

solution.

Solution **ONE** Insurance Policy Wording

Professional Indemnity, General Liability & Management Liability

Policy Wording



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Solution ONE Insurance Policy Wording

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IMPORTANT INFORMATION

This Policy is a legal contract between You and Us. You have paid, or agreed to pay, Us the Premium and We provide the cover specified in this Policy and as set out in Your Schedule.

The terms, conditions and provisions of the insurance We offer You are set out in this Policy. It is important that You:

- read all of the Policy before You buy it to make sure that it gives You the protection You need;
- are aware of the limits on the cover provided and the amounts We will pay You (including any Excess that applies);
- are aware of the definitions in Your Policy. You will find definitions throughout Your Policy.

You must comply with all provisions of this Policy, otherwise We may be entitled to refuse to pay a Claim or reduce the amount You are entitled to receive.

The Policy is in force for the Period of Insurance set out in Your Schedule or until cancelled.

For the limits on the cover provided:

- some of these will be stated in the Policy itself (these are Our standard policy limits); and
- the remainder will be stated in Your Schedule.

In some circumstances the terms and conditions of this Policy may be amended by endorsement. An endorsement varies the standard terms of this Policy. It may expand, reduce, or impose additional conditions on the cover provided as set out in the Policy terms and should be read carefully. If Your Policy is endorsed You will receive notification of the endorsement.

In issuing this Policy to You, We have relied upon the Proposal form You have already completed.

Receiving Your Policy documents

You may choose to receive Your Policy documents:

- electronically, including but not limited to, email; or
- by post.

If You tell Solution to send Your Policy documents electronically then Solution will send them to the email address that You have provided. This will continue until You tell Solution otherwise or until Solution advises that this method is no longer suitable. Each electronic communication will be deemed to be received by You 24 hours after it leaves Solution's information system. If You do not tell Solution to send Your Policy documents electronically then the Policy documents will be sent to the mailing address that You have provided.

You are responsible for ensuring that the email and mailing address that Solution has is up to date. Please contact Solution to change Your email or mailing address.

Updates to Your Policy

From time to time and where permitted by law, We may change parts of the Policy. We will issue You with an endorsement or other document to update the relevant information. Any updates which are not materially adverse to You from the view of a reasonable person deciding whether to buy this insurance, may be found on Solution's website at solutionunderwriting.com.au.

You can obtain a paper copy of updated information without charge by calling Solution or Your intermediary.

Cooling-off period

If You are not satisfied with the cover provided by this Policy, You may cancel it within 14 days of receiving it, and obtain a full refund less any non-refundable government charges and taxes that We have paid. You may notify Us in writing or electronically.

If You make a Claim for any incident within the 14 day period, You must pay Your annual Premium in full.

If Your Policy is for an event that will finish within the 14 day cooling off period, You can only exercise Your right to cancel before the event starts.

About the insurer

This insurance is underwritten by Chubb Insurance Australia Limited (ABN 23 001 642 020, AFSL 239 687) (Chubb). Chubb is regulated by the Australian Prudential Regulation Authority (APRA).

If You require further information about this insurance or wish to confirm a transaction, please contact Solution.

Chubb's contact details are:

Grosvenor Place
Level 38, 225 George Street
Sydney NSW 2000
Tel: +61 2 9335 3200
Fax: +61 2 9335 3411
www.chubb.com/au

About the agent

Solution Underwriting Agency Pty Ltd (ABN 68 139 214 323, AFSL 407780) (Solution) arranges policies for and on behalf of Chubb.

Solution acts under a binding authority given to it by the insurer to administer, arrange, enter into, vary, renew and/or cancel policies. In all aspects of arranging this Policy, Solution acts as an agent for the insurer and not for You.

If You have any queries in relation to Your Policy, You can contact Solution in any of the following ways:

Postal Address: Level 5, 289 Flinders Lane, Melbourne, VIC 3000 Australia

Tel: 03 9654 6100

Email: solution@solutionunderwriting.com.au

Your duty of disclosure

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

You have this duty until We agree to insure You.

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

What You do not need to tell Us

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.

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 We will pay You if You make a Claim, or both.

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

Taxation Information

The amount of cover available under this Policy excludes Goods and Services Tax (GST).

If You are not registered for GST, in the event of a Claim We will reimburse You the GST component in addition to the amount that We pay.

The amount that We are liable to pay under this Policy will be reduced by the amount of any input tax credit that You are or may be entitled to Claim for the supply of goods or services covered by that payment.

If You are entitled to an input tax credit for the Premium You must inform Us of the extent of that entitlement at or before the time You make a Claim under this Policy. We will not indemnify You for any GST liability, fines or penalties that arise from or are attributable to Your failure to notify Us of Your entitlement (or correct entitlement) to an input tax credit on the Premium.

If You are liable to pay an Excess under this Policy, the amount payable will be calculated after deduction of any input tax credit that You are or may be entitled to claim on payment of the Excess.

If You are unsure about the taxation implications of this Policy, You should seek advice from Your accountant or tax professional.

Privacy Statement

In this Statement “We”, “Our” and “Us” means Chubb Insurance Australia Limited (Chubb).

“You” and “Your” refers to Our customers and prospective customers as well as those who use Our Website.

This Statement is a summary of Our Privacy Policy and provides an overview of how We collect, disclose and handle Your Personal Information. Our Privacy Policy may change from time to time and where this occurs, the updated Privacy Policy will be posted to Our website.

Chubb is committed to protecting Your privacy. Chubb collects, uses and retains Your Personal Information in accordance with the requirement of the Privacy Act 1988 (Cth) and the Australian Privacy Principles (APPs), as amended or replaced from time-to-time.

Why We collect Your Personal Information

The primary purpose for Our collection and use of Your Personal Information is to enable Us to provide insurance services to You.

Sometimes, We may use Your Personal Information for Our marketing campaigns and research, in relation to new products, services or information that may be of interest to You.

How We obtain Your Personal Information

We collect Your Personal Information (which may include sensitive information) at various points including, but not limited to, when You are applying for, changing or renewing an insurance policy with Us or when We are processing a Claim. Personal Information is usually obtained directly from You, but sometimes via a third party such as an insurance intermediary or Your employer (e.g. in the case of a group insurance policy). Please refer to Our Privacy Policy for further details.

When information is provided to Us via a third party We use that information on the basis that You have consented or would reasonably expect Us to collect Your Personal Information in this way. We take reasonable steps to ensure that You have been made aware of how We handle Your Personal Information.

When do We disclose Your Personal Information?

We may disclose the information We collect to third parties, including:

- the policyholder (where the insured person is not the policyholder, i.e., group policies);
- service providers engaged by Us to carry out certain business activities on Our behalf (such as claims assessors, call centres in Australia, online marketing agency, etc);
- intermediaries and service providers engaged by You (such as current or previous brokers, travel agencies and airlines);
- government agencies (where We are required to by law);
- other entities within the Chubb group of companies such as the regional head offices of Chubb located in Singapore, UK or USA (Chubb Group of Companies); and
- third parties with whom We (or the Chubb Group of Companies) have sub-contracted to provide a specific service for Us, which may be located outside of Australia (such as in the Philippines or USA). These entities and their locations may change from time-to-time. Please contact Us, if You would like a full list of the countries in which these third parties are located.

In the circumstances where We disclose Personal Information to the Chubb Group of Companies, third parties or third parties outside Australia We take steps to protect Personal Information against unauthorised disclosure, misuse or loss.

Your decision to provide Your Personal Information

In dealing with Us, You agree to Us using and disclosing Your Personal Information, which will be stored, used and disclosed by Us as set out in this Privacy Statement and Our Privacy Policy.

Access to and correction of Your Personal Information

Please contact Our customer relations team on 1800 815 675 or email CustomerService.AUNZ@chubb.com if You would like:

- a copy of Our Privacy Policy, or
- to cease to receive marketing offers from Us or persons with whom We have an association.

To request access to, update or correct Your Personal Information held by Chubb, please complete this Personal Information request form and return to:

Email: CustomerService.AUNZ@chubb.com

Fax: + 61 2 9335 3467

Address: GPO Box 4907 Sydney NSW 2001

How to Make a Complaint

If You have a complaint or would like more information about how We manage Your Personal Information, please review Our Privacy Policy for more details, or contact:

Privacy Officer

Chubb Insurance Australia Limited

Address: GPO Box 4907 Sydney NSW 2001

Tel: +61 2 9335 3200

Email: Privacy.AU@chubb.com

Notice to the Insured

This Policy is divided into three Parts. Part A provides cover for professional indemnity. Part B provides cover for general liability and Part C provides cover for management liability. There are also general provisions which apply to all Parts.

Parts A and C this Policy are issued on a 'claims made and notified' basis. This means that, subject to the Continuous Cover clause, these Parts A and C of the Policy respond to Claims first made against You during the Period of Insurance and notified to Us during the Period of Insurance. This is provided that You were not aware, prior to the Policy inception, of any facts or circumstances which You knew (or ought reasonably to have known) may give rise to a Claim against You.

Where You give notice in writing to Us of any facts or circumstances that might give rise to a Claim against You as soon as You become aware of those facts but before the expiry of the Period of Insurance, You may have rights under Section 40(3) of the *Insurance Contracts Act 1984* (Cth) (Insurance Contracts Act) to be indemnified in respect of any Claim subsequently made against You arising from those facts, notwithstanding that the Claim is made after the expiry of the Period of Insurance. Any such rights arise under the Insurance Contracts Act only.

This Policy contains a Retroactive Date, which means it only covers Claims made against You which are notified to Us in respect of acts, failures to act or other conduct which occurred after that date.

General Insurance Code of Practice

We are a signatory to the General Insurance Code of Practice (Code). The objectives of the Code are to further raise standards of service and promote consumer confidence in the general insurance industry. Further information about the Code and Your rights under it is available at codeofpractice.com.au and on request. As a signatory to the Code, We are bound to comply with its terms. As part of Our obligations under Parts 9 and 10 of the Code, Chubb has a Customers Experiencing Vulnerability & Family Violence Policy (Part 9) and a Financial Hardship Policy (Part 10). The Code is monitored and enforced by the Code Governance Committee.

Financial Claims Scheme

We are an insurance company authorised under the *Insurance Act 1973* (Cth) (Insurance Act) to carry on general insurance business in Australia by the Australian Prudential Regulation Authority (APRA) and are subject to the prudential requirements of the Insurance Act.

The Insurance Act is designed to ensure that, under all reasonable circumstances, financial promises made by Us are met within a stable, efficient and competitive financial system.

Because of this We are exempted from the requirement to meet the compensation arrangements Australian financial services licensees must have in place to compensate retail clients for loss or damage suffered because of breaches by the licensee or its representatives of Chapter 7 of the *Corporations Act 2001* (Cth). We have compensation arrangements in place that are in accordance with the Insurance Act.

In the unlikely event that We were to become insolvent and were unable to meet Our obligations under the Policy, a person entitled to Claim may be entitled to payment under the Financial Claims Scheme. Access to the Scheme is subject to eligibility criteria. Please refer to www.fcs.gov.au for more information.

Non-renewable policy

This Policy will terminate at the end of the Period of Insurance specified in the Schedule.

If You want to obtain similar insurance for a subsequent Period of Insurance, You will need to complete a new Proposal form before the end of the Period of Insurance specified in the Schedule.

Complaints and Dispute Resolution

We understand that You could be dissatisfied with Our organisation, Our products and services, or the complaints handling process itself. We take all Our customer's concerns seriously and have detailed below the complaints process that You can access.

Complaints and Customer Resolution Service

Contact Details

If You are dissatisfied with any aspect of Your relationship with Chubb including Our products or services and wish to make a complaint, please contact Our Complaints and Customer Resolution Service (CCR Service) by post, phone, fax, or email (as below):

Complaints and Customer Resolution Service

Chubb Insurance Australia Limited
GPO Box 4065, Sydney NSW 2001
Tel: +61 2 9335 3200
Fax: +61 2 9335 3411
Email: complaints.AU@chubb.com

Our CCR Service is committed to reviewing complaints objectively, fairly and efficiently.

Process

Please provide Us with Your claim or policy number (if applicable) and as much information as You can about the reason for Your complaint.

Our Response

We will acknowledge receipt of Your complaint within one (1) business day of receiving it from You.

We will investigate Your complaint and keep You informed of the progress of Our investigation at least every ten (10) business days and will make a decision in relation to Your complaint in writing within thirty (30) calendar days. If We are unable to make this decision within this timeframe, We will provide You with a reason for the delay and advise of Your right to take Your complaint to the Australian Financial Complaints Authority (AFCA) as detailed below, subject to its Rules. If Your complaint falls outside the AFCA Rules, You can seek independent legal advice or access any other external dispute resolution options that may be available to You.

To the extent allowable at law, if You request copies of the information We relied on to make a decision about Your complaint, We must provide it within ten (10) business days of Your request. Please see the General Insurance Code of Practice 2020 (codeofpractice.com.au) or contact Us for further details.

Please note that if We have resolved Your complaint to Your satisfaction by the end of the fifth (5th) business day after We have received it, and You have not requested that We provide You a response in writing, We are not required to provide a written response. However, this exemption does not apply to complaints regarding a declined Claim, the value of a Claim, or about financial hardship.

External Dispute Resolution

If You are dissatisfied with Our complaint determination, or We are unable to resolve Your complaint to Your satisfaction within thirty (30) days, You may refer Your complaint to AFCA, subject to its Rules.

AFCA is an independent external dispute resolution scheme approved by the Australian Securities and Investments Commission (ASIC). We are a member of this scheme and We agree to be bound by its determinations about a dispute. AFCA provides fair and independent financial services complaint resolution that is free to consumers.

You may contact AFCA at any time at:

Australian Financial Complaints Authority

GPO Box 3, Melbourne VIC 3001

Tel: 1800 931 678 (free call)

Fax: +61 3 9613 6399

Email: info@afca.org.au

Website: www.afca.org.au

Time limits may apply to complain to AFCA and so You should act promptly or otherwise consult the AFCA website to find out if or when the time limit relevant to Your circumstances expires.

GENERAL PROVISIONS

General Definitions

The following definitions apply to all Parts of the Policy:

Act of Terrorism

Includes any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division of same, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

- a. involves violence against one or more persons;
- b. involves damage to property;
- c. endangers life other than that of the person committing the action;
- d. creates a risk to health or safety of the public or a section of the public; or
- e. is designed to interfere with or to disrupt an electronic system.

Aircraft

Any craft or object designed to travel through air or space or intended to be propelled on a cushion of air over the surface of land or water, other than model aircraft.

Advertising Injury

Injury arising out of:

- a. libel, slander or defamation;
- b. any breach of the misleading or deceptive conduct provisions of the *Competition and Consumer Act 2010* (Cth) or any Fair Trading or similar legislation of any country, state or territory;
- c. infringement of any patent, copyright, title, trademark or slogan;
- d. unfair competition, piracy or misappropriation of ideas;
- e. invasion of privacy; or
- f. any advertisement, publicity article, broadcast or telecast and caused by or arising out of any advertising activities conducted by You or on Your behalf, during the Period of Insurance.

Bodily Injury

Any physical injury, sickness, disease or death sustained by a person, including mental injury, mental anguish or shock resulting from such things.

Business

The business, trade or profession specified in the Schedule including:

- a. the provision and management of canteen, social sports, welfare and child care facilities by You for Your Employees' benefit;
- b. Your ownership or occupation of Your Premises.

Documents

Deeds, wills, agreements, maps, plans, books, letters, certificates, forms, and documents of any nature, whether written, printed or reproduced by any method. Documents does not mean money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes.

Electronic Data

Facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programs, software and other coded instructions for such equipment.

Employee

Any person employed under a contract of service or apprenticeship by You and includes any trainee, volunteer and casual, part-time, seasonal, temporary and work experience personnel.

Employment Practices Liability

Any liability arising from any act, error or omission in connection with the recruitment, employment or termination of Your Employee or application for a position as Your Employee including but not limited to:

- a. sexual or workplace discrimination or harassment;
- b. wrongful dismissal or failure to promote;
- c. invasion of privacy or defamation; or
- d. misleading conduct or advertising in relation to the terms and conditions of employment.

For the purposes of this definition (Employment Practices Liability) only, Employee also includes principals, partners, voluntary workers, contractors and temporary workers.

Excess

The amount payable by You to Us towards the cost of any Claim under this Policy.

Hovercraft

Any vessel, craft or thing made or intended to transport persons or property over land or water supported on a cushion of air.

Inquiry Body

A court, tribunal, or legally constituted industry or professional board, Royal Commission, coroner's court, statutory regulatory body and tribunal but excluding any parliament or committee of a parliament.

Inquiry Costs

Reasonable legal costs and expenses incurred by You or Your Employee or Your Officer with Our written consent (which shall not be unreasonably withheld or delayed) arising out of any notice requiring You to attend at an inquiry hearing before an Inquiry Body. Inquiry Costs do not include regular or overtime wages, salaries, fees of You, Your Employee or Your Officer or benefits from You or Your Subsidiary.

Insolvency/Insolvent

The state of being a body corporate or entity:

- a. that is unable to pay its debts as and when they fall due; or
- b. in respect of which an application for bankruptcy or winding up has been made; or
- c. in respect of which a liquidator, provisional liquidator, receiver, receiver and manager, or official manager has been appointed (whether or not by a Court); or
- d. in respect of which an administrator has been appointed or that is under administration; or
- e. that has executed a Deed of Company Arrangement that has not yet terminated; or
- f. that has entered into a compromise or arrangement with another person.

Joint Venture

An unincorporated enterprise that You carry on jointly with some other party or parties.

Limit of Indemnity

The amount specified in the Schedule as the limit of indemnity respectively applying to a Part.

Limit of Liability

The amount specified in the Schedule as the limit of liability respectively applying to a Part.

Loss

Amounts payable by You in respect of a Claim including damages, Defence Costs, settlements and interest. Loss does not include penalties, fines or exemplary, punitive or aggravated damages.

Occurrence

Any event or series of events, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury and/or Property Damage and/or Advertising Injury neither expected nor intended by You.

Officer

- a. Any natural person who is a past, present or future director, secretary, principal, partner, or executive officer of You engaged in the Business.
- b. Any natural person who is deemed by relevant legislation to be a director, secretary, principal, partner, or executive officer of You engaged in the Business.

Officer does not include a liquidator, external auditor, receiver, receiver and manager, official manager, administrator, trustee or person administering a compromise or scheme of arrangement of You or any Employee of such person; or any company, entity or other body corporate or trustee, directors, officers, or employees of superannuation or pension organisations.

Part

The terms and conditions of Part A: Professional Indemnity, Part B: General Liability, and Part C: Management Liability, or any one of them as appropriate.

Period of Insurance

The period shown in the Schedule against Period of Insurance unless terminated earlier.

Personal Injury

- a. Bodily Injury;
- b. Unlawful arrest, wrongful detention or false imprisonment;
- c. Wrongful entry or eviction or other invasion of privacy;
- d. A publication of a libel or utterance of a slander or other defamatory material; or
- e. Intentional act, by You or at Your direction, resulting in Personal Injury but only if such Personal Injury arises solely from the use of reasonable force for the purpose of protecting persons or property.

Policy

This Policy document, its Schedule and the endorsements, if any, noted in the Schedule or granted by Us after inception of the Policy, and the information given to Us on behalf of You in the Proposal.

Pollutant

Any:

- a. solid, liquid, gaseous or thermal irritant or contaminant, including without limitation: smoke, vapour, soot, fumes, acids, alkalis and chemicals; and
- b. waste materials, including materials to be recycled, reconditioned or reclaimed; and
- c. other air emission, odour, waste water, oil, oil products, infectious or medical waste or any noise emissions.

Premises

The Business premises specified in the Schedule.

Premium

The amount payable by You for the insurance provided by Us under this Policy including all applicable taxes, duties and imposts.

Product

Any thing or things including any packaging, containers, directions, markings, instructions, warnings or specification manufactured or deemed manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied, resupplied or distributed by You or on Your behalf in the course of Your Business after physical possession has been passed to others.

Products Liability

Liability for Personal Injury or Property Damage caused by or arising out of Your Product but only if the Personal Injury or Property Damage occurs away from Your Premises or Premises leased or rented to You and after physical possession of Your Product has been passed to others.

Property Damage

- a. Physical loss, destruction or damage to tangible property, including loss of use of that property at any time resulting from such physical loss, destruction or damage; or
- b. Loss of use of tangible property not physically lost, destroyed or damaged provided that such loss of use is caused by or arises out of an Occurrence.

Proposal

The written proposal form completed by You giving answers, particulars and statements in respect of the insurance required by You together with all supplementary information and material provided by or on behalf of You.

Public Relations Expenses

The reasonable costs, charges, fees and expenses of a public relations firm or consultant engaged to prevent or limit the adverse effects of, or negative publicity from, an adverse publicity event.

Regulatory Authority

A person or entity appointed, constituted or acting under a delegated authority pursuant to any Act or regulation enacted by federal, state or territory parliaments within the Commonwealth of Australia and relating to events taking place within the Commonwealth of Australia.

Retroactive Date

The date shown in the Schedule against 'Retroactive Date'.

Schedule

The certificate issued by Us which forms part of this Policy and shows Your Policy number, the Premium, the insurance cover selected by You and any special terms and conditions or endorsements.

Senior Counsel

A barrister in active practice who is entitled to use the post nominals QC or SC in any superior court in the Commonwealth of Australia or the Dominion of New Zealand.

Subsidiary

Any entity:

- a. which is deemed to be Your subsidiary at the start of the Period of Insurance by Australian law provided the accounts of any subsidiary are incorporated into the Business accounts in accordance with the relevant accounting standard; or
- b. in which You control more than 50% of the issued share capital or have more than one half of the maximum voting rights for any vote at a general meeting of the entity.

Territorial Limit

Anywhere in the world other than the United States of America or Canada or their territories, protectorates or dependencies.

Vehicle

Any machine on wheels or self-laid tracks, designed to be propelled by other than manual or animal power and any trailer or other attachment designed to be drawn by any such machine.

Watercraft

Any vessel, craft, device or thing designed to float on or in water or to travel on or through water other than model boats.

Wrongful Act

Any actual or alleged wrongful act or failure to act committed by:

- a. You or Your Subsidiary; or
- b. Your Officer or Your Employee in his or her capacity as an Officer or Employee in the course of his or her duties to Your Business.

We, Us or Our

Chubb Insurance Australia Limited (ABN 23 001 642 020, AFSL 239687) ('Chubb').

You or Your

Each person, company or other entity specified in the Schedule as being insured under this Policy as well as all Subsidiary companies incorporated within the Territorial Limit and notified to Us, existing before the inception date of this Policy and declared in the Proposal.

General Conditions

The following conditions apply to all Parts of the Policy.

1. Cancellation

This Policy may be cancelled by:

- a. You at any time by notifying Us in writing, in which case:
 - i. cancellation takes place when We receive the notice; and
 - ii. We will retain, or be entitled to, a Premium for the period during which this Policy has been in force, together with any administration fees and non-refundable taxes and duties;
- b. Us on any grounds set out in the *Insurance Contracts Act 1984* (Cth), as amended from time to time, by giving You notice in writing, in which case We will refund the Premium paid for the unexpired part of the Period of Insurance.

You must supply Us with such information as We may reasonably require for the adjustment of the Premium following any cancellation. There will be no pro-rata refund if there has been any notification of a Claim, Occurrence or matter which would be covered by this Policy.

2. Claims Procedures

If You become aware of:

- a. a situation which could lead to a Loss or a Claim;
- b. an increase in the quantum of a Loss or a Claim; or
- c. an Occurrence;

You must, at Your own cost:

- i. notify Us as soon as reasonably practicable and provide Us with all information and assistance that is in Your power to provide and which is reasonably required by Us to enable Us to investigate and defend any Claim or Occurrence;
- ii. take all reasonably practical steps to avoid or diminish Your liability or Loss;
- iii. not admit liability or settle or attempt to settle any Claim without Our written consent, which shall not be unreasonably withheld or delayed.

In circumstances that give rise to or may give rise to a Claim under this Policy, We may take over and conduct, in Your name, the defence or settlement of any Claim and We will conduct any proceedings in connection with a Claim in a reasonable manner and in cooperation with you. You shall have the right to associate with Us in the defence of any Claim, including but not limited to negotiating a settlement, subject to the provisions of this Policy.

3. Claims Reporting

You must notify Us as soon as reasonably practicable of all such circumstances, and provide all information and assistance that is reasonably within Your power to provide, and which is reasonably required by Us. This includes details of any other insurance or indemnity to which You may be entitled in relation to the Occurrence giving rise to the Claim.

4. Conduct of Defence

We may take over and conduct in Your name the investigation, defence and/or settlement of any Claim. Any amounts incurred by Us or You with Our written consent (which shall not be unreasonably withheld or delayed) in the conduct of the defence shall be deemed to be part of Defence Costs.

If the conduct of the defence of a Claim is assumed by Us, or You are permitted by Us to expend costs and expenses in the defence of the Claim, without prejudice to the question of indemnity until sufficient facts and information are available to make a decision on the question of indemnity, this does not:

- a. indicate You are entitled to indemnity under the Policy; or
- b. waive or prejudice Our rights under the Policy.

5. Cross-Liability

Where You comprise more than one party, each of You is considered as a separate legal entity and the expressions 'You' and 'Your' apply to each party as if a separate Policy had been issued to each of the parties but Our aggregate liability is limited to the Limit of Indemnity or Limit of Liability applicable to each Part of this Policy.

6. Discharge of Liability

If in Our reasonable opinion the amount required to dispose of any Claim may exceed either the available Limit of Indemnity or Limit of Liability or a relevant sub-limit, We are entitled to discharge Our liability by paying (or agreeing to pay upon settlement of the Claim) the available Limit of Indemnity or Limit of Liability to You and paying the Defence Costs incurred up to the time of election to discharge Our liability.

If at the time of making such an election We are conducting the defence of the Claim, We will relinquish conduct and will have no further liability for Defence Costs after We have given You written notice of such election.

If You disagree with a settlement that We recommend, You may elect to contest the Claim, however Our liability in respect of the Claim will not exceed the amount for which the Claim could have been so settled plus the Defence Costs incurred up to the date of such election, less the Excess.

7. Disputes as to Defence and Settlement of Claims

If a dispute arises between You and Us as to whether or not to contest any legal proceedings in relation to a Claim, neither You nor Us shall be required to contest such legal proceedings unless a Senior Counsel advises that such proceedings should be contested. The Senior Counsel appointed to advise will be agreed upon by You and Us but if You and Us cannot agree, will be appointed by the President of the Law Society or equivalent body in the state or territory where the Claim is being heard or defended. Senior Counsel shall advise having regard to both legal and commercial considerations, the damages and costs which are likely to be recovered against You and the likely Defence Costs that will be incurred in defending the Claim. The costs of Senior Counsel so advising will be Defence Costs.

If the Senior Counsel recommends that settlement of the Claim should be attempted, then settlement of the Claim must be attempted as recommended.

Where settlement is attempted in accordance with the Senior Counsel's recommendation but is unsuccessful, then We will continue to indemnify You subject to the terms and conditions of this Policy.

If a settlement recommended by the Senior Counsel is acceptable to the claimant, but You refuse to consent to such settlement, Our liability will be limited to the amount for which the Claim could have been settled, plus the Defence Costs incurred up to the date the refusal to consent was made.

8. Excess

In respect of any liability for which You are entitled to indemnity under this Policy, You will pay the amount of the Excess and We will only be liable to indemnify You for the part of any Loss or Claim which is greater than the Excess up to the applicable Limit of Indemnity or Limit of Liability.

Costs and expenses incurred by You without Our prior written consent (such consent shall not be unreasonably withheld or delayed) in the investigation, settlement or defence of any Claim are not included in the Excess and shall not be applied to erode the Excess.

The Excess applies to each Claim covered by this Policy. However, where more than one Claim arises from or is attributable to the same act, error or omission or a series of related acts, errors or omissions, only one Excess is payable under the Policy.

Where We make a payment in respect of a Claim, including for Defence Costs, which includes payment of part or all of the Excess, You will within thirty (30) days of being notified by Us reimburse Us for the amount of the Excess paid by Us on behalf of You.

9. Governing Law

This Policy is governed by the laws of the Commonwealth of Australia and the state or territory where this Policy is issued. The relevant courts of the place where this Policy was issued shall have non-exclusive jurisdiction in any dispute concerning or under this Policy.

10. GST Basis of Settlement

The amount that You are liable to pay under this Policy will be reduced by the amount of any input tax credit that You are or may be entitled to claim for the supply of goods or services covered by that payment.

If You are entitled to an input tax credit for the Premium, You must inform Us of the extent of that entitlement when You make a claim under this Policy. We will not indemnify You for any GST liability, fines or penalties that arise from or are attributable to Your failure to notify Us of Your entitlement (or correct entitlement) to an input tax credit on the Premium.

If You are liable to pay an Excess under this Policy, the amount payable will be calculated after deduction of any input tax credit that You are or may be entitled to claim on payment of the Excess.

11. Interpretation

Paragraph headings are merely descriptive and are for convenience only. Headings do not aid the interpretation of this Policy and are used merely for identifying insuring clauses, exclusions or conditions in this Policy. Words and expressions in the singular include the plural and vice versa.

Words (except headings) that begin in capitals have special meaning and are defined in the Policy. Words that are not specifically defined in this Policy have the meaning normally attributed to them.

12. Joint Insureds

Where You comprise more than one party:

- a. the Proposal is deemed to have been furnished by and on behalf of all parties and any information supplied to Us or any omission, misrepresentation, or non-disclosure in relation to the Proposal or any renewal or extension of this Part of the Policy is deemed to have been furnished, supplied, left out, misrepresented or not disclosed on behalf of all parties; and
- b. the conduct (other than conduct referred to in General Exclusion 5 – Fraudulent and Intentional Conduct) of one or more of You will not prejudice the rights of the remainder of You provided that the remainder of You, as soon as reasonably practical on becoming aware of any conduct that increases the risk of liability insured by this Part of the Policy, gives notice in writing to Us and pays any additional Premium that We may require.

13. Material Changes to Risk

You must as soon as reasonably practicable notify Us in writing of any alteration to Your business as outlined in the proposal form completed as part of the application for this insurance. If We agree in writing to insure the altered risk, You must pay any additional Premium requested by Us. If We do not agree to insure the altered risk or if You do not pay the additional Premium, We will not indemnify You for any liability caused by or arising directly or indirectly out of or in connection with such alteration. You can contact us using the details provided in the Important Information section of this Policy.

14. Other Insurance

If for any Occurrence, Claim, Loss or Defence Costs there is any other insurance or indemnity which may provide either You or an Officer with a right of indemnity, You must tell Us and provide Us with full details of that other insurance or indemnity together with any further information that We may reasonably require.

15. Policy Severability

A term or condition of this Policy that is illegal or unenforceable may be severed from this Policy and the remaining terms and conditions of this Policy, or parts of this Policy, continue in force.

16. Premium Adjustment

- a. Unless otherwise indicated, the Premium for Your insurance under any Part of this Policy is adjustable;
- b. If the first or renewal Premium for any Part of this Policy is calculated on information and estimates furnished by You, You must:
 - i. keep an accurate record containing all relevant information and allow Us, Our agents and representatives, to inspect them when reasonably required; and
 - ii. within two months of the end of each Period of Insurance furnish them to Us.

17. Reasonable Care

You must:

- a. take all reasonable precautions to prevent or minimise Loss, damage or liability including preserving, without alteration, damaged property, defective property and property that may provide evidence in relation to any Claim, until We have had an opportunity to inspect it; and
- b. at Your own expense take all reasonable precautions to prevent Personal Injury and Property Damage and comply with all applicable statutory obligations for the safety of persons and property including all reasonable steps:
 - i. to trace, recall or modify any Product containing any defect or deficiency of which You have knowledge or which You have reason to suspect contains any defect or deficiency;
 - ii. in the event of an Occurrence, to prevent other Personal Injury or Property Damage from arising out of the same or similar circumstances; and
 - iii. to ensure the safety and sound condition of Your Premises and Your Product including complying with all applicable statutory obligations concerning Your Premises and Your Product;
- c. only employ competent employees; and
- d. comply with all applicable statutory obligations, laws and regulations imposed by any competent authority in relation to any matter covered by this Policy.

18. Representation Issues

The lawyers appointed by Us to act on Your behalf shall be entitled to disclose to Us any information obtained while so acting, except to the extent that such disclosure may result in any claim of legal professional privilege by You in relation to that information being lost.

If there is a dispute between You and Us, the lawyers appointed by Us to conduct the defence of the Claim will also continue to advise Us on all issues, including but not limited to Your right to indemnity under the Policy or any related issue. It is agreed that this will not prevent those lawyers from acting on the defence of the Claim on Our instructions.

If any actual or potential conflict arises between Your interests and Our interests, the lawyers appointed by Us to investigate and defend the Claim may cease acting on behalf of You and continue to advise Us in any dispute with respect to Your entitlement to indemnity under the Policy.

All communications between Us and the lawyers appointed by Us to investigate, defend or settle a Claim are privileged as between Us and the lawyers.

19. Severability of Parties

We agree that any conduct of any party of which You comprise, where that party has breached the duty of disclosure or made a misrepresentation to Us before this contract was entered into, will not prejudice the right to indemnity of any other party of which You comprise under the Policy provided that the other party:

- a. is innocent of and has no prior knowledge of any such conduct; and
- b. as soon as reasonably practicable upon becoming aware of any such conduct advises Us in writing of all known facts in relation to such conduct.

Nothing in this clause relieves You of the duty of disclosure owed to Us.

20. Subrogation

If We make a payment under this Policy to You or on Your behalf then, subject to the *Insurance Contracts Act 1984* (Cth) as amended from time to time, We will be subrogated to Your rights to recover an equivalent sum to what we have paid against any person or entity and You must, as reasonably requested by Us and at Our expense, take all reasonable steps and provide all assistance reasonably necessary to assist Us in the exercise of Our rights.

21. Validity

Each Part of this Policy is not valid unless its Schedule is attached and has been signed by an authorised officer or agent of Us.

22. Waiver, Surrender of Rights, Contribution or Indemnity

We will not compensate You for any Loss or damage that is covered by this Policy where:

- a. another person or party would be liable to compensate You, or hold You harmless, for part of or all of that Loss or damage; and
- b. You have agreed with that person or party, either before or after the inception of this Policy, that You will not seek recovery from them.

Exclusions applicable to General Definitions

Certain defined terms in the General Definitions section of this Policy contain exclusions that change, limit or reduce cover under this Policy. The exclusions contained in those defined terms are listed below:

1. Documents

Documents does not mean money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes

2. Inquiry Body

Excludes any parliament or committee of a parliament.

3. Inquiry Costs

Inquiry Costs do not include regular or overtime wages, salaries, fees of You, Your Employee or Your Officer or benefits from You or Your Subsidiary but excluding any parliament or committee of a parliament.

4. Loss

Loss does not include penalties, fines or exemplary, punitive or aggravated damages.

5. Officer

Officer does not include a liquidator, external auditor, receiver, receiver and manager, official manager, administrator, trustee or person administering a compromise or scheme of arrangement of You or any Employee of such person; or any company, entity or other body corporate or trustee, directors, officers, or employees of superannuation or pension organisations.

General Exclusions

The following exclusions apply to all Parts of the Policy, unless otherwise stated within the respective Part(s). The insurance does not apply to, and We will not indemnify You for any actual or alleged liability directly or indirectly arising from, caused by, attributed to, or in any way connected with:

1. Asbestos

Asbestos or materials containing asbestos.

2. Computers and Technology

Property Damage to Electronic Data or the total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data or any error in creating, amending, entering, deleting or using Electronic Data or total or partial inability or failure to receive, send, access or use Electronic Data for any time at all or any loss resulting therefrom.

3. Contractual Liability

Any duty, obligation or liability assumed by You by contract, warranty, guarantee or indemnity, unless the duty, obligation or liability would have existed if You had not assumed it.

This exclusion does not apply to a Claim for Employment Practices Liability pursuant to Part C of this Policy.

4. Dishonesty and Improper Advantage

- a. dishonest, fraudulent, criminal or malicious acts or omissions by any of You or Your Officers or Employees; or;
- b. any of You or Your Officers or Your Employees having received any personal gain or advantage or remuneration to which that Officer or Employee or You was not legally entitled; or
- c. You or Your Officers or Your Employees benefiting from securities transactions as a result of information that was not generally available to other sellers or purchasers of those securities; or
- d. conduct intended to cause Personal Injury or Property Damage (or conduct with reckless disregard for Personal Injury or Property Damage) by You or Your Officers or Employees or anyone acting on Your behalf or with Your knowledge; or
- e. acts or failures to act which are or are alleged to have been a wilful breach of statute; or
- f. acts or failures to act which are or are alleged to have been committed with reckless disregard for the consequences of such acts or failures to act.

For the purposes of Part C of this Policy only, this exclusion shall only apply to the extent that the subject conduct has been established by an express admission, court judgment or other final adjudication.

5. Fraudulent and Intentional Conduct

- a. any dishonest, fraudulent, criminal or malicious act or omission of any of You or Your Officers or Employees; or
- b. any of You or Your Officers or Employees having received any personal gain or advantage or remuneration to which that Officer or You was not legally entitled; or
- c. You or Your Officers or Employees benefiting from securities transactions as a result of information that was not generally available to other sellers or purchasers of those securities; or
- d. conduct intended to cause Personal Injury or Property Damage (or conduct with reckless disregard for Personal Injury or Property Damage) by You or Your Officers or Employees or anyone acting on Your behalf or with Your knowledge.

However this exclusion shall only apply to the extent that the subject conduct has been established by an express admission, court judgment or other final adjudication.

6. Liquidated Damages

Liquidated damages clauses, penalty clauses or performance warranties except to the extent that such liability would have attached in the absence of such clauses or warranties.

7. Prior Circumstances, Occurrences or Claims

- a. facts, circumstances or Occurrences noted on the Proposal for the current Period of Insurance or on any previous proposal to any insurer or of which notice had been given to any insurer under any previous policy, however expressed; or
- b. facts, circumstances or Occurrences of which You were aware prior to the commencement of the Period of Insurance and which You knew (or ought reasonably to have realised) may give rise to a Claim; or
- c. Claims first made against You prior to the start of the Period of Insurance; or
- d. fault, defect, Occurrence, Personal Injury or Property Damage known, or deemed by law to be known, by You prior to the Period of Insurance.

8. Sanctions

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit Us from providing insurance, including, but not limited to, the payment of claims. All other terms and conditions of the Policy remain unchanged.

Chubb is a subsidiary of a US company and Chubb Limited, a NYSE listed company. Consequently, Chubb is subject to certain US laws and regulations in addition to EU, UN and national sanctions restrictions which may prohibit it from providing cover or paying claims to certain individuals or entities or insuring certain types of activities related to certain countries such as but not limited to Iran, Syria, North Korea, North Sudan, Crimea and Cuba.

9. Territorial Limit

- a. Claims made or actions brought in the United States of America, Canada or their territories, protectorates, or dependencies coming within the jurisdiction of the courts of the United States of America, Canada or their territories, protectorates or dependencies;
- b. Claims and actions to which the laws of the United States of America, Canada or their territories, protectorates, or dependencies apply.

However for the purposes of Part B of this Policy subsections a. and b. above do not apply to Personal Injury or Property Damage occurring during business visits to the United States of America, Canada or their territories, protectorates, or dependencies by directors or employees, who are normally resident in Australia and who are not undertaking manual work or supervision of work of any kind while in the United States of America, Canada or their territories, protectorates or dependencies.

The Limit of Liability in respect of coverage provided under subsection General Exclusion 9 - Territorial Limit is inclusive of all costs, expenses and interest as set out in subsection Limit of Liability for Part B and subsection Automatic Extensions for Part B of this Policy.

10. War, Terrorism and Nuclear Material

- a. war, invasion, acts of foreign enemies, hostilities, or warlike operations (whether war be declared or not), civil war, mutiny, civil commotion, coup, military rising, insurrection, military or usurped power, rebellion, revolution, confiscation, nationalization, requisition or looting, sacking or pillage, destruction of or damage to property by or under the order of any government or local authority;
- b. death, injury, illness, loss, damage, cost or expense directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss;
- c. death, injury, illness, loss, damage, cost or expense directly or indirectly caused by, contributed to by, resulting from, or arising out of or in connection with any action in controlling, preventing, suppressing, retaliating against or responding to any Act of Terrorism;
- d. ionising radiation or contamination by radioactivity from any nuclear fuel, weapon, medical isotope, waste or other material whether occurring naturally or otherwise, or by the radioactive toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component of same.

Part A: Professional Indemnity

1. Specific Definitions for Part A

The following definitions apply to Part A of the Policy:

Claim

Any:

- a. written demand for compensation or damages or other relief; or
- b. civil proceeding seeking compensation or damages or other relief.

Defence Costs

Reasonable legal costs and other expenses incurred by or on behalf of You (with Our written consent, which shall not be unreasonably withheld or delayed) or by Us in the investigation, defence and/or settlement of an Occurrence or Claim.

Inquiry

A formal or official investigation, examination or inquiry before any Inquiry Body having the power to compel the attendances of witnesses arising out of the conduct of Your Business other than any industry-wide investigation and/or routine supervision, inspection, compliance or similar review.

You or Your

- a. Each person, company or other entity specified in the Schedule as being insured under this Policy as well as all Subsidiary companies incorporated within the Territorial Limit and notified to Us, existing before the inception date of this Policy and declared in the Proposal.
- b. an Employee or Officer of each person, company or other entity referred to in a. above.

2. Insuring Clause for Part A

2.1 The Cover

Where cover under Part A is indicated in Your Schedule, then subject to the terms, conditions, limits and exclusions of this Policy, We will indemnify You for civil liability for compensation and the claimant's costs and expenses arising from any Claim, which is:

- a. first made against You during the Period of Insurance and notified to Us during the Period of Insurance; and
- b. for breach of professional duty in the conduct of the Business.

2.2 Defence Costs

We will pay Defence Costs in the investigation, defence and/or settlement of any Claim for which You are entitled to be indemnified under clause 2.1 of Part A, and up to the Limit of Indemnity for Part A.

2.3 Advancement of Defence Costs

We agree to pay for Defence Costs in respect of any Claim covered by this Policy as they are incurred prior to the resolution of the Claim.

3. Limit of Indemnity for Part A

Our total liability under Part A of the Policy in respect of any one Claim and in the aggregate for all Claims (including any amounts paid or which have been agreed will be paid in accordance with General Condition 6 'Discharge of Liability') shall not exceed the Limit of Indemnity for Part A.

We will indemnify You for Defence Costs under clause 2.2 of Part A in addition to the Limit of Indemnity for Part A for up to:

- a. the Limit of Indemnity for Part A; or
- b. \$5,000,000

whichever is the lesser.

Provided that if a judgment or an amount required to settle a Claim exceeds the Limit of Indemnity, Our liability to pay Defence Costs is limited to the proportion the Limit of Indemnity bears to the amount required to be paid to dispose of the Claim and in all cases will not exceed the amount of additional Defence Costs described above.

4. Automatic Extensions for Part A

We agree to extend the insuring clause to cover these extensions under Part A of the Policy for no additional Premium provided that:

- a. the indemnity provided is subject to the Schedule, General Exclusions, Exclusions applicable to the General Definitions, and Additional Exclusions for Part A, General Conditions, Excess and all other terms applicable to Part A of this Policy; and
- b. the inclusion of any extension under Part A of the Policy shall not increase the Limit of Indemnity for Part A.

4.1 Automatic Reinstatement

In the event of exhaustion or partial exhaustion of the Limit of Indemnity set out in the Schedule by reason of costs or indemnity incurred or We have agreed to incur during the Period of Insurance, We agree to reinstate the Limit of Indemnity from the time of such notification until the expiry of the same Period of Insurance provided that:

- a. the Limit of Indemnity having been so reinstated, will only apply in respect of Claims or Loss which does not arise out of and do not have any connection with the originating cause of any Claims or Loss incurred by Us or We have agreed to incur prior to the effective date of the said reinstatement; and
- b. the aggregate of the amounts so reinstated shall be limited in the Period of Insurance to an amount equal to the Limit of Indemnity applicable at the inception of the Period of Insurance; and
- c. the Limit of Indemnity so reinstated shall represent Our total liability for all Claims made during the time from the effective date of the reinstatement until the expiry of the Period of Insurance; and
- d. there will be no reinstatement of sub-limits, except if the original indemnity limit is reinstated.

No cover will be provided under this extension for any Claim arising from, attributable to or in any way connected with proceedings brought in the United States of America or Canada or the enforcement of any judgment or award obtained pursuant to the laws of United States of America or Canada. For the purposes of this clause, the United States of America or Canada includes their territories, protectorates or dependencies.

4.2 Compensation for Court Attendance

We will pay You compensation if any Officer or Employee is required to attend court as a witness in connection with a Claim covered under this Policy, provided that the lawyers acting on behalf of You requested the Officer or Employee to attend. We will pay the rate equivalent to the Officer's daily take home salary up to \$500 per person each day or Employee daily take home salary up to \$250 per person each day subject to a maximum of \$10,000 (for all persons) in any one Claim.

4.3 Compensatory Penalties

Notwithstanding Additional Exclusions for Part A 5.3 (Fines, Penalties and Taxes), We will cover You for compensatory civil damages awarded against You, which result from a proceeding commenced and notified to Us in the Period of Insurance resulting from the conduct of the Business.

Provided that, We will not indemnify You for compensatory civil damages which:

- a. We are legally prohibited by law from indemnifying; or
- b. Result from a wilful, intentional or deliberate act, error or omission.

The total liability of Us under this extension will not exceed \$250,000 in the aggregate during the Period of Insurance.

4.4 Consumer Protection

We agree to cover You for Your legal liability which results from a breach of the *Competition and Consumer Act 2010* (Cth), the *Fair Trading Act 1987* (NSW), the *Fair Trading Act 1985* (Victoria) or similar or equivalent legislation enacted by the other states or territories of the Commonwealth of Australia. Provided that:

- a. the breach occurred in the conduct of the Business; and
- b. there is no cover for criminal liability.

4.5 Consultants Sub Contractors and Agents

We agree to cover You for Your legal liability arising from, attributable to or in any way connected with the provision of the Business by any consultants, sub contractors or agents of Yours.

No indemnity is provided for any Claim made against such consultants, sub contractors or agents.

4.6 Continuous Cover

Where You:

- a. first became aware of facts or circumstances that might give rise to a Claim or Loss, in the period 12 months prior to the Period of Insurance; and
- b. had not notified Us of such facts or circumstances prior to the Period of Insurance, then General Exclusion 7 (Prior Circumstances, Occurrences and Claims) will not apply to any notification during the Period of Insurance of any Claim or Loss resulting from such facts or circumstances, provided that:
 - i. there is an absence of fraudulent non-compliance with Your duty of disclosure and an absence of fraudulent misrepresentation by You in respect of such facts or circumstances; and
 - ii. You have been continuously insured, without interruption at the time of the notification of the Claim or Loss to Us, under a professional indemnity insurance policy issued by Us (or previous insurer to underwrite this policy) and were insured by Us (or previous insurer to underwrite this policy) at the time when You first became aware of such facts or circumstances; and
 - iii. We may reduce Our liability under the Policy to the extent of any prejudice We may suffer in connection with Your failure to notify the facts or circumstances giving rise to a Claim or Loss prior to the Period of Insurance.

4.7 Contractual Liability

We agree to cover You for Your legal liability for contractual liability. Provided that We will not be liable if You have assumed liability under a warranty, guarantee or agreement unless such liability would have attached to You in the absence of such agreement.

4.8 Dishonesty

We agree that, subject to this clause and the terms and conditions of this Policy, General Exclusion 4 (Dishonesty and Improper Advantage) will not apply to any Claim arising from or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission of any Employee in the conduct of Your Business.

No indemnity is available by virtue of this clause:

- a. where You have knowingly engaged in or condoned such conduct; or
- b. for any person committing or condoning the act, error or omission.

4.9 Estates

We agree to cover Your estate, heirs, legal representatives or assigns of any deceased, mentally incapacitated or insolvent Officer or Employee of Yours.

4.10 Extended Reporting Period

In the event that at the end of the Period of Insurance this Policy is neither renewed nor replaced with a policy that covers substantially the same risk, You are entitled to purchase an extended reporting period of 365 days.

Provided that:

- a. if You become Insolvent during the Period of Insurance You are not entitled to purchase an extended reporting period under this extension; and
- b. You are required to pay the additional Premium We determine to be applicable; and
- c. the entitlement to purchase this extension lapses on the expiry of the Period of Insurance.

4.11 Former Principals

We agree to indemnify former principals, partners, directors and Employees of You in respect of Loss insured under this Policy provided always that the definition of You includes those persons and only in respect of work performed while a principal, partner, director or Employee of Yours.

4.12 Former Subsidiary

We agree to provide cover to the former Subsidiary of Yours resulting from the conduct of the Business.

Provided that:

- a. the former Subsidiary is specified in the Proposal; and
- b. such indemnity only applies arising out of any act, error or omission occurring prior to the date such Subsidiary ceased to be a Subsidiary of Yours.

4.13 Indemnity to Uninsured Contractors

We will provide cover to any person who is a past and/or present contractor of Yours resulting from the conduct of the Business.

Provided that:

- a. at the time of any act, error or omission such contractor was not an Employee of Yours and they:
 - i. had entered into a contract with Your Business where they earned at least 90% of their income (for the 6 months prior) from You; and
 - ii. were under Your direct control and supervision;
- b. You declared the income to Us generated by the contractor in the Proposal; and
- c. such contractor shall be subject to all the terms of this Policy as if they fell within the definition of You.

4.14 Inquiry Costs

We will indemnify You for Inquiry Costs provided that:

- a. the notice requiring Your attendance at the Inquiry or hearing is first received by You and notified to Us during the Period of Insurance; and
- b. such attendance arises directly from conduct allegedly committed by You in carrying on Your Business; and
- c. such indemnity is subject to Our written consent, which shall not be unreasonably withheld or delayed, prior to the incurring of the Inquiry Costs; and
- d. regular or overtime wages, salaries or fees of You are excluded from this indemnity; and
- e. the total liability of Us under this clause shall not exceed \$100,000 during the Period of Insurance.

4.15 Intellectual Property

We agree to cover You for Your legal liability for infringement of rights of intellectual property, provided that the act, error or omission by You is unintentional and is committed in the course of carrying on Your Business.

4.16 Joint Venture

We agree to cover You for Your legal liability which is based on or attributable to Your provision of the Business as part of a Joint Venture, where:

- a. the fees or income derived from participation in such Joint Venture have been included in the Proposal for the purposes of calculating the Premium for this Policy; and
- b. the Joint Venture is not otherwise insured by any other more specific insurance in respect of the Joint Venture.

There is no cover under this Policy for Your Joint Venture partner(s) and We will only indemnify You for Your portion of the Joint Venture.

4.17 Libel and Slander

We agree to cover You for Your legal liability for unintentional libel, unintentional slander or unintentional defamation which occurs in the conduct of the Business.

4.18 Loss of Documents

If during the Period of Insurance You first discover that any Documents the property of or entrusted to You have been destroyed, damaged, lost or mislaid, We agree to provide cover for costs and expenses of whatsoever nature incurred by You in replacing or restoring such Documents.

Provided always that:

- a. Such costs and expenses are supported by bills and/or accounts approved by a competent person nominated by Us and approved by You. This competent person will have the relevant qualifications to advise on the costs and expenses incurred by You in replacing or restoring such Documents; and
- b. the Documents were not lost due to wear, tear, vermin, mould or mildew or any other gradually operating cause; and
- c. such loss or damage is sustained during the Period of Insurance while the Documents are either in custody of You or any person who You have entrusted them resulting from the conduct of the Business; and
- d. the maximum aggregate amount payable by Us under this extension in any Period of Insurance is \$500,000 inclusive of Defence Costs which is part of and not in addition to the Limit of Indemnity.

4.19 Newly Created or Acquired Subsidiary

If during the Period of Insurance You acquire or create a new Subsidiary, We will provide cover to the new Subsidiary.

Provided that, this cover only applies:

- a. from the date of acquisition or creation and ending 60 days after;
- b. to acts, errors or omissions occurring after the date You created or acquired the Subsidiary;
- c. to Subsidiaries which are domiciled in Australia and New Zealand; and
- d. to Subsidiaries that conduct the same Business as You.

4.20 Public Relations Expenses

We will indemnify You for Public Relations Expenses incurred with Our written consent (which shall not be unreasonably withheld or delayed) in the event of an adverse publicity event.

Provided that:

- a. that adverse publicity event occurs in the Period of Insurance and is notified to Us in the Period of Insurance; and
- b. the adverse publicity event is one that has the potential to seriously impact the reputation of You; and
- c. You are liable for the first \$1,000 of Public Relations Expenses incurred for any one event; and
- d. Our total liability under this extension will not exceed \$50,000 in the aggregate during the Period of Insurance.

4.21 Run Off Cover

We agree to continue the cover under this Policy to any person, corporation, Subsidiary or entity insured by this Policy until expiry of the Period of Insurance if:

- a. such person retires or otherwise ceases to provide professional services in connection with the Business; or
- b. such entity ceases to exist or operate or is consolidated with, merged into or acquired by any other entity.

This extension only applies in relation to Loss for a breach of professional duty in the conduct of the Business by reason of any act, error or omission occurring prior to the date that any such person retires or otherwise ceases to provide professional services in connection with the Business or such corporation, entity or Subsidiary ceases to exist or operate or is consolidated with, merged into or acquired by any other entity.

4.22 Thirty Day Reporting Period

We agree that You may continue to notify Us of Claims up to thirty days after the expiry of the Period of Insurance in relation to Claims first made against You during the Period of Insurance which result from any act, error or omission committed or alleged to have been committed prior to expiry of the Period of Insurance. Any notification under this extension will be deemed to have been first notified to Us during the Period of Insurance.

5. Additional Exclusions for Part A

In addition to the General Exclusions, We will not indemnify You for any actual or alleged liability directly or indirectly arising from, caused by, attributed to, or connected with:

5.1 Director and Officers' Liability

Your functions and duties as a director and/or Officer of You or any legal entity, corporation or other incorporated body.

5.2 Employer's Liability

- a. the Bodily Injury of an Employee or Officer arising out of or in the course of or in respect of their employment with You; or
- b. a breach of any legal obligation owed by You as an employer, to an Employee.

5.3 Fines, Penalties and Taxes

any exemplary, aggravated, punitive or liquidated damages, fines, penalties, tax or duty.

5.4 Insolvency

Claims first made or intimated subsequent to the date upon which You become Insolvent. This exclusion shall not apply where You establish that the Claim would have arisen notwithstanding that You were Insolvent.

5.5 Occupier's Liability

the ownership, occupation, control or management of real property by You.

5.6 Pollution

the actual, alleged or threatened dispersal, release or escape of Pollutants into or upon real or personal property, the atmosphere, any water course or body of water, including but not limited to any enforcement action or proceeding in connection with the containment, clean up, removal, treatment or monitoring of such Pollutants, or seepage, pollution or contamination.

5.7 Products Liability

any goods or products (including, without limitation, any medication, medical devices and equipment) designed, manufactured, distributed, supplied, sold, installed, repaired, maintained, treated, assembled or processed by or on behalf of You.

5.8 Professional Fees

a request to refund professional fees to You (by way of damages or otherwise).

5.9 Related Parties

Claims made, brought or maintained by or on behalf of:

- a. You; or
- b. any person or entity who or which is related to or associated with You, unless such person or entity is acting without any prior direct or indirect solicitation, co-operation or assistance from You.

5.10 Retroactive Date

any act, error or omission occurring prior to the Retroactive Date.

5.11 Trading Debt

any trading debt incurred by You or any guarantee given by You for any debt.

Part B: General Liability

1. Specific Definitions for Part B

The following definitions apply to Part B of the Policy:

Compensation

Monies paid or payable by judgment or settlement together with any liability on your part to pay legal costs and expenses (other than Defence Costs).

Defence Costs

All reasonable legal costs and expenses incurred by Us or by You with the written agreement of Us (such agreement not to be unreasonably withheld or delayed) in defending or appealing a claim against You, and for legal representation of You at any coronial inquest or other fatal accident inquiry.

Worker

Any person deemed to be employed by You pursuant to any Workers' Compensation Law. Voluntary workers, secondees and work experience students (if any) will not be deemed to be Your Employees.

Worker to Worker Claims

To be used only for the purpose of the application of the Excess. Any claim in respect of Bodily Injury to labour hire staff, contractors, sub-contractors or employees of such contractors or sub-contractors that are performing work for or on behalf of You.

You or Your

- a. Each person, company or other entity specified in the Schedule as being insured under this Policy as well as all Subsidiary companies incorporated within the Territorial Limit and notified to Us, existing before the inception date of this Policy and declared in the Proposal.
- b. an Employee or Officer of each person, company or other entity referred to in a. above.
- c. an office bearer or member of a canteen, social, sports, welfare or child care facility provided by Your Business for Employees' benefit, and voluntary workers.

2. Insuring Clause for Part B

2.1 The cover

Where cover under Part B is indicated in Your Schedule, We will indemnify You for all sums which You become legally liable to pay as Compensation in respect of:

- a. Personal Injury;
- b. Property Damage; and/or
- c. Advertising Injury;

first occurring during the Period of Insurance within the Territorial Limit as a result of an Occurrence in connection with Your Business.

Any indemnity provided by Us to You is provided in consideration of payment of the Premium by You and is subject to the terms and conditions, limits and exclusions of this Policy including the Limit of Liability for Part B and the Excess.

2.2 Costs and Expenses

In addition to the cover provided pursuant to clause 2.1 of Part B, We will:

- a. defend in Your name and on Your behalf, any claim or suit against You alleging such Personal Injury, Property Damage or Advertising Injury and seeking damages on account of such things even if any of the allegations of such claim or suit is groundless, false or fraudulent;
- b. pay all charges, expenses and legal costs incurred by Us and/or by You with Our prior written consent (which shall not be unreasonably withheld or delayed) in the investigation, defence or settlement of any claim for Compensation for which You are entitled to indemnity under this Policy, including loss of salaries or wages as a direct result of Your attendance at hearings or trials at Our request;

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- c. pay all legal costs taxed or assessed against You in any claim referred to in paragraph a. and all interest accruing from the entry of judgment against You until We have paid, tendered or deposited in court such part of the judgment as does not exceed the Limit of Liability for Part B;
 - d. pay reasonable expenses incurred by You for rendering first aid and/or surgical or medical relief to others at the time of any Personal Injury (other than any medical expenses which We are prevented from paying by any law);
 - e. pay reasonable costs and expenses incurred by You as a result of providing any form of temporary protection to prevent Personal Injury or as required by any relevant government or other statutory authority;
 - f. pay legal costs incurred by You with Our consent (which shall not be unreasonably withheld or delayed) for representation of You at:
 - i. any coronial inquest or inquiry.
 - ii. any proceedings in any court or tribunal in connection with liability insured against by this Policy.
 - iii. any Royal Commission arising out of any alleged breach of statutory duty, or other similar judicial enquiry into circumstances relating to any Occurrence which would be the subject of indemnity under this Policy.
 - iv. any enquiry, prosecution or hearing of a disciplinary nature held before a legally constituted board, committee, licensing authority or the like.

Limit of Liability under (iii) and (iv) shall not exceed \$250,000 in the aggregate in the Period of Insurance.

Costs and expenses incurred by You in the investigation, settlement or defence of any claim are not included in the Excess and shall not be applied to erode the Excess.

3. Limit of Liability for Part B

Except as provided in clause 3a. below, Our total liability under this Part of the Policy to indemnify You:

- i. in respect of any one Occurrence (other than in respect of Products Liability) will not exceed the Limit of Liability for Part B; and
 - ii. for all claims in respect of Products Liability during the Period of Insurance is limited in the aggregate to the Limit of Liability for Part B.
- a. Subject to clause 3b. below, We will indemnify You for up to twenty five percent (25%) of the Limit of Liability for Part B in addition to the Limit of Liability for Part B for amounts that We pay to You or on Your behalf under clause 2.2 (Costs and Expenses) of this Part:
- i. in respect of any one Occurrence; and
 - ii. limited in aggregate for all claims in respect of Products Liability during the Period of Insurance.
- b. If a judgment or an amount required to settle a claim exceeds the Limit of Liability for Part B, Our liability to pay Defence Costs under clause 2.2 (Costs and expenses) of Part B is limited to the proportion the Limit of Liability for Part B bears to the amount required to be paid to dispose of the claim and in all cases will not exceed the amount specified in clause 3a. above.
- c. All Personal Injury and Property Damage consequent upon or attributable to one source or originating cause shall be deemed to be one Occurrence. Any entitlement to indemnity under this Policy for such an Occurrence will be determined by reference to the date on which the Personal Injury or Property Damage from the one source or originating cause first occurred.

Subject to Additional Exclusions for Part B 6.14 (Property in Your Physical or Legal Control), the Limit of Liability in respect of subclauses 6.14a – d of this Part is \$500,000 for any one Occurrence and for all claims during the Period of Insurance in the aggregate inclusive of all costs, expenses and interest under this Policy as set out in clause 2.2 (Costs and Expenses) of Part B.

4. Automatic Extensions for Part B

We agree to provide cover under these extensions for no additional Premium provided that:

- a. the indemnity provided is subject to the Schedule, General Exclusions, Exclusions applicable to the General Definitions, Additional Exclusions for Part B and Exclusions applicable to Specific Definitions for Part B, General Conditions, Excess and all other terms applicable to Part B of this Policy; and
- b. the inclusion of any extension under Part B of the Policy shall not increase the Limit of Liability for Part B.

4.1 New Subsidiaries

The cover provided by this Part of the Policy will extend to any Subsidiary company incorporated within the Territorial Limit that is incorporated or acquired by You during the Period of Insurance and relating to Your Business but only in respect of liability for Personal Injury or Property Damage occurring in the Period of Insurance, commencing on the date of incorporation or acquisition by You, if You have notified Us in writing of the incorporation or acquisition within 60 days and You have provided all information (which is reasonably within your power to provide) that We require and You have agreed to any additional terms and conditions and Premium that We may require, on such date as reasonably determined by us, but in any event no cover is provided by this subsection beyond the end of the Period of Insurance.

4.2 Principals

We insure You for liability to indemnify any principal with whom You have entered into a contract or agreement for the performance of work if the terms of the contract or agreement require that You must indemnify the principal but only:

- a. in relation to work carried out by You;
- b. if the liability would have been implied by law in the absence of the contract or agreement; and
- c. in respect of an Occurrence for which You would be entitled to indemnity under this Policy if a claim arising from the Occurrence is made against You.

5. Exclusions applicable to Specific Definitions for Part B

Certain defined terms in the Specific Definitions for Part B of this Policy contain exclusions that change, limit or reduce cover under this Policy. The exclusions contained in those defined terms are listed below:

5.1 Compensation

Does not include Defence Costs.

5.2 Worker

Voluntary workers, secondees and work experience students (if any) will not be deemed to be Your Employees.

6. Additional Exclusions for Part B

In addition to the General Exclusions, We will not indemnify You for any actual or alleged liability directly or indirectly arising from, caused by, attributed to, or in any way connected to:

6.1 Abuse

actual, threatened or perceived, repeated, continuing contemptuous coarse, insulting words or behaviours, acts of hurting or injuring mentally or physically by maltreatment or ill-use.

6.2 Advertising Liability

Advertising Injury:

- a. resulting from statements made at Your direction with knowledge that such statements are false; or
- b. resulting from incorrect description of Products or services; or
- c. incurred by any person insured under this Policy whose principal occupation or business is advertising, broadcasting, publishing or telecasting; or
- d. resulting from any mistake in advertised price of Products or services; or
- e. arising out of the failure of Your Products or services to conform with advertised performance, quality, fitness or durability.

6.3 Aircraft, Hovercraft and Watercraft

- a. the ownership, possession, use, existence, working, navigation, operation, repair, maintenance, servicing, construction or installation by You or on Your behalf of any Aircraft; or
- b. the ownership, possession, use, existence, working, navigation, operation, repair, maintenance, servicing, construction or installation by You or on Your behalf of any Watercraft exceeding 8 metres in length, except where such Watercraft are owned or operated by others and used by You for business entertainment and such business entertainment is in connection with your Business; or
- c. the ownership, possession, use, existence, working, navigation, operation, repair, maintenance, servicing, construction or installation by You or on Your behalf of any Hovercraft; or
- d. the use of Your Product with Your knowledge in the construction, operation, maintenance, servicing or repair of any Aircraft, Watercraft (exceeding 8 metres in length) or Hovercraft.

6.4 Defamation

the publication of a libel, utterance of a slander or defamation:

- a. first made prior to the Period of Insurance; or
- b. made by You or with Your authority, with knowledge of its falsity or defamatory character; or
- c. in any way connected with advertising, broadcasting, publishing or telecasting activities conducted by You or on Your behalf, including but not limited to the publication of material on the Internet.

6.5 Design

the design, plan, formula or specification of Your Product or any instructions, warnings, advice or information on the characteristics, use, storage or application of Your Product.

6.6 Employer's Liability

- a. Personal Injury to any Worker in respect of which You are or would be entitled to indemnity under any policy of insurance, fund, scheme or self insurance pursuant to or required by any legislation relating to workers' compensation or accident compensation whether or not such policy, fund, scheme or self insurance has been effected.

However this Policy will respond to the extent that Your liability would not be covered under any such policy, fund, scheme or self insurance arrangement had You complied with its obligations pursuant to such law;

- b. claims or Losses imposed by:
 - i. the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination or contract of employment or workplace agreement;
 - ii. any law relating to employment practices.

6.7 Fines, Penalties, Punitive, Exemplary or Aggravated Damages

fines, penalties, liquidated, aggravated, exemplary or punitive damages.

6.8 Loss of Use

loss of use of tangible property (not physically lost, destroyed or damaged) caused by or arising directly or indirectly out of:

- a. delay or lack of performance by You or on Your behalf under any contract or agreement; or
- b. the failure of Your Product to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by You.

6.9 Malpractice

any malpractice, error, act or failure to act committed in the rendering of professional services or advice by any medical doctor, resident, intern or other person or organization under contract or agreement with You to administer, review, oversee, direct, conduct, consult on, or perform services.

6.10 Money and Securities

loss or damage to cash, securities, bullion, gold or negotiable instruments owned by You or for which You have assumed a responsibility.

6.11 Pollution

- a. Personal Injury or Property Damage or financial loss or loss of, damage to, or loss of use of property or the actual, alleged or threatened dispersal, release, escape, migration, emission or seepage of Pollutants; or
- b. the cost of testing, monitoring, containing, removing, nullifying or cleaning up of Pollutants

except liability otherwise excluded under clause a. and b. above that arises from a sudden identifiable, unintended and unexpected happening, which takes place in its entirety at a specific time and place.

6.12 Product Defect, Product Recall and Faulty Work

- a. Property Damage to Your Product in connection with any defect or lack of quality in Your Product, the harmful nature of Your Product or unsuitability or ineffectiveness of Your Product;
- b. the withdrawal, inspection, removal, reinstallation, repair, replacement or loss of use of Your Product, or of any property of which Your Product forms a part, if Your Product is recalled from the market or from use because of any known or suspected defect or deficiency in it; or
- c. the cost of repairing, correcting, performing or improving any work or service undertaken or provided by You or on Your behalf, provided that this Exclusion does not apply to Personal Injury or Property Damage resulting from such work or service undertaken or provided by You or on Your behalf.

6.13 Professional Liability

the rendering of or failure to render professional advice or service by You or on Your behalf or an error or omission in connection therewith, but this Exclusion does not apply to:

- a. the rendering of or failure to render professional medical advice by medical persons employed by You to provide first aid and other medical services on Your Premises; or
- b. advice given in respect of the use or storage of Your Products.

6.14 Property in Your Physical or Legal Control

Property Damage to property owned, leased or hired by or under hire purchase or on loan to You or otherwise in Your physical or legal care, custody or control, other than:

- a. buildings and their contents at Your Premises, which are leased or rented to You for Your Business;
- b. Employees' and visitors' clothing and personal effects;
- c. Vehicles (not owned or used by You or on Your behalf or liability for Vehicles not otherwise excluded by this Policy) whilst in a car park owned or operated by You other than for reward;
- d. other property not owned by You, leased to You or rented to You but temporarily and legally occupied by You or in Your possession or control, however We will not indemnify You for damage to that part of such property on which You are working or have been working and which arises out of that work.

6.15 Sexual Abuse

actual, threatened or perceived sexual assault, sexual harassment or molestation.

6.16 Tobacco and Smoking

the inhalation or ingestion of, or exposure to, tobacco or tobacco smoke or any ingredient or additive present in any articles, items or goods which contain or include tobacco.

6.17 Treatment Risk

malpractice, treatment prescribed or administered, or the failure to prescribe or administer treatment, by You or any Employee or agent of You and/or breach of duty owed in a professional capacity by You or by any person for whose actions You are responsible.

6.18 Underground Services

Property Damage to any underground services except where You have contacted the appropriate authorities to verify the existence and location of underground services and have obtained from them a plan detailing the location of such services prior to commencement of work.

6.19 Vehicles

the ownership, possession, maintenance, use or control of any Vehicle:

- a. which is registered or required to be registered by any legislation or competent authority, except where such liability is caused by:
 - i. the loading or unloading of any Vehicle or the delivery or collection of goods to or from any Vehicle, where such Personal Injury or Property Damage occurs beyond the limits of any carriageway or thoroughfare declared as a designated road; or
 - ii. the use of any mechanical tool or plant attached to or forming part of any Vehicle, whilst the Vehicle is being used at Your Premises or another work site for the purpose of Your Business but not whilst the Vehicle is in transit or is being used for transport or haulage; or
- b. where such liability is insured or required to be insured by any legislation or competent authority.

6.20 Welding and Allied Processes

non-compliance by You or by others working on Your behalf with all applicable laws and standards relating to welding and allied processes including, but not limited to, AS 1674.1-1997 "Safety in welding and allied processes – Fire precautions" published by Standards Australia and as amended or substituted from time to time.

7. Additional Conditions for Part B

In addition to the General Conditions, the following conditions apply to this Part of the Policy.

If You are in breach of any of the conditions applicable to this Part of the Policy, We may decline to pay a claim or reduce (in some cases to nil) the amount You would otherwise be entitled to receive if the claim is substantially affected by the breach, and to the extent permitted by law.

7.1 Maintenance of Product Records

You must keep and maintain, for at least 5 years after the date upon which they are brought into existence or come into Your possession or control, documents and records:

- a. relating to research and development, specification, design and manufacturing of Your Product;
- b. showing the source and quality of components of Your Product;
- c. identifying persons and entities comprising the distribution chain for Your Product;
- d. comprising sales records, including batch number and destination of Your Product; and
- e. detailing quality control, inspection, testing, repairs, replacements and recalls of Your Product.

Part C: Management Liability

1. Specific Definitions for Part C

The following definitions apply to Part C of the Policy:

Claim

Any:

- a. written demand for compensation or damages or other relief; or
- b. civil proceeding seeking compensation or damages or other relief; or
- c. criminal charge brought against You alleging a Wrongful Act; or
- d. of the following requiring You to attend an Inquiry or other proceedings ordered by an Inquiry Body:
 - i. notice of charge; or
 - ii. formal investigation order; or
 - iii. formal investigation notice.

Company

The organisation, company, partnership or sole trader named in the Schedule and their Subsidiaries in existence at the inception date of the Period of Insurance.

Crisis Event

Any of the following unforeseen events:

- a. recall or contamination of the insured Company's Product; or
- b. the sudden and unexpected death of any executive team member; or
- c. loss of major customer, contract or loan facility; or
- d. unauthorised intrusion into the insured Company's computer facilities; or
- e. any criminal investigation.

Provided that in the reasonable opinion of Your Chief Executive Officer, if left unmanaged, that event has the potential to cause a material impact on the reputation of the insured Company or an imminent decrease of greater than 30% of the total consolidated annual revenues of the insured Company.

Defence Costs

Reasonable legal costs and other expenses incurred by or on behalf of You (with Our written consent, which shall not be unreasonably withheld or delayed) or by Us in the investigation, defence and/or settlement of an Occurrence or Claim.

Inquiry

A formal or official investigation, examination or inquiry before any Inquiry Body having the power to compel the attendances of witnesses arising out of the conduct of Your Business other than any industry-wide investigation and/or routine supervision, inspection, compliance or similar review.

Insured Person

Any Employee, Officer or Trustee.

Not for Profit Organisation

Any entity, body, company, club, association, committee or other enterprise that is exempt from payment of income tax under federal, state or territory laws but does not include a Subsidiary.

Outside Directorship

The position of a director, Officer, trustee or secretary held by an Officer in a Not for Profit Organisation or Outside Entity with the consent and at the request of the Business.

Outside Entity

Any entity, body, company, club, association, committee or other enterprise that is not a Subsidiary.

Penalties

Monetary sums You are ordered by a court or tribunal to pay to any Regulatory Authority but not:

- a. any amounts payable as compensation; or
- b. any tax, rates, duty, fees, levies, charges or other revenue; or
- c. any damages, including any exemplary or punitive damages; or
- d. any consequential economic loss; or
- e. any Defence Costs and associated expenses; or
- f. any penalty arising from any offence under Sections 182, 183, 601FD, 601FE or 601JD of the *Corporations Act 2001* (Cth) or as they may be re-enacted or amended; or
- g. any compliance, remedial, reparation or restitution costs; or
- h. any penalty arising from gross negligence or recklessness; or
- i. any penalty resulting from any wilful, intentional, dishonest or deliberate breach or failure to comply with any legal demand, direction, proceeding or notice issued under any act or regulation enacted by the federal or a state or a territory parliament within the Commonwealth of Australia; or
- j. any penalty arising from circumstances where You knew or ought reasonably to have known that the behaviour was wrong; or
- k. any penalty attributable to the period after which You knew or ought reasonably to have known that the behaviour was wrong; or
- l. any penalty for breach of consumer protection legislation.

Superannuation Trustees Liability

Any liability from a Claim in relation to any act, error or omission in connection with You acting as a Trustee for the superannuation or pension fund provided for the benefit of Employees which is specified in the Schedule.

Trustee

Any natural person who is a past, present or future Insured Person who is duly appointed trustee of the Superannuation fund provided for the benefit of Employees which is specified in the Schedule.

You or Your

- a. Each person, Company or other entity specified in the Schedule as being insured under this Policy as well as all Subsidiary Companies incorporated within the Territorial Limit and notified to Us, existing before the inception date of this Policy and declared in the Proposal.
- b. Insured Person or Company.

2. Insuring Clause for Part C

2.1 The Cover

Where cover under this Part is indicated in Your Schedule, We will indemnify You for all Loss arising from a Claim against You, which is:

- a. first made against You during the Period of Insurance and notified to Us during the Period of Insurance; and
- b. indemnified by the types of cover provided in this clause 2.1.

Any indemnity provided by Us to You is provided in consideration of payment of the Premium by You and is subject to the terms and conditions, limits and exclusions of this Policy including the Limit of Indemnity for Part C and the Excess.

2.1.1 Directors and Officers Liability

We will pay on behalf of an Insured Person Loss resulting from any Claim against that Insured Person in respect of a Wrongful Act for which the Company is not permitted or required to indemnify that Insured Person.

2.1.2 Company Reimbursement Cover

We will pay on behalf of the Company a Loss that the Company is legally permitted to pay and an Insured Person has paid or agreed to pay by reason of any Wrongful Act committed by an Insured Person in their capacity as an Insured Person.

2.1.3 Company Liability Cover

We will pay the Company for a Loss due to a Claim made against the Company for a Wrongful Act.

2.1.4 Employment Practices Liability Cover

We will pay on behalf of the Company Loss which You must pay by reason of any Claim for Employment Practices Liability.

2.1.5 Superannuation Trustees Liability

We will pay on behalf of a Trustee Loss for which a Trustee must pay by reason of any Claim for Superannuation Trustees Liability.

2.1.6 Fines and Penalties

We will indemnify an Insured Person and the Company for Penalties arising out of any Claim indemnified under clauses 2.1.1 and 2.1.2 of this Part. Additional Exclusions for Part C clause 7.7 (Fines, Penalties and Taxes) does not apply to any Claim covered under this Insuring Clause.

3. Limit of Indemnity for Part C

Our total liability under Part C of this Policy in respect of any one Claim, and in the aggregate for all Claims (including any amounts paid or which have been agreed will be paid in accordance with General Condition 6 – ‘Discharge of Liability’) will not exceed the Limit of Indemnity for Part C.

If the limit is shown in the Policy or the Schedule for Part C for a particular cover or extension, Our total liability under that cover or extension is that limit and not the Limit of Indemnity for Part C. The limit is part of and not in addition to the Limit of Indemnity for Part C.

We will indemnify You for Defence Costs in addition to the Limit of Indemnity for Part C for up to:

- i. \$5,000,000; or
- ii. the Limit of Indemnity for Part C for that cover or extension; whichever is the lesser.

If a judgment or an amount required to settle a Claim exceeds the Limit of Indemnity for Part C, Our liability to pay Defence Costs is limited to the proportion of the Limit of Indemnity for Part C that bears to the amount required to be paid to dispose the Claim and in all cases will not exceed an amount equivalent to:

- i. \$5,000,000; or
- ii. the Limit of Indemnity for Part C;

whichever is the lesser.

4. Automatic Extensions for Part C

We agree to provide cover under these extensions under this Part of the Policy for no additional Premium provided that:

- a. the indemnity provided is subject to the Schedule, General Exclusions, General Exclusions applicable to the General Definitions, Additional Exclusions for Part C and Exclusions applicable to Specific Definitions for Part C, General Conditions, Excess and all other terms applicable to Part C of this Policy; and
- b. the inclusion of any extension under Part C of the Policy shall not increase the Limit of Indemnity for Part C.

4.1 Advance Payment of Defence Costs

We agree to advance Defence Costs within a reasonable time frame after receiving invoices specifying Defence Costs but prior to determining Your entitlement to indemnity under this Policy provided that:

- a. We have not denied indemnity for the Claim; and
- b. We have provided written consent to the Defence Costs prior to them being incurred; and
- c. We reserve Our right to cease paying or recover any Defence Costs paid under this extension to You in relation to the extent that either are found not to be entitled to indemnity.

If an allegation is made of a Wrongful Act as described in General Exclusions clause 4 (Dishonesty and Improper Advantage) and it is subsequently established by admission, final judgment or final adjudication that You did commit that Wrongful Act, any Defence Costs advanced must be repaid to Us.

4.2 Bail and Bond Expenses

If a Claim is covered under clauses 2.1.2 (Directors and Officers Liability) and/or clause 2.1.3 (Company Reimbursement Cover) of Part C We will pay the reasonable premium (excluding collateral) for any bond or other financial instrument to guarantee an Insured Person's contingent obligation for bail required by a court hearing a Claim.

Our total liability under this extension is \$100,000 in the aggregate during the Period of Insurance.

4.3 Competition and Consumer Act

We will pay on an Insured Person's behalf any Claim brought pursuant to the:

- a. Misleading and deceptive conduct provisions under Part 2-1 of Schedule 2 to the *Competition and Consumer Act 2010* (Cth) or any succeeding legislation as amended from time to time; or
- b. Restrictive trade practices provisions under Part IV of the *Competition and Consumer Act 2010* (Cth) or any succeeding legislation as amended from time to time.

4.4 Compensation for Court Attendance

We will pay You compensation if an Insured Person is required to attend court as a witness in connection with a Claim covered under this Policy, provided that the lawyers acting on behalf of You requested the Insured Person to attend. We will pay the rate equivalent to the Insured Person's daily take home salary up to \$500 per person each day subject to a maximum of \$10,000 (for all persons) in any one Claim.

4.5 4.5 Continuous Cover

Where You:

- a. first became aware of facts or circumstances that might give rise to a Claim, in the period 12 months prior to the Period of Insurance; and
- b. had not notified Us of such facts or circumstances prior to the Period of Insurance, then General Exclusions clause 7 (Prior Circumstances, Occurrences or Claims) will not apply to any notification during the Period of Insurance of any Claim resulting from such facts or circumstances, provided that:
 - i. there is an absence of fraudulent non-compliance with Your duty of disclosure and an absence of fraudulent misrepresentation by You in respect of such facts or circumstances; and
 - ii. You have been continuously insured, without interruption at the time of the notification of the Claim to Us, under a directors and officers or management liability insurance policy and were insured at the time when You first became aware of such facts or circumstances; and
 - iii. We may reduce Our liability under the Policy to the extent of any prejudice that We may suffer in connection with Your failure to notify the facts or circumstances giving rise to a Claim prior to the Period of Insurance; and
 - iv. this extension does not apply to any indemnity provided by clause 4.18 (Reinstatement of the Limit of Indemnity) or 5.2 (Fidelity Cover) of Part C.

4.6 Crisis Containment

We will provide cover to the Company for reasonable fees and costs to obtain external crisis management services in response to a Crisis Event, which first occurs during the Period of Insurance and is notified to Us during the Period of Insurance.

Our total liability under this extension is \$100,000 in the aggregate during the Period of Insurance.

4.7 Emergency Defence Costs

If it is unduly onerous for You to obtain Our consent prior to incurring Defence Costs for a Claim which is covered by this Policy, We will waive consent for Defence Costs up to \$100,000. This waiver only applies if You obtain Our consent (which shall not be unreasonably withheld or delayed) within 30 days of incurring the first amount of Defence Costs.

4.8 Estates

We agree to provide cover for the estate, heirs, legal representatives or assigns of any deceased, mentally incapacitated or insolvent Insured Person.

4.9 Extended Reporting Period

If We refuse to offer renewal terms at the end of the Period of Insurance for Part C for any reason other than failure to pay the Premium, You may pay 100% of the expiring annual Premium and then be entitled to one extension of cover under Part C for a further 12 months starting upon expiry of the Period of Insurance for Part C.

This extension only provides cover for Wrongful Acts actually or allegedly attempted or committed prior to the expiry of the Period of Insurance for Part C. You must give Us notice that You require this Extended Reporting Period prior to expiry of the Period of Insurance for Part C.

This extension is not available if the Policy is cancelled or avoided and not available if replaced with another management liability policy.

4.10 Inquiry Costs

We will pay on Your behalf Inquiry Costs incurred in representing an Insured Person at any official Inquiry or other proceedings ordered by an Inquiry Body where:

- a. the Claim was first made against an Insured Person during the Period of Insurance and notified to Us during the Period of Insurance; and
- b. the Insured Person is legally compelled to attend; and
- c. is in relation to the affairs of Your Business and the performance of the Insured Person's duties in the conduct of Your Business.

Any notice requiring an Insured Person to attend the inquiry must be first received by the Insured Person during the Period of Insurance for Part C.

4.11 Intellectual Property

We agree to provide cover for infringement of rights of intellectual property, provided that the act, error or omission by You is unintentional and committed in the course of the conduct of Your Business.

4.12 Joint Venture Cover

We agree to provide cover for liability arising from any Claim in respect of any Joint Venture but not for any Claim brought by or on behalf of any partners in the Joint Venture or any entity established to manage or conduct the Joint Venture.

4.13 Libel and Slander

We agree to provide cover for defamation provided that the act, error or omission by You is unintentional and is committed in the course of the conduct of Your Business.

4.14 New Subsidiaries

If You create or acquire a Subsidiary during the Period of Insurance for Part C, We will provide indemnity to the Subsidiary for Wrongful Acts committed after the time that the entity became a Subsidiary.

If the Subsidiary has a consolidated asset value at the time of creation or acquisition of 20% or more of Your total consolidated asset value, the cover provided by this extension will cease at 4pm 60 days after creation or acquisition of the Subsidiary unless:

- a. You give notice of the Subsidiary within 60 days of its creation or acquisition; and
- b. We agree to indemnify the Subsidiary; and
- c. You agree to any additional terms or payment of Premium that We may request.

For the purposes of this extension only, You means the organisation named as the Company in the Schedule and any Subsidiary.

4.15 Not for Profit Organisation Outside Directorships

We will provide cover under clause 2.1.1 (Directors and Officers Liability) of Part C for Outside Directorships in Not for Profit Organisations held by an Insured Person at the start of or during the Period of Insurance for Part C. This cover will only extend to directors and Officers of the Not for Profit Organisation who are also Insured Persons. This cover will only apply in excess of any insurance indemnifying the Insured Person available to the Not for Profit Organisation.

4.16 Occupational Health and Safety

We will pay on Your behalf Defence Costs incurred in defending Claims against You first made and notified to Us during the Period of Insurance in connection with occupational health and safety laws of the Commonwealth of Australia. The Claims must be brought within the jurisdiction of the laws of the Commonwealth of Australia. Clause 7.1 (Bodily Injury and Property Damage) of Part C does not apply to this extension.

Our total liability under this extension is the amount noted in the Schedule. If You are entitled to payment under this extension there is no entitlement to cover under clause 4.17 (Pollution) of Part C.

4.17 Pollution

Despite Additional Exclusion for Part C clause 7.10 (Pollution), We will pay on Your behalf Defence Costs incurred in defending Claims against You first made and notified to Us during the Period of Insurance in connection with Pollutants. The Claims must be brought within the jurisdiction of the laws of the Commonwealth of Australia.

Our total liability under this extension is \$250,000 in the aggregate during the Period of Insurance.

4.18 Reinstatement of the Limit of Indemnity

If the Limit of Indemnity for Part C as set out in the Schedule is exhausted or partially exhausted due to payment(s) by Us of Loss under clauses 2.1.1 (Directors and Officers Liability) or 2.1.2 (Company Reimbursement Cost) of Part C, We agree to reinstate the Limit of Indemnity for Part C by the amount by which it is exhausted provided that:

- a. the reinstatement will not apply to Claims made prior to the effective date of the reinstatement; and
- b. the aggregate of the amounts reinstated during the Period of Insurance for Part C will be limited to an amount equal to the Limit of Indemnity for Part C applicable at the start of the Period of Insurance for Part C; and
- c. the Limit of Indemnity for Part C reinstated will represent Our total liability for all Claims made during the time from the effective date of the reinstatement until the expiry of the Period of Insurance for Part C;
- d. if an Insured Person has insurance that operates in excess of this Policy as applicable to Part C, a reinstatement will not apply until the amounts payable under that insurance are exhausted.

4.19 Retirement Cover

Any Insured Person who has retired from all employment and holding any office prior to the expiry of the Period of Insurance for Part C will be entitled to cover under Part C of this Policy but only in respect of Wrongful Acts actually or allegedly attempted or committed prior to retirement.

4.20 Run off for Outside Directorships

We agree to provide indemnity for Outside Directorships which Your Officer held in an Outside Entity or Not for Profit Organisation if that Officer:

- a. ceased to hold the Outside Directorship during the Period of Insurance for Part C; and
- b. the Wrongful Act giving rise to the Claim occurred before Your Officer or Your Employee ceased to hold the Outside Directorship; and
- c. the Outside Directorship had been or is covered by Us under Part C of this Policy or previous policies.

Automatic Extension clause 4.15 (Not for Profit Organisation Outside Directorships) of this Part applies to this Extension.

4.21 Spousal Cover

We will pay on behalf of the legal spouse of an Insured Person Loss in respect of any Wrongful Act by that Insured Person if the Claim is made against the spouse only due to:

- a. the spouse's legal status as spouse of that Insured Person; or
- b. the spouse's interest in property which the claimant seeks recovery for a Wrongful Act.

4.22 Subsidiary Run Off Cover

If an entity ceases to be a Subsidiary prior to or during the Period of Insurance for Part C, We will provide indemnity for an Insured Person of that Subsidiary for Wrongful Acts committed prior to the time that the entity ceased to be a Subsidiary.

5. Optional Extensions for Part C

We agree to provide cover under an optional extension for Part C provided that:

- a. it is shown on the Schedule that indemnity is provided under that extension; and
- b. all terms and conditions of this Policy applicable to Part C apply; and
- c. if a limit of that extension is shown in the Schedule then this amount represents Our total liability for that extension.

5.1 Current Outside Directorships

We will provide cover under clause 2.1.1 (Directors and Officers) of Part C for Outside Directorships held by Your Officer at the commencement of the Period of Insurance for Part C in any Outside Entity specified in the Schedule. This cover will only extend to directors and officers of the Outside Entity who are also Your Officers and will apply in excess of any insurance indemnifying that Officer available to the specified Outside Entity.

5.2 Fidelity Cover

We will reimburse You for any loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes belonging to You or for which You are legally liable due to any dishonest or fraudulent act or omission of an Insured Person which is first discovered by You during the Period of Insurance for Part C and notified to Us during the Period of Insurance for Part C.

You will be responsible for the cost of proving Loss under this extension.

5.3 Pre Acquisition Liability

We will indemnify an Insured Person of any Subsidiary specified in the Schedule for any Wrongful Act that occurred prior to the acquisition of that Subsidiary by You.

6. Exclusions Applicable to Specific Definitions for Part C

Certain defined terms in the Specific Definitions for Part C section of this Policy contain exclusions that change, limit or reduce cover under this Policy. The exclusions contained in those defined terms are listed below:

6.1 Inquiry

Does not include any industry-wide investigation and/or routine supervision, inspection, compliance or similar review.

6.2 Not for Profit Organisation

Does not include a Subsidiary.

6.3 Penalties

Monetary sums You are ordered by a court or tribunal to pay to any Regulatory Authority but not:

- a. any amounts payable as compensation; or
- b. any tax, rates, duty, fees, levies, charges or other revenue; or
- c. any damages, including any exemplary or punitive damages; or
- d. any consequential economic loss; or
- e. any Defence Costs and associated expenses; or
- f. any penalty arising from any offence under Sections 182, 183, 601FD, 601FE or 601JD of the *Corporations Act 2001* (Cth) or as they may be re-enacted or amended; or
- g. any compliance, remedial, reparation or restitution costs; or
- h. any penalty arising from gross negligence or recklessness; or
- i. any penalty resulting from any wilful, intentional, dishonest or deliberate breach or failure to comply with any legal demand, direction, proceeding or notice issued under any act or regulation enacted by the federal or a state or a territory parliament within the Commonwealth of Australia; or
- j. any penalty arising from circumstances where You knew or ought reasonably to have known that the behaviour was wrong; or
- k. any penalty attributable to the period after which You knew or ought reasonably to have known that the behaviour was wrong; or
- l. any penalty for breach of consumer protection legislation.

7. Additional Exclusions for Part C

In addition to the General Exclusions, We will not indemnify You for any actual or alleged liability directly or indirectly arising from, caused by, attributed to, or in any way connected with:

7.1 Bodily Injury and Property Damage

- a. Bodily Injury, mental illness, mental anguish, mental tension, emotional distress, sickness, disease, death of any person, disability, shock, mental injury, false arrest, false imprisonment, wrongful eviction, wrongful entry, wrongful detention, malicious prosecution, defamation (including libel and slander), humiliation, invasion of privacy; or
- b. damage to or destruction of any tangible property, including loss of use of such property, whether or not it is damaged or destroyed.

7.2 Breach of Professional Duty

- a. the rendering of or failure to render professional services and/or professional advice; or
- b. a breach or alleged breach of any contract for the provision of professional services and/or professional advice.

7.3 Capital Raising and Prospectus Liability

any offer for the raising of capital by debt or equity, including but not limited to the initial public offering of securities in the Business.

7.4 Consensual Claims

any Claims made, brought or maintained by or on behalf of any person or entity with the solicitation, co-operation or assistance of You.

7.5 Employment Practices Liability

for cover under clause 2.1.4 (Employment Practices Liability Cover) of Part C of this Part:

- a. failure or allegations of failure to comply with procedural or notification requirements upon termination of employment because of redundancy; or
- b. allegations of failure to comply with workers' compensation or occupational health and safety laws however this does not apply to the clause 4.12 (Joint Venture Cover) of Part C; or
- c. contracts alleged to be harsh, unfair, unconscionable or contrary to public interest; or
- d. costs of changing premises (including modifications to any building or property to accommodate or allow access to any disabled person) or equipment or work practices; or
- e. failure or allegations of failure to comply with the express terms of any workplace agreement which is lodged with an industrial tribunal, terms of legislation or terms of an award; or
- f. Your actual or alleged breach of an implied or express term of a contract of employment requiring You to treat an Employee in good faith, fairly, with trust and confidence; or
- g. any strike, lock out, picket, go slow, work to rule or any other industrial action.

7.6 Fidelity

For cover under clause 5.2 (Fidelity Cover) of Part C, any Loss:

- a. discovered before the start of the Period of Insurance for Part C;
- b. arising outside of Australia or arising out of, based upon or attributable to or in any way connected with a Loss occurring outside of Australia;
- c. if the Loss can only be proven by profit and loss accounts or inventory calculations or stock takes;
- d. of income direct or indirect regardless of whether it is realised or not realised by You;
- e. in relation to the costs of rewriting or reinstalling computer programs or systems;
- f. caused by or contributed to by an Insured Person who did not hold that office or was not employed by You at the time the Loss occurred;
- g. incurred by or on behalf of any Insured Person who committed or condoned any dishonest, fraudulent, criminal or malicious acts or omissions;
- h. arising from any dishonest, fraudulent, criminal or malicious acts or omissions of any Insured Person;
- i. arising from any dishonest, fraudulent, criminal or malicious acts or omissions which an Insured Person had knowledge of and then failed to take action to stop or prevent these or any Loss arising from these acts or omissions;
- j. arising from default of a loan or credit offered by or to the Business;
- k. arising from or as a result of the voluntary giving of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes unless as a result of a dishonest, fraudulent, criminal or malicious acts or omission of an Insured Person;
- l. arising from or as a result of any kidnap, ransom or extortion; or
- m. arising from or as a result of the distribution or accessing of any confidential information including but not limited to customer information, trade secrets, computer information, patents or trademarks.

7.7 Fines, Penalties and Taxes

any exemplary, aggravated, punitive or liquidated damages, fines, penalties, tax or duty.

7.8 Insolvency and Financial Impairment

any Claim arising out of Your Insolvency or Your inability to pay debts as and when they fall due, regardless of whether You were Insolvent or not at the time of the acts giving rise to the Claim.

For the purpose of this exclusion, 'debts' includes but is not limited to the payment of entitlements on behalf of and to Employees.

7.9 Major Shareholder Actions

any Claim brought by any shareholder having direct or indirect control of fifteen per cent (15%) or more of You.

7.10 Pollution

the actual, alleged or threatened dispersal, release or escape of Pollutants into or upon real or personal property, the atmosphere, any water course or body of water, including but not limited to any enforcement action or proceeding in connection with the containment, clean up, removal, treatment or monitoring of such Pollutants, or seepage, pollution or contamination.

7.11 Related Parties

any Claim made, brought or maintained by or on behalf of You except for:

- a. any Claim resulting from Employment Practices Liability;
- b. Defence Costs;
- c. a shareholder derivative action brought or maintained on behalf of You without the solicitation, co-operation or assistance of any of Your Officers and provided the shareholder was not an Officer at the time the Wrongful Act occurred;
- d. any Claim brought or maintained by a liquidator, receiver or administrative receiver derivatively on Your behalf without the solicitation, co-operation or assistance of any Officer;
- e. any Claim brought or maintained by You for contribution or indemnity if the Claim is directly resulting from another Claim covered by this Policy;
- f. a Claim by You pursuant to Section 50 of the *Australian Securities and Investments Commission Act 2001* (Cth) (where ASIC may cause civil proceedings to be begun); or
- g. a Claim by any person or entity who or which is related to or associated with You, and such person or entity is acting without Your prior direct or indirect solicitation, co-operation or assistance.

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