



THE **B & C** CO.

A MEMBER OF THE TOKIO MARINE GROUP

**TRADE CREDIT
INSURANCE
SINGLE RISK**

July 2019
(VERSION SR 2.0)

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IMPORTANT INFORMATION

ABOUT BCC

BCC Trade Credit Pty Ltd (ABN 48 608 296 233) (BCC) is arranging this insurance and acts as an Authorised Representative of Tokio Marine & Nichido Fire Insurance Co. Ltd. ABN 80 000 438 291, AFSL 246548.

ABOUT TOKIO MARINE & NICHIDO FIRE INSURANCE CO. LIMITED

Tokio Marine & Nichido Fire Insurance Co. Ltd. (Tokio Marine or Insurer) (ABN 80 000 438 291, AFSL 246548) is the issuer of this insurance policy and is an authorised insurer in Australia, regulated by the Australian Prudential Regulation Authority. The contact details for BCC and the Insurer are set out in this Policy.

For the purposes of this Policy the terms “**We**”, “**Us**” and “**Our**” shall refer to both BCC and Tokio Marine.

DUTY OF DISCLOSURE

Before you enter into an insurance contract, you have a duty to tell **Us** anything you know, or could reasonably be expected to know, that may affect **Our** decision to insure you and on what terms.

You have this duty until **We** agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell **Us** anything that:

- reduces the risk **We** insure you for; or
- is common knowledge; or
- **We** know or should know as an insurer; or
- **We** waive your duty to tell **Us** about.

This means:

- (1) when **You** ask for cover You must honestly answer specific questions about matters that may affect **Our** decision whether:
 - [a] to accept the risks of offering **You** cover; and
 - [b] the terms (including cost) of such cover
- (2) if **You** asked for the cover to be extended, altered or reinstated **We** may:
 - [a] ask **You** specific questions as mentioned above, and **You** must again answer honestly; and/or
 - [b] give **You** a copy of the matters **You** previously disclosed to **Us** in relation to the cover, and request **You** to tell **Us**:
 - i) if there have been any changes to that matter (being a change that is known to **You** or that a reasonable person in such circumstances could be expected to disclose); or
 - ii) if there have been no changes to that matter

IF YOU DO NOT TELL US SOMETHING

If you do not tell **Us** anything you are required to, **We** may cancel your contract or reduce the amount it will pay you if you make a claim, or both.

If your failure to tell **Us** is fraudulent, **We** may refuse to pay a claim and treat the contract as if it never existed.

GENERAL INSURANCE CODE OF PRACTICE

The Insurer proudly supports the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry. You can access the Code at www.codeofpractice.com.au

PRIVACY

We use information provided by **Our** customers to allow **Us** to offer **Our** products and services. This means **We** may need to collect your personal information, and sometimes sensitive information about you (for example, health information for travel insurance). **We** will collect this information directly from you where possible, but there may be occasions when **We** collect this information from someone else.

We will only use your information for the purposes for which it was collected, other related purposes and as permitted or required by law. You may choose not to give **Us** your information, but this may affect **Our** ability to provide you with insurance cover.

We may share this information with companies within **Our** group, government and law enforcement bodies if required by law and others who provide services to **Us** or on **Our** behalf, some of which may be located outside of Australia.

For more details on how **We** collect, store, use and disclose your information, please read the Privacy Policy located at www.tokiomarine.com.au. Alternatively, contact Tokio Marine at uwinform@tokiomarine.com.au or (02) 9225 7500 and request Tokio Marine send you a copy.

We recommend you obtain a copy of this Privacy Policy and read it carefully.

By applying for, using or renewing any of **Our** products or services, or providing **Us** with your information, you agree to this information being collected, held, used and disclosed as set out in this Privacy Policy.

Our Privacy Policy also contains information about how you can access and seek correction of your information, complain about a breach of the privacy law, and how **We** will deal with your complaint.

RECOVERY RIGHTS

Subject to the terms and conditions and exclusions in this **Policy**, you have an obligation to preserve the Insurer's indemnification, subrogation or other rights against any other person or entity in relation to Loss covered under this **Policy**.

THE FINANCIAL CLAIMS SCHEME

You may be entitled to payment under the Federal Government's Financial Claims Scheme in the unlikely event that Tokio Marine is not able to meet its obligations under the policy. Access to the scheme is subject to eligibility criteria. Information about the scheme can be obtained from the Financial Claims Scheme website at www.fcs.gov.au and the APRA hotline on 1300 55 88 49.

OUR SERVICE COMMITMENT

Tokio Marine is proud of its service standards and is a signatory to the General Insurance Code of Practice. In an unlikely event that you are not satisfied with the way in which **We** have dealt with you, as part of **Our** commitment to customer service, **We** have an internal dispute resolution process in place to deal with any complaint you may have.

Please contact your nearest Tokio Marine office if you have a complaint, including if you are not satisfied with any of the following:

- one of **Our** products;
- **Our** service;
- the service of **Our** authorised representatives, loss adjusters or investigators; or
- **Our** decision on your claim.

Our staff will help you in any way they can. If they are unable to satisfy your concerns, they will refer the matter to their supervisor or manager. If the manager cannot resolve the matter, the manager will escalate the matter to **Our** Internal Dispute Resolution Department.

Brochures outlining **Our** internal dispute resolution process are available from your nearest Tokio Marine office.

1. HOW TO READ THIS POLICY

1.1 WORDS WITH SPECIAL MEANINGS

Some of the words in this insurance **Policy** have special meanings. These meanings can be found in Section 9 of the **Policy** ('Words with Special Meanings'). If a word has a special meaning, it appears in this **Policy** in bold type and with a capital letter. These words may appear without bold type in endorsements or in the **Schedule**.

1.2 POLICY INTERPRETATION

Except where the context otherwise requires it:

- a. The singular includes the plural and the plural includes the singular.
- b. If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- c. Words importing a gender include every other gender.

1.3 PARAGRAPH HEADINGS

The paragraph headings in this **Policy** are included for the purpose of reference only and do not form part of this **Policy** for interpretation purposes.

2. THE INSURANCE CONTRACT

2.1 INSURING CLAUSE

We agree to provide the **Insured** with the cover described in this **Policy** on full payment of the **Gross Premium** and subject to the terms and conditions of this **Policy**.

2.2 INFORMATION PROVIDED TO US

Before this **Policy** came in to effect, **We** were provided with information by or on behalf of the **Insured** in the **Proposal** and possibly in other ways. **We** have relied on this information and the **Insured** complying with its Duty of Disclosure to decide whether to enter into this contract and on what terms. If any of this information is wrong or false or the Duty of Disclosure was not complied with, it may affect entitlement to cover under this **Policy**.

2.3 PERIOD OF COVER

This **Policy** is in force for the **Policy Period** and **We** can only cancel or avoid it in accordance with **Our** rights under the **Policy** or at law. The **Gross Premium** for the full **Policy Period** must be paid even if the **Insured** cancels or terminates the **Policy** prior to the end of the **Policy Period**.

3. THE COVER WE PROVIDE

3.1 COVER PROVIDED

We will indemnify the **Insured** up to the **Insured Percentage** of an **Insured Loss** if an **Insured Buyer** fails to pay the **Insured**, an **Insured Debt** because of an **Insured Event** which we were told about in accordance with the terms of this **Policy**.

3.2 MAXIMUM LIABILITY LIMIT

The maximum aggregate amount which we will pay under this Policy in respect of all **Insured Losses** is the **Maximum Liability Limit**. No further amounts are payable by **Us** once this limit is reached.

3.3 DEDUCTIBLE

We only provide Cover (up to the Maximum Liability Limit) in respect of Insured Losses above the Deductible.

3.4 CURRENCY

The **Policy Currency** applies to all amounts referred to in this **Policy**, subject to the following:

- a. any amounts referred to in this Policy (including **Allowable Credit Limits** or any other limits or **Deductibles**, premiums, limit management charges and other charges) will not vary according to the exchange rate between the **Policy Currency** unless **We** otherwise agree in writing;
- b. If the **Insured** invoices an **Insured Buyer** in a currency other than the policy currency (including an **Approved Claim Currency**) the value of an **Insured's** invoice must be converted into the **Policy Currency** at the relevant **Conversion Exchange Rate** for any declaration purposes. The **Insured** must record all such **Conversion Exchange Rates** in writing at the time of **Shipment** relating to the relevant invoice and provide these records to **Us** when lodging any claim;
- c. for the purposes of calculating **Our** liability in respect of any Claim made on the Policy in respect of **Insured Loss**, which is accepted:
 - i. any part of an **Insured Buyer's** indebtedness invoiced in a **Non-Approved Currency** will be converted to and paid in the **Policy Currency** at the **Currency Exchange Rate** for any part of an **Insured Buyer's** indebtedness invoiced in an **Approved Currency** will be converted to the **Policy Currency at the Currency Exchange Rate and the resultant** Policy Currency amount will be reconverted (using the **Conversion Exchange Rate**) to and paid in the **Approved Claim Currency**.
- d. for the purpose of calculating **Recoveries which are received** in a currency other than the **Policy Currency**:
 - i. **Recoveries** accruing in a **Non-Approved Claim Currency** will be converted to the **Policy Currency** at the telegraphic transfer buying rate of exchange (between that currency and the **Policy Currency**) of the **Insured's** bank at the close of business on the day of receipt regardless of whether the conversion actually takes place on receipt. **Our** share of such **Recoveries** which accrue after payment of a claim must be paid to **Us** in the **Policy Currency**;
 - ii. **Recoveries** which accrue in the **Approved Claim Currency** will be converted to the **Policy Currency** at the **Conversion Exchange Rate** relevant to the invoices to which such **Recoveries** relate and **Our** share of such **Recoveries** after payment of a claim must be paid to **Us** in the relevant **Approved Claim Currency**.

3.5 LOCAL CURRENCY DEPOSIT

If delays or difficulties are experienced in obtaining payment from an **Insured Buyer** because of currency exchange transfer restrictions, the **Insured** must, at the due date for payment of such **Insured Debt**, require the **Insured Buyer** to pay to the **Insured** (or to deposit, irrevocably with a bank in the country of the **Insured Buyer** for the account of the **Insured**) the then local currency equivalent of the contract value of the goods and/or services. Notwithstanding anything to the contrary in this **Policy**, **Our** liability for and in respect of such **Insured Debt** ceases absolutely when such local currency payment or deposit has been made.

3.6 CANCELLATION OR REDUCTION OF COVER

- a. **We** may at any time and at **Our** sole discretion give notice in writing to the **Insured** reducing any **Allowable Credit Limit** or cancelling or varying the cover granted by this **Policy** in respect of any particular **Insured Buyer** or **Approved Country**.
- b. Subject to paragraph (c) below, any reduction or cancellation issued by **Us** will apply to all **Shipments** which occur after **We** give such notice to the **Insured**.
- c. Any reduction or cancellation issued by **Us** will not apply to **Shipments** rendered under contracts which are entered into by the **Insured** prior to receipt by the **Insured** of notice given pursuant to clause 3.6(a) and which the **Insured** is not entitled to cancel or legally terminate, but only if the **Shipment** takes place during the **Policy Period** and within a period of three (3) months from the time that the notice was given to the **Insured**.
- d. Nothing contained in paragraphs (b) and (c) above in any way limits the effect of the exclusion in Section 4.1(e) of this **Policy**.

3.7 CO-INSURANCE – INSURED’S OWN ACCOUNT.

- a. The **Insured** retains for their own account, and there is no cover under this **Policy** in respect of, all of the following (referred collectively as the **Insured’s Own Account**):
 - i. any part of the **Insured Loss** that exceeds the **Insured Percentage**; and
 - ii. any part of the indebtedness of an **Insured Buyer** to the **Insured** that exceeds the **Allowable Credit Limit**; and
 - iii. any **Deductible**; and
 - iv. all indebtedness after the **Maximum Liability Limit** has been exhausted.
- b. The **Insured** must not, without **Our prior** written consent:
 - i. enter into any trade credit or other insurance policy that indemnifies the **Insured** in relation to the **Insured’s Own Account**; or
 - ii. obtain a charge, mortgage, indemnity, guarantee or security of any type which secures payment of all or part of the **Insured’s Own Account** but does not secure the **Insured Percentage** of the **Insured Loss**.

4. WHAT IS NOT COVERED

4.1 GENERAL POLICY EXCLUSIONS

Unless stated otherwise by **Us** by written endorsement to this **Policy**, there is no cover under this **Policy** in respect of any indebtedness relating to or arising from or in connection with any of the following;

- a. avoidance or purported avoidance of a contract for goods or services by an **Insured Buyer** (regardless of whether it is justified) on the grounds that the contract is said by the **Insured Buyer** to be void, illegal, unenforceable or repudiated by the **Insured**;
- b. goods and services tax, sales tax, excise tax, retention money, interest charges, penalties, consequential damages or costs or any other government charges, levies and taxes;
- c. any transaction involving the transfer of goods held, or to be held, on a consignment stock basis to or from the **Insured Buyer** or the **Insured Buyer's** agent unless **We** give prior agreement in writing and the **Insured** complies with any specified conditions **We** require;
- d. any contracts or any other agreements to sell to a person or entity who or which is not unconditionally and irrevocably bound to pay a purchase price as agreed beforehand including but not limited to "paid when paid" contracts (examples include goods **Shipped** on a "sale or return basis" or goods sold on a "commission basis" to a commission agent);
- e. goods **Shipped** to an **Insured Buyer** at a time when a **Notifiable Event** exists in respect of that **Insured Buyer** (other than a Notifiable Event arising solely as a result of the **Insured Buyer** withholding payment on the basis of a dispute in respect of any **Shipment**);
- f. which is subject to any form of dispute;
- g. any personal or consumer transactions;
- h. directly or indirectly caused by political risks such as war, invasion of, or acts by foreign enemies, hostilities, rebellion, revolution, confiscation, nationalization, insurrection or military or usurped power, or due to the order of any government, public or local authority or by any restrictions on trade transfers;
- i. directly or indirectly caused by risks from atomic energy, employing the process of nuclear fission or fusion or handling radioactive material including, but not limited to the use of nuclear reactors; the use or handling or transportation of radioactive materials; or the use, handling or transportation of any weapon of war or explosive device employing nuclear fission or fusion;
- j. any **Insured Debt** which remains unpaid in whole or in part by reason of the expropriation, confiscation or destruction of the whole or any part of the **Insured Buyer's** assets (or goods which are the subject of any **Insured Debt**) under any law or regulation having the force of law in any country or any part of the country by any person or persons exercising powers of government in such country or any part of the country.

4.2 SANCTION LIMITATION AND EXCLUSION

This **Policy** will not provide cover to the extent that the provision of such cover or payment of a claim or benefit is contrary to law and/or would expose **Us** to any sanction, prohibition or restriction under any United Nations resolutions and treaties or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America or any other jurisdiction where this **Policy** applies.

5. INSURED'S OBLIGATIONS TO MANAGE CREDIT AND CONSULT WITH US

5.1 INSURED'S OBLIGATIONS TO MANAGE CREDIT

In the management of credit with **Insured Buyers**, the **Insured** must at all times:

- a. exercise reasonable care and prudence in giving or refusing credit in the same manner as it would if it were not insured;
- b. in consultation with **Us**, and at the **Insured's** cost, take all reasonable steps and use its best endeavors to avoid or reduce or recover, as appropriate, any **Insured Loss**; and
- c. not agree at any time to any delay in payment of an **Insured Debt** except in the circumstances set out in Section 5.2 below.

5.2 DELAYING PAYMENT OF AN INSURED DEBT

The **Insured** may allow a delay in payment of an **Insured debt** within the **Maximum Extension Period** after its original due date if circumstances arise justifying such a delay but only if a **Notifiable Event** has not occurred.

5.3 INSURED'S OBLIGATION TO NOTIFY US

If a **Notifiable Event** occurs, the **Insured** must:

- a. immediately notify **Us** of it in writing;
- b. provide **Us** with a monthly report in a format acceptable to **Us** until the **Notifiable Event** no longer exists or the **Insured Buyer** suffers **Insolvency**; and
- c. take all reasonable and prudent steps which **We** require to be taken relating to the **Insured's** actual or potential loss which may include executing documents and doing all things necessary to enable **Us** to be directly involved in negotiations or proceedings relating to the **Insured Debt**.

However, the **Insured** is not required to notify **Us** of an **Insured Debt** which is partly or wholly unpaid if the amount outstanding is less than the **Overdue Reporting Limit** on the last day of the **Maximum Extension Period**, but only if:

- i. a **Notifiable Event** does not exist in respect of the **Insured Buyer**; and
- b. on **Our** request, the **Insured** provides **Us** with a list of the amount outstanding for all **Insured Buyers** who have unpaid accounts on the last day of the **Maximum Extension Period**.

6. CLAIMS

6.1 CLAIMS FORMS

Claims on this **Policy** must be made using a claim form provided by **Us**. **We** may require the completed claim form and any supporting documents to be provided in a certified translation to English at the expense of the **Insured**.

6.2 TIME TO LODGE A CLAIM

The completed claim form must be submitted to **Us** within six (6) months of the **Insured Event Date** relating to the **Insured Buyer**.

6.3 INSURED'S OTHER OBLIGATIONS

Payment of any claim is conditional upon the **Insured** fully co-operating with **Us** and signing all documents **We** consider necessary in respect of management of the Claim, and the **Recoveries**.

The **Insured** must not make a claim which is in any way false or fraudulent otherwise **We** will refuse to pay the claim and **We** may cancel this **Policy**.

6.4 WHEN ARE CLAIMS PAID?

We will pay claims which are payable under this **Policy** as follows:

- a. arising from **Insolvency**, within thirty (30) days of **Us** receiving appropriate evidence that the **Insured Debt** has been admitted to rank for distribution against the insolvent estate in favor of the **Insured**; and
- b. arising from **Protracted Default**, within thirty (30) days of **Us** receiving evidence to **Our** satisfaction that the **Insured Debt** exists and that all reasonable steps for its recovery (including legal action) have been taken without success.

7. RECOVERIES

7.1 HOW RECOVERIES BY US OR THE INSURED WILL BE DEALT WITH

- a. Any **Recoveries** received by **Us** or the **Insured** will be held on trust for **Us** and the **Insured** for our respective interests as specified in paragraph (b) below.
- b. Subject to paragraph (g) below, **Recoveries** are to be distributed between **Us** and the **Insured** as follows:
 - i. **We** are entitled to:
 1. such proportion as the **Insured Percentage** of the **Insured Debt** bears to the total indebtedness of the **Insured Buyer** to the **Insured** at the date that a **Notifiable Event** first occurs; plus
 2. any other monies owing to **Us** for arrears of premiums or otherwise and/or in reimbursement of any payment we make, or liability we incur under or in connection with this **Policy**; and
 3. any monies required to maintain the impact of any **Deductible**; and
 - ii. the **Insured** is entitled to the balance.
- c. The **Insured** must notify **Us** in writing immediately it receives any **Recoveries**.
- d. Subject to paragraph (e) below, the **Insured** must pay **Us** our proportion of any **Recoveries** it receives which are due to **Us** (as calculated in accordance with paragraph (b) above) within ten (10) days of receipt.
- e. The **Insured** is not required to pay **Us Our** proportion of **Recoveries** prior to a claim in respect of **Insured Loss** being submitted or being determined by **Us**. After the submission or determination of a claim, the **Insured** must notify **Us** in writing of its receipt of **Recoveries** and, if **We** cover the claim, **We** will deduct our proportion of the **Recoveries** in calculating **Our** liability under the **Policy**.
- f. **We** may at any time make any claim or take any legal action in the name of the **Insured** against:
 - i. an **Insured Buyer**; or
 - ii. any third party that the **Insured** is entitled to take action against in respect of any **Insured Loss** and/or **Recoveries**, and for this purpose the **Insured** must provide all assistance and cooperation at **Our** request.
- g. If **We** elect to take legal action against an **Insured Buyer** or any third party that the **Insured** is entitled to take action against, **We** are entitled to deduct from any **Recoveries** all of the costs, disbursements and expenses incurred by **Us** in doing so, prior to distributing the **Recoveries** as otherwise set out in paragraph (b) above.

8. OTHER MATTERS

8.1 ASSIGNMENT

The **Insured** cannot assign any rights or benefits under this **Policy** without **Our** prior written consent. Any assignment made or purported to be made by the **Insured** without such consent will entitle **Us** to avoid liability under this **Policy**.

8.2 ONGOING DISCLOSURE

- a. The **Insured** must disclose in writing to **Us** all material facts and information concerning or relating to this **Policy**, the **Insured** and its dealings with the **Insured Buyers** and any likely claim under this **Policy** as and when such material facts and/or information arises.
- b. **We** may request that the **Insured** provide, and **We** may at any time examine or take copies of, any letters, accounts or other documents in the possession or control of the **Insured** relating to or connected with this **Policy**, the obligations of the **Insured** or any transactions between the **Insured** and any **Insured Buyer**.
- c. The **Insured** must, at **Our** request, supply **Us** with any information in its possession or take any reasonable steps to obtain for **Us** any information or the sight of any documents in the possession of any third party relating to or connected with this **Policy** or any transaction between the **Insured** and an **Insured Buyer**.

8.3 INSOLVENCY OF THE INSURED

- a. In the event of the **Insolvency** of the **Insured**, the relevant administrator of the **Insured** is entitled, in writing within thirty (30) days of appointment, to adopt this **Policy** and all rights and obligations of the **Insured** under this **Policy**.
- b. **We** are entitled to retain all premiums and other monies paid and to receive and retain all premiums and other monies due and payable to **Us** up to and including the effective date of such **Insolvency**.
- c. For the purpose of this Section 8.3 the definition of “Insolvency” is the same as that applying to an **Insured Buyer** under this **Policy**.

8.4 GOVERNING LAW OF THE POLICY

This **Policy** is governed by the laws of the Country/State/Territory of issue noted in the **Schedule**. The courts of that place have jurisdiction in any dispute about, or which arise under, this **Policy**.

9. WORDS WITH SPECIAL MEANINGS

9.1 DEFINITIONS

Whenever the following words are used in this **Policy** in bold type and with a capital letter, they have the special meanings set out below. These words may appear without bold type in endorsements or in the **Schedule**.

Allowable Credit Limit in respect of any indebtedness of an **Insured Buyer** is the limit specified by **Us** in an **Endorsed Credit Limit**

Approved Claim Currencies will be the **Policy Currency** unless otherwise specified in the **Schedule** and are the currencies in which the **Insured** is entitled to lodge a claim.

Approved Country is specified in the **Schedule** and is acceptable to **Us**;

Claim Declaration Period is the timeframe allowed from an **Insured Event** within which timeframe a claim has to be made.

Conversion Exchange Rate in respect of an invoice is the rate of exchange between the currency in which that invoice is issued and the **Policy Currency**, as determined:

- a. by reference to the buying rate of exchange applicable at the **Insured's** bank as at the close of business on the day the relevant goods were **Shipped**; or
- b. by the forward exchange rate contract, if one has been entered into with the **Insured's** bank in relation to determining in advance the amount the **Insured** is to receive in terms of the **Policy Currency**, if payment is made in the **Approved Claim Currency** as contracted by the **Insured Buyer**; or
- c. by reference to the **Insured's** internal treasury rate as agreed in writing by **Us** at the inception of the **Policy**.

Deductible, where applicable, is the amount, specified in the **Schedule**, of any **Insured Loss** which is not covered by this **Policy** and which the **Insured** must bear.

Endorsed Credit Limit is an endorsement issued by the **Insurer** and specifies the approved **Allowable Credit Limit** in respect of the named **Insured Buyer** or specifies that the **Allowable Credit Limit** is "Nil or 0" reflecting that no cover is available. It may contain special conditions adding to or amending the existing terms and conditions of this **Policy** in relation to the **Insured Buyer**.

Gross Premium means all premiums, fees, charges, stamp duty, applicable service taxes and any other charges imposed by any government on or in respect of this **Policy**.

Insolvency is an **Insured Event** and occurs in respect of an **Insured Buyer** when any of the following steps has been taken:

- a. an **Insured Buyer** initiates or becomes the subject of any procedure or action or proceedings pursuant to local bankruptcy or insolvency legislation which is uncontested and results in the **Insured Buyer** being recognized at law as being subject to a moratorium or in external administration or insolvency or winding up in insolvency; or
- b. a court appoints a receiver, liquidator, trustee or other similar external administrator or official under local bankruptcy or insolvency legislation to administer all or substantially all the assets of an **Insured Buyer**; or
- c. a composition by an **Insured Buyer** has been approved by a Court having jurisdiction or a compromise or arrangement has been made binding by the Court on that **Insured Buyer** and all that **Insured Buyer's** creditors; or
- d. an **Insured Buyer** enters into an unofficial compromise or settlement, in full and final settlement of its debts, with a majority of its creditors and which the **Insured** is a party to with **Our** prior written approval; or

- e. such circumstances exist which, in **Our** opinion and at our sole discretion, is equivalent to any one of the above.

The **Insured Event Date** in respect of any of the above instances will be;

1. In the case of (a) above, the date on which the bankruptcy, Insolvency, moratoria, or arrangement is deemed to have occurred according to the relevant law or regulations.
2. In the case of (b) above, the date on which the relevant Court order or decision was made.
3. In the case of (c) above, the date on which the majority of creditors agreed to the compromise or settlement.
4. In the case of (d) and (e) above, such effective date as **We** may specify.

Insured means the entity named in the **Schedule** and includes all **Joint Insured** and the rights of all **Insured's** under the **Policy** are joint while their obligations and responsibilities are joint and several. The **Insurer** will be entitled to pay any sums due under this **Policy** to such one or more of the **Insured** as it thinks fit and any such payment shall constitute a payment in respect of all **Insureds**.

Insured Buyer is any person or entity carrying on business with the **Insured** in any of the **Approved Countries** and who is specified in the **Schedule** but excludes absolutely:

- a. any corporation which is a holding or subsidiary company of or related to or an associate of the **Insured**; and
- b. any government, government department, public or statutory authority, or nationalized undertaking; and
- c. any entity in which a director, secretary or partner of the **Insured**, or a person who has a controlling interest in the **Insured**, has a controlling interest; and
- d. any person who is a de facto or de jure or step (as the case may be) spouse, parent, son, daughter or more remote issue, or brother or sister of, a director or secretary or partner or proprietor of the **Insured**; and
- e. any entity in which any of the persons referred to in sub paragraph (d) above has a controlling interest; and
- f. any person or entity in respect of whom or which the **Allowable Credit Limit** is "nil".

In this definition, the following terms have the following meanings:

- i. "associate" means a corporation that has a director, secretary or shareholder who holds a controlling interest in that corporation and who is also a director, secretary or shareholder who holds a controlling interest in the **Insured**;
- ii. "controlling interest" means an interest in an entity where the relevant individual or entity owns twenty percent (20%) or more of the first mentioned entity.

Insured Debt means any indebtedness to the **Insured** arising out of the trade carried on by the **Insured** as described in the **Schedule** in respect of a **Shipment** which occurs during the **Policy Period** and:

- a. is owing by an **Insured Buyer** to the **Insured**; and
- b. up to the amount of the **Allowable Credit Limit**; and
- c. excludes absolutely all GST and other taxes of any kind, duties, levies and all other imposed fees and charges of any kind.
- d. is in respect of the invoice value of goods or services sold by the **Insured** and **Shipped** to an **Insured Buyer**; all of which must have occurred within

the **Policy Period** and pursuant to a contract of sale providing for payment for such goods and/or services within the terms of payment specified for the **Approved Country** of the **Insured Buyer** in the Approved Countries & Conditions Table in the **Schedule**; and

- e. all values of goods and services referred to in paragraph (d) above must have been invoiced by the **Insured** within the **Maximum Invoicing Period**. Further, on expiry or any termination of the **Policy**, the value of any goods supplied and/or services rendered by the **Insured** to an **Insured Buyer** which has not been invoiced to the **Insured Buyer** is to be included in the final declaration for premium purposes (if applicable) to the **Insurer** in accordance with the **Policy**. The value of such work or services will continue to rank as an **Insured Debt** within the limit of the **Policy**, provided that **Our** liability in respect of any such debt which is not the subject of a claim under the **Policy** in respect of which the availability of cover has been confirmed by us ceases one (1) month after the date of expiry and/or any termination of the **Policy**.

The indebtedness of an **Insured Buyer** to the **Insured** will not cease to be an **Insured Debt** under the **Policy** by reason only that it has been factored (or discounted) by the **Insured** with recourse to the **Insured** with a factor or other financial institution, provided always that:

- i. if **We** require the **Insured** to regain title to such debt in order to pursue the **Insured's** rights in relation to the indebtedness the **Insured** must be able to, and do so, within three business days of **Our** request to the **Insured**; and
- ii. all of the provisions and rights and interests of the **Insured** pursuant to the original contract of sale with the **Insured Buyer** must remain of full force and effect; and
- iii. the **Insurer** has been advised of and consented in writing to such factoring or discounting facility.

Failure to comply with any of paragraphs (i), (ii) or (iii) above will result in the debt ceasing to be an **Insured Debt** under the **Policy**.

Insured Event in respect of an **Insured Buyer** means either **Insolvency** or any other **Insured Event** specified in the **Schedule** that must have occurred before a claim on the **Policy** can be submitted.

Insured Event Date means the date on which an **Insured Event** occurs.

Insured Loss is the amount of an **Insured Debt** that is either:

- a. admitted to rank against the insolvent estate of the **Insured Buyer**; or
- b. in the case of a **Protracted Default** only, so much of the **Insured Debt** as is substantiated to **Us** by evidence, satisfactory to us, of a valid debt and the existence and/or extent of which is not in dispute between the **Insured** and the **Insured Buyer**,

in each case after taking into account the whole of any **Recoveries** relating thereto

Insured Percentage is the maximum amount payable by Us in respect to any claim but not exceeding the Maximum Liability Limit as set out in the **Schedule**.

Joint Insured's may be added to the **Policy** subject to compliance with the following pre-conditions:

- a. if the entity is to be a **Joint Insured** from inception of the **Policy Period**, the entity must sign a proposal form jointly with the applicant;
- b. if the entity is to become a **Joint Insured** during the **Policy Period** the entity must complete a proposal form together with a letter of subscription to this **Policy** on their letterhead (We can provide a specimen of a letter of subscription);

- c. such entity must have credit control arrangements in common with the existing **Insured** and must adhere to all the terms and conditions of the **Policy**; and
- d. an **Allowable Credit Limit** as specified in an **Endorsed Credit Limit** applies to all entities collectively and is not available individually or independently to each **Joint Insured**, nor can the **Insured** or any one or more entities claim that the **Policy** operates as a composite policy.

Maximum Extension Period is stated in the Approved Countries in the **Schedule** and means the maximum number of days by which **We** agree that, in respect of any **Approved Country**, the **Insured** may extend the original due date of an **Insured Debt**.

Maximum Invoicing Period, where applicable, is stated in the **Schedule** and is, subject to sub- paragraph (d) of the definition of '**Insured Debt**') the maximum number of days after the date of the **Shipment** of goods or the rendering of services by which the **Insured** must invoice the **Insured Buyer**.

Maximum Liability Limit means the maximum aggregated value of all payments in respect of **Insured Loss** available under this **Policy**, which is specified in the **Schedule** and, when this limit has been exhausted, the **Insured** is not entitled to submit any further claims under this **Policy** and there is no further cover available under this **Policy**.

Non-Approved Claim Currency is a currency that is not any one of the **Approved Claim Currencies**.

Notifiable Event means any of the following whenever it may occur:

- a. an **Insured** has knowledge, or suspects, that an **Insured Buyer** cannot pay its debts as and when they fall due;
- b. an **Insured** has knowledge of any facts or circumstances on the basis of which a reasonable person in the **Insured's** position would have considered the possibility that the **Insured Buyer** cannot, or may be unable to, pay its debts as and when they fall due and/or otherwise meet its contractual obligations to the **Insured**;
- c. a cheque, bill of exchange, or promissory note provided by or on behalf of, or other method of attempted payment by an **Insured Buyer** is dishonored or otherwise rejected by the entity on which it is drawn regardless of whether it is subsequently represented or transacted and met;
- d. the **Insured Buyer** goes into a state of **insolvency**;
- e. any part of the **Insured Debt** relating to an **Insured Buyer which** is not paid in a manner by which cleared funds are immediately available no later than the last day of the **Maximum Extension Period**.

Overdue Reporting Limit, where applicable, is specified in the **Schedule**. **Policy** means this Special Risk insurance policy which comprises:

- a. this policy document;
- b. the **Proposal**;
- c. the **Schedule**;
- d. the **Endorsed Credit Limits**; and
- e. any other endorsements.

Policy Currency is specified in the **Schedule**

Policy Period is specified in the **Schedule**.

Proposal means the proposal form, the credit management procedures and supporting documents or representations that the **Insured** or its agent provides to the **Insurer** in writing and through any electronic medium for the purpose of assessing whether and on what terms and conditions **We** may issue the **Insured** a policy. All such documents and information collectively will form part of the terms and conditions of this **Policy**.

Protracted Default is an **Insured Event** and occurs in respect of an **Insured Buyer** when:

- a. the **Insured Buyer** fails to pay an **Insured Debt** to the **Insured** within the Protracted Default Period; and
- b. the **Insured** has, within the **Protracted Default Period**, fully complied with all of their obligations in accordance with this **Policy** including, but not limited to, Section 5 of the **Policy**.

The **Protracted Default Period** is the period referred to in the **Schedule** and which commences on the original due date for payment of an **Insured Debt** under the relevant contract of sale or, if that original due date is postponed, such postponed due date. The **Protracted Default Period** cannot commence or continue to run while an **Insolvency** of the **Insured Buyer** exists or while the **Insured Buyer**:

- a. is entitled to or obliged to refuse payment of an **Insured Debt** under any law or regulation or is obliged to refuse payment by a person exercising powers of government; or
- b. claims that it is entitled to withhold payment of any part of an **Insured Debt** and **We** are satisfied that a dispute about the alleged **Insured Debt** exists between the **Insured** and the **Insured Buyer** which has not been resolved by the parties to the relevant contract, by negotiation, by arbitration, or by legal proceedings.

The **Insured Event Date** in respect of **Protracted Default** will be the date of the expiry of the **Protracted Default Period**.

Recoveries is the value of all goods recovered (whether under retention of title or otherwise), all monies (including dividends paid or payable out of an insolvent estate), securities, indemnities, guarantees, rights of action, counter claims, set-offs or other advantages held, received by or due to the **Insured** or which are otherwise available for the purpose of reducing the amount of any indebtedness of an **Insured Buyer** to the **Insured** (whether in respect of the payment for goods or otherwise) which had not been received by or on behalf of the **Insured** at the earliest **Notifiable Event** which remains un-remedied, excluding any **Security Proceeds**.

Schedule is the **Schedule** attached to this **Policy**.

Security Proceeds in relation to an **Insured Buyer** means monies or the monetary value of any items of tangible or intangible assets that the **Insured** recovers or realises in respect of any security or security interest(s) or guarantee(s) which are expressed as the subject of a special condition to the availability of cover under the relevant **Endorsed Credit Limit** but excludes the proceeds of any security or security interest or guarantee or indemnity not so stipulated as a condition of cover and which the **Insured** has obtained of its own accord or initiative.

Shipment and Shipped mean:

- a. in respect of goods:
 - i. in the case where an **Insured Buyer** is located in the country of the **Insured**, the time at which the goods physically pass from the physical control of the **Insured** into the exclusive physical control of the **Insured Buyer** or the **Insured Buyer's** agent (which transaction must be completed within the **Policy Period**); or

- ii. in the case where an **Insured Buyer** is located in a country other than the country of the **Insured**, the time at which the goods have been passed from the physical control of the **Insured** to the first independent carrier (which must be within the **Policy Period**) in the process of being carried to the place where the **Insured Buyer** or its agent is required to accept them.
- b. in respect of services, is when the service has been rendered to the **Insured Buyer** and promptly invoiced within the **Maximum Invoicing Period** after the work has been completed or services have been rendered, both of which must occur within the **Policy Period**.

Despite paragraph (a) above, goods will not have been considered **Shipped** in circumstances where it is both legally and practically possible for the **Insured**, using reasonable means, to stop carriage of the goods before they leave the country of the **Insured** or the country from which they are being exported.

We and **Us** and **Our** means BCC Trade Credit Pty Ltd (ABN 48 608 296 233) and Tokio Marine & Fire Nichido Insurance Co. Ltd. (ABN 80 000 438 291, AFSL 246548).