates to the Development Activities.  Insurance to include coverage at a minimum for the following:   * offsite fabrication within Australia; * professional fees with a sub-limit of at least [10%] of the Sum Insured; * removal of debris with a sub-limit of at least [10%] of the Sum insured for any one occurrence; * expediting expenses with a minimum sub-limit of [120%] of normal costs; * [15%] contract price escalation for the sum insured; * inland transit, off-site storage; * continuation of cover for any part of the Works handed over and put into use at any time prior to the whole of the Works achieving Commercial Acceptance; * subsidence/earth movement; * civil works/excavation works; * riots, strikes and industrial action; * Plant and Equipment commissioning and testing; * Temporary Equipment and works, scaffolding and formwork; * temporary protection and/or loss mitigation expenses; and * cover for loss of or damage to and the cost to rectify, replace or repair property which is free of defective materials, workmanship, design, plan, or specification but is damaged in consequence of other property which has defective materials, workmanship, design, plan, or specification. |
| Situation of risk | Anywhere in the Commonwealth of Australia, including whilst in transit (other than ocean marine transit) between any places therein. |
| Deductibles | Maximum deductible of $[##] for each and every occurrence. |
| Additional requirements | The policy must be procured and maintained on a project specific basis. |
| Period of insurance | From Financial Close to the end of the last defects liability period (or equivalent related to the Works) under the D&C Contract. |

(b) **Contract Works Insurance (Public and Products (Completed Operations) Liability)**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | Project Co |
| Insured | Each of:   * Project Co; * the Project Co Associates; * the State; * the State Associates; * the D&C Contractor; * the Security Trustee; and * Subcontractors engaged in respect of the Development Activities,   and each other party which has an insurable interest or is required to be insured under any Project Document relating to the Development Activities or the Works. |
| Sum insured | $[250,000,000] for any one occurrence or series of occurrences arising out of any one occurrence with respect to the Development Activities or the Works, and unlimited in the aggregate during the period of insurance but in the aggregate of all occurrences in any one period of insurance with respect to products liability, and completed operations liability. |
| Scope of cover | Legal liability (including to co-insureds) for personal injury and/or property damage caused by an occurrence during the period of insurance, where such occurrence:   * arises out of or related to the Development Activities or the Works; or * occurs during the defects liability period under the D&C Contract. |
| Situation of risk | Anywhere in the Commonwealth of Australia. |
| Deductibles | Maximum deductible of:   * $[##] each and every occurrence for claims in respect of worker to worker liability; * $[##] each and every occurrence in respect of all other claims. |
| Additional requirements | The policy must be procured and maintained on a project specific basis and:   * must include:  1. a cross liability clause; 2. a breach of conditions clause which provides that the actions, breach of conditions of one insured will not impact the rights of any other insured under the policy; and 3. severability and non imputation clauses;  * must include coverage for:  1. Worker to worker liability to ensure that each Insured is covered for each claim by any worker, not being their respective employees, injured during construction activities relating to the Development Activities or the Works; 2. expenses incurred by any Insured for first aid to others for bodily injury at the time of an occurrence; 3. pollution liability but only if caused by a sudden, accidental, unexpected and unintended occurrence; 4. bodily injury and/or property damage arising from an error or omission in design or specification or breach of professional duty; 5. mobile plant and equipment not required to be registered or used as a tool of trade (unless separate insurance procured for this exposure under another Insurance); and 6. existing or other property (including any existing buildings) in the Insured's care, custody or control, but this may exclude the smallest component of property in the Insured's care custody or control being worked on; and  * must not include:  1. a contractual liability exclusion. |
| Period of insurance | From Financial Close to the end of the last defects liability period or equivalent for the Works under the D&C Contract. |

(c) **Contract Works Insurance (Advance Consequential Loss)**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | Project Co |
| Insured | Each of:   * Project Co; and * the Security Trustee. |
| Level of cover | [##] Monthly Service Payments (unabated) |
| Sum insured | $[##] |
| Indemnity period | [##] months |
| Scope of cover | Advance Consequential Loss Insurance with respect to the risks of loss insured under the Contract Works Insurance (Material Damage) policy. |
| Situation of risk | Anywhere in the Commonwealth of Australia. |
| Deductibles | Maximum deductible of [##] days in total for all claims. |
| Additional requirements | The policy must be procured and maintained on a project specific basis and must include:   * nominated suppliers' premises extension with a minimum sub-limit of $[##]; * public utilities extension with a minimum sub-limit of $[##]; * prevention of access with a minimum sub-limit of $[##]; and * coverage for additional costs of working and increased additional cost of working with a minimum sub-limit of $[##]. |
| Period of insurance | From Financial Close to the Date of Commercial Acceptance. |

(d) **Marine Transit Insurance (Material Damage)**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | Project Co |
| Insured | Each of:   * Project Co; * the Project Co Associates; * the State; * the State Associates; * the Security Trustee; * the D&C Subcontractor; and * Subcontractors engaged in respect of the Development Activities,   and each other party which has an insurable interest or is required to be insured under any Project Document relating to the Development Activities or the Works. |
| Level of cover | Sum insured is a limit of indemnity equivalent to not less than the maximum total value of the property to be transferred in any one shipment, plus a provision for the costs of freight, insurance, taxes and duties as may be applicable. |
| Scope of cover | Unless covered under the Contract Works Insurance (Material Damage) in respect of the Works or the Development Phase Activities, a policy of Marine Transit Insurance open in respect of the shipment or carriage of the relevant items of imported property intended to be employed about or used in connection with the Development Activities or the Works. |
| Situation of risk | Worldwide. |
| Deductibles | Maximum deductible of $[##] for each and every occurrence. |
| Period of insurance | From the time of leaving the manufacturer or other place of original order in the country of origin until arrival at the Development Phase Sites. |

***[Note: Agencies should consider requiring Project Co to procure Marine Transit (Advance Consequential Loss) Insurance on a project specific basis, in instances where an loss during an overseas shipment could have a material impact on the completion date of the project.]***(e) **Marine Transit Insurance (Delay in Start Up)**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Insured | Each of:   * Project Co; and * the Security Trustee. |
| Level of cover | In respect of Project Co and the Security Trustee:   * [To be bid] Service Payments (prior to any Abatement). |
| Scope of cover | The policy must be procured and maintained on a project specific basis and must include:   * coverage for Loss as a consequence of a delay resulting from damage insured under the Marine Transit Insurance. |
| Situation of risk | Worldwide. |
| Deductibles | Maximum deductible of [##] days in total for all claims. |
| Period of insurance | From the time of leaving the manufacturer or other place of original order in the country of origin until the Date of Commercial Acceptance. |

(f) **Contractors Plant and Equipment**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | Each party to procure their own insurance. |
| Insured | Each party to procure their own insurance. |
| Level of cover | Market value of the respective plant or equipment used in connection with the Works. |
| Scope of cover | Damage or destruction for an indemnity value of the respective plant and equipment whether owned or hired by Project Co or the D&C Contractor used for the purposes of undertaking the Works. |
| Situation of risk | Anywhere in the Commonwealth of Australia. |
| Deductibles | Maximum deductible of $[50,000] for each and every occurrence. |
| Period of cover | From Financial Close to the end of the last defects liability period (or equivalent) for the Works under the D&C Contract.***[Note: Terminology to be aligned with the D&C Subcontract prior to execution.]*** |

(g) **Design and Construct Professional Indemnity Insurance**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | [Project Co] |
| Insured | Each of:   * the D&C Contractor; * Project Co; and * Significant Subcontractors engaged in carrying out professional services in respect of the Development Activities,   in accordance with the additional requirements specified below. |
| Sum insured | Minimum coverage of $[##]  ***[Note: Agencies to consider based on the size of Project i.e. between $20,000,000 and $50,000,000 for any one claim and $40,000,000 in the aggregate for the Period of Insurance.]*** |
| Scope of cover | Covering legal liability arising from any act, error or omission of the insured in relation to the performance of each Insured's professional activities and duties in connection with the Works or the Development Activities. |
| Situation of risk | Anywhere in the Commonwealth of Australia. |
| Deductibles | Maximum deductible of $[##] for any one claim. |
| Retroactive Date | No later than the earlier of:   * the commencement of preparation of Project Co's Proposal; and * the release of the request for proposal issued by the State on [to be inserted]. |
| Additional requirements | This policy must be procured and maintained on a project specific basis and:   * must include:  1. an indemnity to Project Co as principal for its vicarious liability arising out of acts, errors and omissions of the D&C Contractor or its Subcontractors; 2. an indemnity to the State as principal for its vicarious liability arising out of acts, errors and omissions of its Associates; 3. an indemnity to the D&C Contractor for its vicarious liability arising out of acts, errors and omissions of its Subcontractors; and 4. severability and non-imputation clauses; and  * must include coverage for:  1. legal liability as a result of error in design or specification; 2. proportionate liability; 3. contractual liability; and 4. risk mitigation and rectification costs.   In addition to the requirement for the D&C Contractor to procure the Design and Construct Professional Indemnity Insurance, Project Co and the D&C Contractor must ensure that each of their design consultants/subcontractors has a policy conforming with the above requirements for a minimum of $[10,000,000] for any one claim and $[20,000,000] in the annual aggregate which includes one reinstatement of the sum insured following a claim, unless otherwise approved by the State.  The D&C Contract must not contain provisions which preclude recovery for breach of professional duty up to the limit of the insurance required under this Deed. |
| Period of insurance | From Financial Close to 7 years after the Date of Commercial Acceptance. |

(h) **Environmental Impairment Liability Insurance**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | Project Co |
| Insured | Each of:   * Project Co; * the Project Co Associates; * the State; * the State Associates; * the Security Trustee; * D&C Contractor; and * Subcontractors engaged in respect of the Development Activities. |
| Sum insured | $[10,000,000] for any one claim and in the aggregate. |
| Scope of cover | For legal liability to pay compensation for death, personal injury, loss or damage to third party property in respect of Contamination and clean-up costs arising out of pollution conditions arising out of the Works or the Development Activities on an occurrence basis. |
| Situation of risk | Anywhere in the Commonwealth of Australia. |
| Deductibles | Maximum $[100,000]. |
| Additional requirements | The policy must be underwritten on an occurrence basis and:   * must include:  1. a cross liability clause; 2. a breach of conditions clause; and 3. severability and non imputation clause; and  * must include coverage for:  1. gradual pollution; 2. liability connected with asbestos (including liability for soil and groundwater pollution); 3. remediation costs; 4. legal defence costs; and 5. biodiversity and natural resources damages.   The policy must be procured and maintained on a project specific basis. |
| Period of insurance | From Financial Close to the end of the last defects liability period under the D&C Contract. |

(i) **Workers’ Compensation Insurance**

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| --- | --- |
| **Insurance element** | **Minimum Requirement** |
| Party responsible for procuring the Insurance | Each party to procure its own Insurance. |
| Insured | Each party is required to procure its own Workers' Compensation Insurance, in respect of its statutory obligations and otherwise as required by Law and commercial prudence. |
| Level of cover | As required by Law. |
| Risks covered | As required by Law. |
| Deductibles/Excess | As required by Law. |
| Period of cover | From Financial Close to the end of the last defects liability period under the D&C Contract. |

(j) **Motor Vehicle Insurance**

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| --- | --- |
| **Insurance element** | **Minimum Requirement** |
| Party responsible for procuring the Insurance | Each party to procure its own Insurance. |
| Insured | Each party is required to procure and maintain its own Insurance for vehicles to be used in connection with the Development Activities or the Works. |
| Level of cover | Minimum coverage of $[20,000,000] per occurrence and in the aggregate in respect of third party property damage during the period of insurance. |
| Risks covered | Third party property damage in respect of all vehicles used in connection with the Development Activities or the Works. |
| Deductibles | As per corporate policies. |
| Additional requirements | All motor vehicles must be registered currently for compulsory third party insurance as required by Law, if for use on public roads.  Policy must cover unregistered vehicles or vehicles used as a tool of trade unless covered under the Contract Works (Public Liability) policy. |
| Period of cover | From Financial Close, to be renewed annually until the end of the last defects liability period under the D&C Contract. |

**Part B – Operational Phase Insurances**

Project Co must procure, or cause to be procured, and thereafter maintained each of the insurances with respect to the Project Assets specified in this Part B for the applicable period of insurance. Each such insurance must be procured and maintained upon the minimum terms specified in this Part B. Where any sub-limits are not expressly specified in any such insurance, the policy limit specified for that insurance applies.

Summary of Operational Phase Insurances required:

#### Industrial Special Risks/Consequential Loss Insurance;

#### Public and Products Liability Insurance;

#### Operational Phase Professional Indemnity Insurance;

#### Workers' Compensation Insurance; and

#### Motor Vehicle Insurance.

(a) **Industrial Special Risks/Consequential Loss Insurance**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | Project Co |
| Insured | Each of:   * Project Co; * the State; * the State Associates; * the Security Trustee; and * the Services Contractor (provided it is able to insure its interest, arising from its indemnity obligations more economically under this insurance than under the care, custody and control terms of the Public and Products Liability insurance). |
| Sum insured | Reflecting a combined limit of no less than the aggregation of the following:   * in relation to the [Project Assets], their full reinstatement or replacement value including costs of removal of debris and professional fees; and * in relation to consequential loss (business interruption), an amount equivalent to [##] Monthly Service Payments (unabated) plus such other additional amounts as specified by this Schedule 10,   and an amount sufficient to replace the Project Co contents of the Site. |
| Scope of cover | **Section 1 Material Loss or Damage**  Coverage for physical loss, destruction of or damage to the [Project Assets] for its reinstatement and/or replacement value from any cause not otherwise excluded based on the industry standard Mark IV wording plus endorsements.  **Property covered:**   * Buildings and roads * Plant, machinery, boilers * Contents * Raw stock and materials * Unregistered plant and Equipment (mobile plant/forklifts) * Tunnels and links   **Perils covered to include at a minimum:**   * Earthquake * Flood * Action of the sea/tidal wave/tsunami * Storm/tempest/cyclone * Hail/lightning strike * Landslip/earth movement * Fire/explosion * Impact * Burglary/theft * Malicious damage * Riots/strikes/civil commotion * Accidental damage   Some indicative sub-limits (for the first year of the Operational Phase and reviewed thereafter in accordance with clause [2.17]) are set out below. Actual sub-limits are to be as determined in accordance with clause [44.2].  Accidental Damage $[50,000,000]  Expediting Expenses $[10,000,000]  Change in Temperature Controlled Environment $[5,000,000]  Property in Transit (within Australia) $[5,000,000]  Additional Extra Cost of Reinstatement $[20,000,000]  Machinery breakdown $[20,000,000]  Boiler and pressure vessel explosion – Replacement cost of  *(This sub-limit applies to damage to the boiler* boiler and pressure *only and not to resultant damage.)* vessel  Electronic data processing equipment breakdown $[10,000,000]    **Section 2 - Consequential Loss**  Coverage for consequential loss (business interruption) in respect of loss of anticipated revenue and additional expense, arising out of the insured risks of loss of or damage to the [Project Assets].  Some indicative sub-limits are set out below. Actual sub-limits are to be agreed with the State at the time of procuring the Industrial Special Risk / Consequential Loss Insurance and thereafter in accordance with clause [44.15]:  **Sub-Limits**:  Additional increased cost of working $[25,000,000]  Utilities memorandum $[75,000,000]  Prevention of access $[50,000,000]  Suppliers $[50,000,000]  Professional fees/claims preparation costs $[5,000,000] |
| Situation of risk | Anywhere in the Commonwealth of Australia (and whilst in transit). |
| Maximum deductibles | Material Damage: $[100,000] each and every claim.  Business Interruption: 7 days. |
| Additional requirements | * The policy must be procured on a project specific basis. * Section 1 to cover physical loss, destruction or damage to property:  1. belonging to any Insured; 2. for which any Insured is responsible or has assumed responsibility to insure prior to damage occurring; and 3. in which an Insured acquires an insurable interest during the period of insurance.  * Cover for construction works where total contract value for that works is less than [$1,000,000]. * Marine Transit cover within Australia. * An appropriate amendment to the basis of settlement clause to clarify that the policy will cover the Abatement of Project Co's monthly Services Payment as a result of an insured peril. * An appropriate amendment to the policy will be required to clarify that (subject to overall limits, and policy terms and conditions) that the State, and any State Associate are entitled to be covered under this policy to the extent that the monthly Services Payment is not Abated as a result of an event, act, omission, fact, matter or occurrence (in whole or part) but the State, or any State Associate incurs Liabilities that would otherwise be claimable under the policy, such as increased costs of working or additional increased costs of working. * Co-insurance provisions not to apply to Section 1 and Section 2. |
| Period of cover | For a period of 12 months commencing on the Operational Commencement Date, to be renewed annually until the Expiry Date. |

(b) **Public and Products Liability Insurance**

| **Insurance element** | **Minimum Requirement** |
| --- | --- |
| Party responsible for procuring the Insurance | Project Co |
| Insured | Each of:   * Project Co; * the Security Trustee; * the State, and each State Associate in respect of their vicarious liability for the acts and omissions of Project Co or any Project Co Associate; and * the Services Contractor. |
| Sum insured | * $[250,000,000] for any one occurrence with regards to Public Liability; and * $[250,000,000] in the annual aggregate for Products Liability. |
| Scope of cover | To cover:   * legal liability for claims in respect of physical loss, destruction or damage to real or personal property, including property in the care, custody and control of the Insured, for which the Insured is responsible and which is not otherwise already insured for the Insured's benefit, and including consequential economic loss; and * personal injury (including libel and slander), disease or death of any person including resultant economic loss,   arising out of or in connection with its products, the provision of the Services, and this Deed during the Operational Phase. |
| Situation of risk | Anywhere in the Commonwealth of Australia. |
| Deductibles | Maximum deductible of $[##] each and every occurrence. |
| Additional requirements | The policy must be procured and maintained on a project specific basis and must include coverage for:   * care custody and control; * car park vehicles in care, custody or control; * worker to worker liability; * liability arising out of personal injury to contract labour hire persons; * sudden, accidental and unintended pollution occurrences; * [the State's / Project Co's] vicarious liability; and * mobile plant and equipment not required to be registered or used as a tool of trade or registered plant whilst used as a tool of trade (unless separate insurance procured for this exposure).   Policy must not exclude or limit liability in connection with: ***[Note: To be considered on a project specific basis, for example hospital projects should consider including the additional requirements below]***   * sexual or other molestation or abuse related claims. * ***[the ownership, purchasing, storage, the use of or creation of any radioactivity, radiation, ionising radiation, radioactive isotopes/material for the purpose of treatment, medical research or any general business use. For the avoidance of doubt, the State will only accept a general war/nuclear activity related exclusion;*** * ***biohazards. For the avoidance of doubt, State will only accept pollution or other similar exclusion that does not exclude liability in connection with biohazardous material;*** * ***the loss of, theft or damage to research, research animals, research specimens or other research; and*** * ***the cost of recreating research, research animals, research specimens or other research.]*** |
| Period of cover | For a period of 12 months commencing on the Operational Commencement Date, to be renewed annually until the Expiry Date. |

(c) **Operational Phase – Professional Indemnity Insurance**

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| **Insurance element** | **Minimum Requirement** |
| Party responsible for procuring the Insurance | Services Contractor |
| Insured | Services Contractor |
| Sum insured | $[10,000,000] for any claim and in annual aggregate. |
| Scope of cover | Covering legal liability arising from an act error or omission of the insured in relation to the performance of each Insured's professional activities and duties in connection with the Project Assets or the Services. |
| Situation of risk | Anywhere in the Commonwealth of Australia. |
| Retroactive date | No later than the earlier of:   * the commencement of preparation of Project Co's Proposal; and * the release of the request for proposal issued by [the State] on [##]. |
| Maximum Deductibles | [To be bid] |
| Additional requirements | The policy must:   * include severability and non-imputation clauses where the policy covers more than one Insured party; and * indemnify Project Co as a principal under the policy for its vicarious liability arising out of the professional activities of the Services Contractor. |
| Period of cover | For a period of 12 months commencing on the Operational Commencement Date, to be renewed annually until [10] years after the Expiry Date. |

(d) **Workers’ Compensation Insurance**

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| --- | --- |
| **Insurance element** | **Minimum Requirement** |
| Party responsible for procuring the Insurance | Each party to procure its own Insurance. |
| Insured | Each party is required to procure its own Workers' Compensation and Employer's Liability policy, in respect of its statutory obligations and otherwise as required by Law and commercial prudence. |
| Level of cover | As required by Law. |
| Risks covered | As required by Law. |
| Deductibles/Excess | As required by Law. |
| Period of cover | At all times during the Operational Phase. |

(e) **Motor Vehicle Insurance**

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| --- | --- |
| **Insurance element** | **Minimum Requirement** |
| Party responsible for procuring the Insurance | Each party to procure its own Insurance. |
| Insured | Each party to procure its own insurance for vehicles to be used in connection with the Services or the Project Assets. |
| Level of cover | Minimum coverage of $[20,000,000] per occurrence and in the aggregate in respect of third party property damage. |
| Risks covered | Third party property damage in respect of all vehicles used in connection with the Services or the Project Assets. |
| Deductibles | As per corporate policies. |
| Additional requirements | All motor vehicles must be registered currently for compulsory third-party insurance as required by Law, if for use on public roads.  Cover for mobile plant and equipment not required to be registered or used as a tool of trade or registered plant whilst used as a tool of trade (unless separate insurance is procured for this exposure or covered under the Public and Products Liability Insurance). |
| Period of cover | At all times during the Operational Phase. |