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**Directors &  
Officers Liability  
Insurance**

**POLICY SCHEDULE &  
WORDING**

[libertyspecialtymarkets.com.au](http://libertyspecialtymarkets.com.au)



**Liberty**  
Specialty Markets

## Important Notices

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### Privacy

Liberty Specialty Markets is a trading name of Liberty Mutual Insurance Company, Australia Branch (ABN 61 086 083 605) incorporated in Massachusetts, USA (the liability of members is limited) (**Liberty**). It is a member of Boston-based Liberty Mutual Group. **Liberty** Australia's head office contact details are:

Address: Locked Bag 18, Royal Exchange NSW 1225, Australia  
Phone: +61 2 8298 5800

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### Claims Made Insurance

Please note that this **Policy** provides insurance on a claims made and notified basis. This means that, other than as provided under the Insurance Contracts Act 1984 (Cth), **Liberty** will only cover the **Insured** in respect of **Claims** which are first made against the **Insured** during the **Policy Period** and notified to **Liberty** during the **Policy Period**. This **Policy** may contain a retroactive date exclusion.

The **Insured** should carefully read all of this **Policy**, including all definitions and, in particular, the exclusions, to ascertain the precise scope of cover afforded by this **Policy**. The **Insured** is advised to consult its insurance agent or broker to ensure a clear understanding of the **Insured's** rights and obligations under this **Policy**.

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# Policy Schedule

POLICY NUMBER	XX-XX-XX-XXXXXX		
NAMED INSURED			
POLICY PERIOD	From: <time> on <date> local standard time To: <time> on <date> local standard time		
INSURING CLAUSES	1.1 Directors & Officers Liability		Included/Not Included
	1.2 Company Reimbursement		Included/Not Included
	1.3 Company Securities Liability		Included/Not Included
	1.4 Self-Report, Raid & Inquiry Costs & Expenses		Included/Not Included
CURRENCY	XXX		
LIMIT OF LIABILITY	\$X,000,000		
SUB-LIMITS OF LIABILITY	2.6 Cost of Living Expenses	Per Insured Person	\$X,000,000
		Aggregate	\$X,000,000
	2.7 Court Attendance Costs		\$X,000,000
	2.18 Public Relations Expenses		\$X,000,000
	2.19 Reputation Protection Expenses		\$X,000,000
	2.20 Shareholder Derivative Investigation Costs		\$X,000,000
	3.2 Company Employment Practices Liability (if included)		\$X,000,000
DIRECTORS ADDITIONAL LIMIT OF LIABILITY	2.8 Additional Limit		\$X,000,000
OPTIONAL EXTENSIONS	3.1 Backdated Continuous Cover		Included/Not Included
	3.2 Company Employment Practices Liability		Included/Not Included
APPOINTMENT OF LEGAL REPRESENTATION	5.3 Defence Select		Included/Not Included
EXCESS	Insuring Clause 1.1		Nil
	Insuring Clause 1.2		\$X,000,000
	Insuring Clause 1.3		\$X,000,000
	Insuring Clause 1.4		\$X,000,000
	Optional Extension 3.2		\$X,000,000
BACKDATED CONTINUITY DATE	<day> <month> <year>/Not Applicable		
EXTENDED REPORTING PERIOD	Extension 2.10 (a) Nil Additional Premium for 90 days (b) XXX% of the annual <b>Premium</b> for 12 months		

# Policy Schedule

POLICY WORDING Liberty AUS D&O (02-22)

ENDORSEMENTS 1 of X

This policy is valid only if this schedule is signed and dated below by a person authorised by **Liberty**.

Issued <day> <month> <year> in <office location>

AUTHORISED BY LIBERTY

Specimen

# Table of Contents

<b>1. Insuring Clauses</b>			<b>5. Claims Conditions</b>	
1.1 Directors & Officers Liability	1		5.1 Notification of Claims, Self-Reports, Raids & Inquiries	10
1.2 Company Reimbursement	1		5.2 Defence & Settlement	11
1.3 Company Securities Liability	1		5.3 Appointment of Legal Representation	12
1.4 Self-Report, Raid & Inquiry Costs & Expenses	1		5.4 Contesting a Claim	12
<b>2. Extensions</b>			5.5 Settling a Claim	12
2.1 Advancement of Costs & Expenses	2		5.6 Allocation Clause	13
2.2 Asset & Liberty Expenses	2		5.7 Order of Payments	13
2.3 Bail Bond & Civil Bond Expenses	2		5.8 Other Insurance	13
2.4 Change in Control – Run Off Cover	2		5.9 Excess Insurance	13
2.5 Continuous Cover	3		<b>6. General Conditions</b>	
2.6 Cost of Living Expenses	3		6.1 Limit of Liability	14
2.7 Court Attendance Costs	3		6.2 Excess	14
2.8 Directors Additional Limit of Liability	4		6.3 Aggregation	14
2.9 Emergency Expenses	4		6.4 Preservation of Right to Indemnity	15
2.10 Extended Reporting Period	4		6.5 Subrogation	15
2.11 Extradition Costs	4		6.6 Assignment	15
2.12 Fines & Penalties	5		6.7 Authorisation	15
2.13 Lifetime Cover for Former Insured Persons	5		6.8 Severability, Non Avoidance & Non Imputation	15
2.14 New Subsidiaries	5		6.9 Cancellation	16
2.15 Occupational Health & Safety Costs	6		6.10 Change in Control	16
2.16 Outside Directorships	6		6.11 Governing Law & Exclusive Jurisdiction	16
2.17 Personal Taxation & Superannuation Liability	6		6.12 Sanction Limitation & Exclusion Clause	16
2.18 Public Relations Expenses	6		6.13 Liberty Mutual AGM	16
2.19 Reputation Protection Expenses	7		6.14 Electronic Communications	17
2.20 Shareholder Derivative Investigation Costs	7		6.15 Policy Interpretation & Construction	17
<b>3. Optional Extensions</b>			6.16 Valuation & Foreign Currency	17
3.1 Backdated Continuous Cover	7		6.17 Tax	17
3.2 Company Employment Practices Liability	8		6.18 Confidentiality	17
<b>4. Exclusions</b>			<b>7. Definitions</b>	
4.1 ERISA	8		7.1 Change in Control	18
4.2 Fraud & Dishonesty	9		7.2 Claim	18
4.3 Personal Injury & Property Damage	9		7.3 Company	18
4.4 Prior Matters	9		7.4 Cost of Living Expenses	18
4.5 United States of America: Company versus Insured Person	9		7.5 Defence Costs	19
4.6 United States of America: Future Offering of Securities	10		7.6 Director	19
			7.7 Disclosure Document	19

## Table of Contents

7.8	Employee	19	7.25	Policy	22
7.9	Employment Practice Breach	19	7.26	Policy Period	22
7.10	Employment Wrongful Act	20	7.27	Pollutant	22
7.11	Extended Reporting Period	20	7.28	Premium	22
7.12	Extradition Proceeding	20	7.29	Raid	23
7.13	Final Adjudication	20	7.30	Schedule	23
7.14	Industrial Instrument	20	7.31	Securities	23
7.15	Inquiry	20	7.32	Securities Claim	23
7.16	Insured	20	7.33	Self-Report	23
7.17	Insured Person	21	7.34	Senior Counsel	23
7.18	Internal Inquiry	21	7.35	Shadow Director	23
7.19	Liberty	21	7.36	Shareholder Derivative Demand	23
7.20	Loss	21	7.37	Shareholder Derivative Investigation Costs	24
7.21	Market Rates	22	7.38	Shareholder Derivative Suit	24
7.22	Non-Panel Law Firm	22	7.39	Subsidiary	24
7.23	Officer	22	7.40	Wrongful Act	24
7.24	Panel Law Firm	22			

## Directors & Officers Liability Insurance

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In consideration of payment of the **Premium** by the **Insured** and subject to all the terms, conditions and exclusions, including all definitions, of this **Policy**, **Liberty** agrees as follows:

### 1. Insuring Clauses

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Each of the insuring clauses below will apply, only if specified as "Included" in the **Schedule**.

#### 1.1 Directors & Officers Liability

**Liberty** will pay to or on behalf of an **Insured Person**, **Loss** as a result of a **Claim**, unless the **Insured Person** has been indemnified by the **Company** for such **Loss**.

#### 1.2 Company Reimbursement

**Liberty** will pay to or on behalf of the **Company**, **Loss** for which the **Company** has indemnified or agreed to indemnify an **Insured Person** as a result of a **Claim**.

#### 1.3 Company Securities Liability

**Liberty** will pay to or on behalf of the **Company**, **Loss** as a result of a **Securities Claim**.

#### 1.4 Self-Report, Raid & Inquiry Costs & Expenses

**Liberty** will pay for the reasonable costs and expenses incurred by an **Insured Person**, or the reasonable costs and expenses for which the **Company** has indemnified or agreed to indemnify an **Insured Person**, in respect of a:

- (a) **Self-Report**;
- (b) **Raid**;
- (c) **Internal Inquiry**; or
- (d) **Inquiry**.

**Self-Report**, **Raid**, **Internal Inquiry** and **Inquiry** costs and expenses may only be incurred with **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed).

**Self-Report**, **Raid**, **Internal Inquiry** and **Inquiry** costs and expenses excludes salaries, wages, allowances, travel or accommodation expenses incurred by the **Insured** in assessing, investigating, dealing with or assisting others to deal with, a **Self-Report**, **Raid**, **Internal Inquiry** or **Inquiry**.

## 2. Extensions

Subject to all the terms, conditions and exclusions, including all definitions, of this **Policy**, **Liberty** further agrees to extend cover provided under this **Policy** as follows:

### 2.1 Advancement of Costs & Expenses

**Liberty** will pay for **Defence Costs** and the reasonable costs and expenses incurred under any insuring clause or applicable extension as and when they are incurred prior to final resolution of any **Claim, Self-Report, Raid, Internal Inquiry or Inquiry**.

However, each **Insured** must repay to **Liberty** all **Defence Costs** or any other costs and expenses paid or incurred on that **Insured's** behalf if, and to the extent, it is established that such **Defence Costs** or other costs and expenses are not insured under this **Policy**.

### 2.2 Asset & Liberty Expenses

**Liberty** will pay for the reasonable costs and expenses directly pertaining to and incurred by or on behalf of an **Insured Person** with **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed) to:

- (a) defend legal proceedings seeking the imposition of; or
- (b) bring legal proceedings to appeal the imposition of,  
an interim or interlocutory court order:
  - (i) for the confiscation of or freezing of any asset of an **Insured Person**;
  - (ii) for a charge over any asset of an **Insured Person**;
  - (iii) disqualifying an **Insured Person** from performing the function of a director or officer of any **Company**;
  - (iv) requiring an **Insured Person** to be confined to a specified domestic residence or held in custody pending trial; or
  - (v) for the deportation of an **Insured Person** following the revocation of their otherwise proper, current and valid immigration status for any reason other than their conviction of a crime, provided that the interim or interlocutory court order arises in respect of a **Claim, Self-Report, Raid, Internal Inquiry or Inquiry** into the **Insured Person** in their capacity as an **Insured Person**.

### 2.3 Bail Bond & Civil Bond Expenses

**Liberty** will pay for the reasonable premium or fee (but not the collateral) incurred by or on behalf of an **Insured Person** in respect of appeal bonds, bail bonds or similar bonds required by a court in respect of a **Claim** in order to guarantee an **Insured Person's** contingent obligation for a specified amount provided that **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed) has been obtained.

### 2.4 Change in Control – Run Off Cover

If a **Change in Control** occurs during the **Policy Period** then the **Named Insured** may request an extended reporting period of up to 84 months commencing from the end of the **Policy Period** during which time an **Insured** may notify to **Liberty**:

- (a) any **Claim** provided it results from a **Wrongful Act**; or



## Directors & Officers Liability Insurance

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(b) any **Self-Report, Raid, Internal Inquiry** or **Inquiry** provided it results from conduct, committed or allegedly committed prior to the effective date of the **Change in Control**.

The **Named Insured** must request this extended reporting period in writing before the end of the **Policy Period**. **Liberty** will offer this extended reporting period on such terms and conditions and for such additional premium as **Liberty** determines to be appropriate.

This extension does not apply if this **Policy** is cancelled by **Liberty**.

### 2.5 Continuous Cover

If an **Insured** was aware of any facts that might give rise to a claim under this **Policy**, prior to the commencement of the **Policy Period**, and could have notified those facts under any previous policy issued by **Liberty** of which this **Policy** is a renewal or replacement, but failed to make such notification, then **Liberty** will accept such notification under the previous policy issued by **Liberty**.

### 2.6 Cost of Living Expenses

**Liberty** will pay the **Cost of Living Expenses** an **Insured Person** is unable to pay due to an interim or interlocutory court order confiscating, controlling, suspending or freezing the rights of ownership the **Insured Person** has in respect of real or personal property or a charge created over such real or personal property, provided that:

- (a) the order or charge arises in respect of:
  - (i) a **Claim**;
  - (ii) a **Raid**; or
  - (iii) an **Inquiry**;
- (b) such **Cost of Living Expenses** are only payable in the event that any personal allowance directed by the court to meet such expenses has been exhausted;
- (c) such **Cost of Living Expenses** are payable for a maximum period of 12 months; and
- (d) each **Insured Person** must repay to **Liberty** all payments of **Cost of Living Expenses** incurred on that **Insured Person's** behalf if and to the extent it is established that such **Cost of Living Expenses** are not insured under this **Policy**.

The maximum amount payable by **Liberty** under this extension for each **Insured Person** is the applicable Per Insured Person **Sub-Limit of Liability** and the maximum amount payable for all **Insured Persons** is the applicable Aggregate **Sub-Limit of Liability**.

### 2.7 Court Attendance Costs

**Liberty** will pay for the reasonable costs and expenses incurred by an **Insured Person** with **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed) where the **Insured Person** is legally compelled to personally attend a civil or criminal proceeding as a witness in a **Claim** or **Inquiry** covered under this **Policy**.

The maximum amount payable by **Liberty** under this extension is the applicable **Sub-Limit of Liability**.

## Directors & Officers Liability Insurance

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### 2.8 Directors Additional Limit of Liability

**Liberty** will pay to or on behalf of any **Director**, under Insuring Clause 1.1 "Directors & Officers Liability", an **Additional Limit** once per **Policy Period**, if the **Limit of Liability** is exhausted due to the payment of amounts insured under this **Policy**.

However, **Liberty** will only provide such **Additional Limit** if:

- (a) the limits of liability available under any insurance policy or policies in excess of this **Policy**; and
- (b) any other indemnity available to the **Director**, have been exhausted.

The maximum amount payable by **Liberty** under this extension is the applicable **Additional Limit** in the aggregate for all **Directors**.

### 2.9 Emergency Expenses

In the event that an **Insured** is not able to notify **Liberty** of a **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy** in accordance with Claims Condition 5.1 in respect of "Notification of Claims, Self-Reports, Raids & Inquiries", the **Insured** may incur reasonable **Defence Costs**, costs or expenses insured under this **Policy** provided that:

- (a) the **Insured** must not admit liability, negotiate any settlement or enter into any settlement agreement without **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed); and
- (b) **Liberty's** written consent (which consent will not be unreasonably withheld or delayed) to such **Defence Costs**, costs and expenses is sought within 30 days of being incurred.

### 2.10 Extended Reporting Period

If this **Policy** is neither renewed nor replaced with a policy or policies providing similar cover, then the **Named Insured** is entitled, commencing from the end of the **Policy Period**, to an:

- (a) automatic extended reporting period of 90 days; or
- (b) extended reporting period of 12 months, provided the additional period is requested within 30 days following the end of the **Policy Period** and upon payment of the additional premium specified in the **Schedule**,

during which time an **Insured** may notify to **Liberty**:

- (i) any **Claim** provided it results from a **Wrongful Act**; or
- (ii) any **Self-Report, Raid, Internal Inquiry** or **Inquiry** provided it results from conduct, committed or allegedly committed prior to the end of the **Policy Period**.

This extension does not apply if this **Policy** is cancelled by **Liberty**, or if a **Change in Control** has occurred.

### 2.11 Extradition Costs

**Liberty** will pay for the reasonable costs and expenses incurred by or on behalf of and directly pertaining to an **Insured Person**, solely for the benefit of that **Insured Person**, in respect of an **Extradition Proceeding** or an appeal of an **Extradition Proceeding** provided that **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed) has been obtained.

## Directors & Officers Liability Insurance

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### 2.12 Fines & Penalties

Notwithstanding Exclusion 4.3 in respect of "Personal Injury & Property Damage", **Liberty** will pay, on behalf of an **Insured Person**, for fines and pecuniary penalties imposed by law as a direct result of a **Claim** or **Inquiry** provided that the fines and pecuniary penalties are insurable under applicable laws.

### 2.13 Lifetime Cover for Former Insured Persons

If a **Change in Control** does not occur during the **Policy Period** and at the end of the **Policy Period** the **Named Insured** does not renew or replace this **Policy** with a policy or policies providing similar cover for **Insured Persons**, then **Liberty** agrees to provide an indefinite extended reporting period following the end of the **Policy Period** for the benefit of those **Insured Persons** who retired or resigned from the **Company**, for reasons other than involuntary termination, prior to the end of the **Policy Period**.

If a **Change in Control** occurs during the **Policy Period** and the **Named Insured** does not purchase the extended reporting period offered under Extension 2.4 in respect of "Change in Control – Run Off Cover", or a policy or policies providing similar cover, then **Liberty** will provide an indefinite extended reporting period following the effective date of the **Change in Control** for the benefit of those **Insured Persons** who retired or resigned from the **Company**, for reasons other than involuntary termination or due to the **Change in Control**, prior to the effective date of the **Change in Control**.

During such extended reporting period the **Insured Persons** covered under this extension may notify to **Liberty**:

- (a) any **Claim** provided it results from a **Wrongful Act**; or
- (b) any **Self Report, Raid, Internal Inquiry** or **Inquiry** provided it results from conduct, committed or allegedly committed whilst they were an **Insured Person**.

### 2.14 New Subsidiaries

The definition of **Company** in Definition 7.3 is extended to include any entity which becomes a **Subsidiary** during the **Policy Period**.

However:

- (a) in the case of an acquisition, where the total gross assets of the new **Subsidiary** exceed 25% of the total consolidated gross assets of the **Company** (as reflected in the **Company's** latest audited financial statements); or
- (b) where the new **Subsidiary** has any **Securities** (other than equity issued pursuant to Rule 144A of the Securities Act 1933 (USA)) listed or traded in the United States of America, its territories or protectorates,

**Liberty** will only provide cover for a period of 90 days (but not beyond the end of the **Policy Period**) from the effective date of the new **Subsidiary** being acquired or created. If the **Named Insured** provides to **Liberty** full details of the new **Subsidiary**, **Liberty** will consider providing cover for the new **Subsidiary** for a further period on such terms and conditions and for such additional premium as it determines to be appropriate.

Cover in respect of any new **Subsidiary** applies only in respect of a **Wrongful Act** or conduct committed or allegedly committed whilst the entity is a **Subsidiary** of the **Named Insured**.

## Directors & Officers Liability Insurance

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### 2.15 Occupational Health & Safety Costs

Notwithstanding Exclusion 4.3 in respect of "Personal Injury & Property Damage", **Liberty** will pay for:

- (a) **Defence Costs** incurred by or on behalf of an **Insured Person**, or **Defence Costs** for which the **Company** has indemnified or agreed to indemnify an **Insured Person**, in defending a **Claim** alleging a breach of; or
- (b) the reasonable costs and expenses incurred by an **Insured Person**, or the reasonable costs and expenses for which the **Company** has indemnified or agreed to indemnify an **Insured Person**, in respect of a **Self-Report, Raid, Internal Inquiry** or **Inquiry** arising out of an actual or alleged breach of,

any occupational health and safety legislation, provided that **Liberty's** prior consent (which consent will not be unreasonably withheld or delayed) has been obtained.

### 2.16 Outside Directorships

**Liberty** agrees to extend cover provided under this **Policy** to any **Insured Person** acting in the capacity of a director, officer, trustee, governor, board advisor, board observer or equivalent of an outside entity at the request of, or with the formal consent of, the **Named Insured** or a **Subsidiary**, in respect of conduct committed or allegedly committed in their capacity as such.

The cover provided under this extension:

- (a) will be specifically in excess of any indemnity or directors' and officers' liability insurance available from or provided by the outside entity; and
- (b) will apply in respect of any outside entity listed on any stock exchange in the United States of America, its territories or protectorates for a period of 90 days only (but not beyond the end of the **Policy Period**) from the commencement date of the outside directorship. If the **Named Insured** provides to **Liberty** full details of the outside entity, **Liberty** will consider providing cover for the outside directorship for a further period on such terms and conditions and for such additional premium as it determines to be appropriate.

For the purposes of the operation of this extension, any reference to **Company** in this **Policy** also includes an outside entity, however, no cover is provided to the outside entity.

### 2.17 Personal Taxation & Superannuation Liability

**Liberty** will pay for any unpaid taxes or superannuation contributions of the **Company** that an **Insured Person** becomes personally liable to pay as a result of a **Claim** arising from the insolvency, receivership or external administration of the **Company**, except to the extent that such liability arises from the wilful intent of the **Company** or an **Insured Person** to breach any statutory duty governing the payment of taxes or superannuation contributions.

### 2.18 Public Relations Expenses

Notwithstanding Exclusion 4.3 in respect of "Personal Injury & Property Damage", **Liberty** will pay for the reasonable costs and expenses incurred by or on behalf of an **Insured Person**, with **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed), in engaging a public relations firm or consultant solely for the benefit of protecting an **Insured Person's** professional reputation as a result of negative publicity arising from a **Wrongful Act** which has led or could reasonably lead to a **Claim** being made against the **Insured Person**, or a **Self-Report, Raid, Internal Inquiry** or **Inquiry** directly pertaining to an **Insured Person**.

The maximum amount payable by **Liberty** under this extension is the applicable **Sub-Limit of Liability**.

## Directors & Officers Liability Insurance

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### 2.19 Reputation Protection Expenses

Notwithstanding Exclusion 4.3 in respect of "Personal Injury & Property Damage", **Liberty** will pay for the reasonable costs and expenses incurred by or on behalf of an **Insured Person**, with **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed), in engaging a public relations firm or consultant for the purpose of disseminating the findings of a **Final Adjudication** in favour of an **Insured Person** arising from a **Claim, Raid, Internal Inquiry** or **Inquiry** directly pertaining to the **Insured Person**.

The maximum amount payable by **Liberty** under this extension is the applicable **Sub-Limit of Liability**.

### 2.20 Shareholder Derivative Investigation Costs

**Liberty** will pay **Shareholder Derivative Investigation Costs** to or on behalf of the **Company**.

The maximum amount payable by **Liberty** under this extension is the applicable **Sub-Limit of Liability**.

## 3. Optional Extensions

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The following optional extensions are subject to all the terms, conditions, extensions and exclusions, including all definitions, of this **Policy**, and will apply only if specified as "Included" in the **Schedule**.

### 3.1 Backdated Continuous Cover

Notwithstanding Exclusion 4.4(b) in respect of "Prior Matters", if an **Insured** could have notified any facts under a previous policy not issued or co-insured by **Liberty**, prior to the commencement of the **Policy Period**, and had not notified such facts under such previous policy, **Liberty** will indemnify the **Insured** in respect of any **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy** arising from such facts, provided that:

- (a) the **Insured** has sought indemnity from a previous insurer other than **Liberty** and such previous insurer has denied indemnity solely on the basis of the **Insured's** failure to notify the facts during the policy period of the previous policy;
- (b) the **Insured** has maintained without interruption a directors and officers liability insurance policy from when the **Insured** first became aware of the facts;
- (c) the failure to notify was not a result of any fraudulent misrepresentation or fraudulent non-disclosure by the **Insured**; and
- (d) the **Insured** first became aware of the facts after the **Backdated Continuity Date**.

The cover provided under this extension will be in accordance with the terms and conditions of the previous policy under which the facts could have been notified. However, where such previous policy provides broader cover than this **Policy**, including but not limited to the remaining and available limit of liability, sub-limits of liability and excess, but excluding any claims conditions, the terms and conditions of this **Policy** will apply. Any limit of liability available under this extension is part of, and not in addition to, the **Limit of Liability** and **Sub-Limits of Liability** under this **Policy**.



## Directors & Officers Liability Insurance

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### 3.2 Company Employment Practices Liability

**Liberty** will pay to or on behalf of the **Company**, **Loss** as a result of a **Claim** alleging an **Employment Practice Breach**.

However, cover is excluded under this extension for any:

- (a) responsibilities, obligations or duties in respect of any superannuation fund, profit sharing programme or other employee benefits programme;
- (b) obligation or breach of obligation providing for or under:
  - (i) paid or unpaid leave of any kind;
  - (ii) workers' compensation, occupational or workplace health and safety, disability benefits, unemployment benefits or compensation, unemployment insurance, retirement benefits or social security benefits;
  - (iii) redundancy or severance payments or entitlements; or
  - (iv) any **Industrial Instrument** or contract of employment;
- (c) obligation or breach of obligation to give adequate or any notice of termination;
- (d) back pay, or any compensation or damages attributable to the back-payment of remuneration, where the **Company** is ordered by the relevant court or tribunal to reinstate the claimant as an employee;
- (e) front pay, future loss, future damages, future compensation or future economic relief, from the point in time that reinstatement was to occur, where the **Company** is ordered by the relevant court or tribunal to reinstate the employee but refuses or fails to do so;
- (f) stock, shares, stock options, share options or any entitlement or right under any equity plan of any description;
- (g) perquisites, fringe benefits, health benefits, insurance benefits and any other benefits other than basic remuneration;
- (h) bonus or incentive payments, or any entitlement or right under a bonus or incentive plan;
- (i) costs incurred by the **Company** in connection with any educational, corrective, sensitivity or other program, policy or seminar; or
- (j) act or omission committed or allegedly committed or administrative or regulatory proceedings brought within the United States of America, its territories or protectorates.

The maximum amount payable by **Liberty** under this extension is the applicable **Sub-Limit of Liability**.

## 4. Exclusions

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**Liberty** will not pay for any **Loss** or any other amounts insured under this **Policy**:

### 4.1 ERISA

for, arising out of or in any way connected with any actual or alleged violation or breach of any responsibilities, obligations or duties imposed under the Employee Retirement Income Security Act 1974 (USA) in the United States of America, its territories or protectorates, or any similar legislation or any amendment thereto.

## Directors & Officers Liability Insurance

### 4.2 Fraud & Dishonesty

for, arising out of or in any way connected with any:

- (a) deliberately dishonest, or deliberately fraudulent act or omission including any intentional violation or intentional breach of any law or regulation committed or omitted by an **Insured**;
- (b) improper use of position or information by an **Insured Person** for the purpose of gaining any profit, benefit or advantage to which such **Insured Person** is not legally entitled; or
- (c) any conduct of or contravention by an **Insured** with respect to which a prohibition in section 199B of the Corporations Act (Cth) applies.

The exclusions in (a), (b) and (c) above will only apply where it is established by a **Final Adjudication** that such conduct did in fact occur. Such **Final Adjudication** excludes any declaratory proceedings brought by or against the **Company**.

For the purpose of determining the applicability of this exclusion, the conduct of one **Insured** will not be imputed to any other **Insured**.

### 4.3 Personal Injury & Property Damage

- (a) for death, bodily or mental injury, sickness or disease, emotional distress or mental anguish of any person; or
- (b) for loss of, damage to, or destruction of any real or personal property or any consequential losses flowing from such loss, damage or destruction.

This exclusion does not apply to:

- (i) **Defence Costs**;
- (ii) cover under Insuring Clause 1.3 "Company Securities Liability";
- (iii) cover under Insuring Clause 1.4 "Self-Report, Raid & Inquiry Costs & Expenses"; or
- (iv) any **Claim** alleging emotional distress, mental anguish or humiliation resulting from an **Employment Wrongful Act, Employment Practice Breach** or any **Claim** for defamation.

### 4.4 Prior Matters

for, arising out of or in any way connected with any:

- (a) written demand or legal proceedings made against or involving an **Insured**, or any **Self-Report, Raid, Internal Inquiry or Inquiry** involving an **Insured** which occurred, prior to the commencement of the **Policy Period**;
- (b) facts that, prior to the commencement of the **Policy Period**, an **Insured** was aware might give rise to a claim under this **Policy**; or
- (c) facts that might give rise to a claim under this **Policy** which have been disclosed or reported to an insurer under any insurance policy providing cover for directors and officers liability entered into prior to the commencement of the **Policy Period**.

### 4.5 United States of America: Company versus Insured Person

for, arising out of or in any way connected with any **Claim** brought by or on behalf of the **Company** against an **Insured Person**, within the United States of America, its territories or protectorates, or in any place to the extent, but only to the extent, that the laws of the United States of America, its territories or protectorates, are applicable, other than:

- (a) a **Claim** brought by or on behalf of the **Company** for contribution or indemnity, if the **Claim** results directly from another **Claim** which would be covered under this **Policy** if made directly against the **Insured Person**;

## Directors & Officers Liability Insurance

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- (b) a **Shareholder Derivative Suit**;
- (c) a **Claim** brought in the name of the **Company** by any legally authorised individual or entity (other than the **Company** itself) provided that they are acting without the assistance, intervention, solicitation or active participation of the **Insured Person** against whom the **Claim** is brought;
- (d) a **Claim** alleging an **Employment Wrongful Act**; or
- (e) **Defence Costs**.

### 4.6 United States of America: Future Offering of Securities

for, arising out of or in any way connected with an offer for the issue, sale or transfer of **Securities** in the United States of America, its territories or protectorates, made in a **Disclosure Document** which is issued or published during the **Policy Period**, or any written or verbal representation in connection with such **Disclosure Document**.

## 5. Claims Conditions

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### 5.1 Notification of Claims, Self-Reports, Raids & Inquiries

As soon as reasonably practicable and in no case later than the end of the **Policy Period** (or any applicable **Extended Reporting Period**), the **Insured** must notify **Liberty** in writing of any **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy**.

Where an **Insured** becomes aware of facts that might give rise to a **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy** that might involve the **Insured** during the **Policy Period** then the **Insured** may elect to notify those facts in writing to **Liberty** as soon as the **Insured** becomes aware of those facts but before the end of this **Policy Period** in which case any **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy** that subsequently arises out of those facts will be deemed to have been notified to **Liberty** at the time those facts were reported to **Liberty**.

The **Company** will be deemed to have awareness of a **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy** only if any past or present chairperson of the board, chief executive officer, chief operating officer, chief financial officer or chief legal officer (or any person performing the duties of such officers irrespective of their title) of the **Company** is or was aware of such **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy**.

All notifications must be sent to:

The Claims Department  
Liberty Specialty Markets  
Level 38, Governor Phillip Tower  
1 Farrer Place  
Sydney, New South Wales, Australia 2000  
Tel: 61-2-8298 5800  
Email: [pfraclaims@libertyglobalgroup.com](mailto:pfraclaims@libertyglobalgroup.com)

## Directors & Officers Liability Insurance

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The **Insured** must give **Liberty** such information and co-operation as it may reasonably require, including but not limited to:

- (a) a description of the **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy**;
- (b) the nature of the alleged allegation, matter, conduct or events;
- (c) the nature of the alleged or potential loss;
- (d) the names of actual or potential claimants; and
- (e) the manner in which the **Insured** first became aware of the **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy**.

In the event that an **Insured** is legally prohibited by an administrative or regulatory authority under the terms of a confidentiality agreement or any lawful direction from making a notification, then such circumstances will not give rise to a late notification provided that **Liberty** is notified within 30 days of being legally able to do so.

### 5.2 Defence & Settlement

The **Insured** has the duty to defend any **Claim** or **Inquiry**, however, **Liberty** will have the right to effectively associate in the conduct of any investigation, monitoring, settlement or defence of any **Claim** or **Inquiry**.

Notwithstanding the paragraph above and without altering the operation of Claims Condition 5.3 in respect of "Appointment of Legal Representation", **Liberty** will have the right to defend any **Claim** brought against an **Insured Person** by or on behalf of the **Company**, unless such **Claim** is:

- (a) for contribution or indemnity and results directly from another **Claim** which would be covered under this **Policy** if made directly against the **Insured Person**;
- (b) a **Shareholder Derivative Suit**; or
- (c) brought in the name of the **Company** by any legally authorised individual or entity (other than the **Company** itself) provided that they are acting without the assistance, intervention, solicitation or active participation of the **Insured Person** against whom the **Claim** is brought.

At all times the **Insured** must:

- (a) at its expense take all reasonable steps to mitigate any loss;
- (b) not agree to any waiver, limitation of or delay as to their legal rights of recovery against any other party;
- (c) not admit liability, negotiate any settlement, enter into any settlement agreement or incur any **Defence Costs** without **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed);
- (d) not do anything which will prejudice **Liberty** in respect of a **Claim, Self-Report, Raid, Internal Inquiry** or **Inquiry** under this **Policy**; and
- (e) give **Liberty** all the information and assistance that **Liberty** requires for the purpose of investigating:
  - (i) the cause and consequences of any **Claim, Self-Report, Raid, Internal Inquiry** or **Inquiry**;

## Directors & Officers Liability Insurance

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- (ii) the **Insured's** liability to any party in respect of any **Claim, Self-Report, Raid, Internal Inquiry or Inquiry**; and
  - (iii) whether **Liberty** has any liability to the **Insured** under this **Policy** and, if so, the extent of its liability,
- and where applicable, conducting the defence of any **Claim, Self-Report, Raid, Internal Inquiry or Inquiry**.

### 5.3 Appointment of Legal Representation

In the event of a **Claim, Self-Report, Raid, Internal Inquiry or Inquiry**, the **Insured** has the right to appoint a law firm or to have **Liberty** do so, on the basis set out below.

Where "Defence Select" is specified as 'Not Included' in the **Schedule**, a **Panel Law Firm** must be appointed to conduct the defence and settlement of the **Claim, Self-Report, Raid, Internal Inquiry or Inquiry**. The **Insured** must obtain **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed) prior to appointing a **Panel Law Firm**.

In the event that a **Claim, Self-Report, Raid, Internal Inquiry or Inquiry** is brought in a jurisdiction in which **Liberty** does not have an approved **Panel Law Firm**, or in the event of a material conflict of interest between **Insureds** where separate **Panel Law Firms** are not available, a **Non-Panel Law Firm** may be appointed, subject to **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed), to conduct the defence and settlement of the **Claim, Self-Report, Raid, Internal Inquiry or Inquiry**.

Where "Defence Select" is specified as "Included" in the **Schedule**, any **Panel Law Firm** or **Non-Panel Law Firm** may be appointed to conduct the defence and settlement of the **Claim, Self-Report, Raid, Internal Inquiry or Inquiry**.

In the event that a **Non-Panel Law Firm** is appointed in accordance with either of the two paragraphs immediately above, **Liberty** agrees to pay **Defence Costs, Self-Report, Raid, Internal Inquiry and Inquiry** costs and expenses at **Market Rates**.

### 5.4 Contesting a Claim

**Liberty** will not require an **Insured** to contest any **Claim**, unless **Senior Counsel** advises that such **Claim** should be contested. In formulating such advice, **Senior Counsel** will take into consideration the economics of the matter (including potential **Defence Costs**) and the prospects of the **Insured** successfully defending the **Claim**.

### 5.5 Settling a Claim

In the event that **Senior Counsel** recommends settlement in respect of a **Claim** and the **Insured** does not agree that such **Claim** should be settled, the **Insured** may elect to contest such **Claim** provided always that **Liberty's** liability will not exceed the amount for which the **Claim** could have been settled plus **Defence Costs** up to the date of such election.



## Directors & Officers Liability Insurance

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### 5.6 Allocation Clause

In the event the **Insured** is a party to a **Claim, Self-Report, Raid, Internal Inquiry** or **Inquiry** which includes both matters which are covered by this **Policy** and matters which are not covered or which involve both insured and non-insured parties then the **Insured** and **Liberty** will endeavour to reach an agreement on the allocation of the proportion of the **Claim, Defence Costs, Self-Report, Raid, Internal Inquiry** or **Inquiry** costs and expenses or any other amounts covered by this **Policy** on the basis of:

- (a) the relative legal, financial and defence costs exposure of, and the relative benefits obtained by, insured parties and non-insured parties; and/or
- (b) the relative legal, financial and defence costs exposure attributable to matters which are covered by this **Policy** and matters which are not covered.

Where **Defence Costs** directly attributable to the investigation, monitoring, settlement, defence or appeal of any **Claim** covered under this **Policy** also benefit a matter which is not covered or a non-insured party, **Liberty** will pay all such **Defence Costs**.

In the event that an agreement cannot be reached **Senior Counsel** will determine, as an expert but not an arbitrator, a fair and reasonable allocation, based on a single written submission from each of **Liberty** and the **Insured** and any other information that the **Senior Counsel** may request. The **Senior Counsel's** costs will be paid by **Liberty** and will not form part of the **Limit of Liability**.

While the proportion of any claim or costs and expenses covered under this **Policy** remains disputed and undetermined, **Liberty** will advance that proportion of that claim or those costs and expenses which **Liberty** considers represents a fair and reasonable allocation. The allocation finally agreed or determined will be applied retrospectively to any amounts incurred prior to agreement or determination but will not be a presumption as to any other claim or costs and expenses covered under this **Policy**.

### 5.7 Order of Payments

**Liberty** will pay for amounts insured under this **Policy** in the order that they are presented to **Liberty**.

If it becomes apparent to **Liberty** that the **Limit of Liability** will not be sufficient to cover all such amounts, then **Liberty** will first pay for amounts insured under this **Policy** for which an **Insured Person** is entitled to indemnity under this **Policy**. If after paying all such amounts there remains an unexhausted portion of the **Limit of Liability**, then **Liberty** will pay such other amounts for which the **Company** is entitled to indemnity under this **Policy**.

### 5.8 Other Insurance

If any amounts insured under this **Policy** are also potentially insured under any other insurance policy or policies, then the **Insured** must advise **Liberty** within a reasonable time of making a claim under this **Policy** and provide **Liberty** with a copy of such other insurance policy or policies.

### 5.9 Excess Insurance

If at the time of making any claim under this **Policy** there is, or would be but for the existence of this **Policy**, any other policy of indemnity or insurance available to an **Insured** or any other natural person, trustee, company or entity insured under this **Policy**, then this **Policy** will be in excess of such other indemnity or insurance to the extent it is permitted under the terms of the Insurance Contracts Act 1984 (Cth).

## 6. General Conditions

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### 6.1 Limit of Liability

The maximum amount payable by **Liberty** under this **Policy** is the **Limit of Liability**.

The **Limit of Liability** is inclusive of **Loss** (which includes **Defence Costs**), **Self-Report, Raid, Internal Inquiry** and **Inquiry** costs and expenses, **Sub-Limits of Liability** and any other amounts insured under this **Policy** but does not include any amounts insured under Extension 2.8 in respect of "Directors Additional Limit of Liability" and any costs incurred by **Liberty** in determining whether this **Policy** provides insurance to an **Insured**.

### 6.2 Excess

**Liberty** will only pay in respect of a **Claim** and associated **Defence Costs, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy**, the amount which is above the applicable **Excess** specified in the **Schedule** or otherwise as set out below. The **Excess** will be the first amount borne by the **Company** and will remain uninsured.

If the **Company** is legally required or permitted to indemnify the **Insured Person**, or has indemnified or agreed to indemnify the **Insured Person**, in respect of a **Claim** and associated **Defence Costs, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under any insuring clause, extension or endorsement, the **Excess** specified in the **Schedule** for Insuring Clause 1.2 will apply, other than in respect of Insuring Clause 1.4 "Self-Report, Raid & Inquiry Costs & Expenses" to which the **Excess** specified in the **Schedule** for Insuring Clause 1.4 will apply.

If the **Company** is not legally required or permitted to indemnify the **Insured Person**, the **Excess** specified in the **Schedule** for Insuring Clause 1.1 will apply in respect of a **Claim** and associated **Defence Costs, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under any insuring clause, extension or endorsement.

No **Excess** will apply to Extension 2.20 in respect of "Shareholder Derivative Investigation Costs".

### 6.3 Aggregation

All **Claims, Self-Reports, Raids, Internal Inquiries, Inquiries** and claims for any other amounts insured under this **Policy** attributable to one source or originating cause will be deemed to be a single **Claim, Self-Report, Raid, Internal Inquiry or Inquiry** and no more than one **Excess** will apply, irrespective of the number of **Insureds** or claimants.

Where a **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy** is made in respect of losses arising out of multiple unrelated sources or originating causes then all losses arising from each source or originating cause will be deemed to be a separate **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy**. A separate **Excess**, if applicable, will apply to each separate **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy**.

Where more than one different **Excess** applies to a **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy**, the maximum aggregate **Excess** borne by the **Company** in respect of such **Claim, Self-Report, Raid, Internal Inquiry, Inquiry** or claim for any other amounts insured under this **Policy** will not exceed the highest of such **Excesses**.

## Directors & Officers Liability Insurance

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### 6.4 Preservation of Right to Indemnity

If the **Company** is legally required or permitted to indemnify an **Insured Person** for **Loss** or any other amounts insured under this **Policy** but fails or refuses to do so, then **Liberty** will pay the **Loss** or other amounts insured under this **Policy** on behalf of the **Insured Person**. In such event the **Company** will be required to pay to **Liberty** the applicable **Excess** specified in the **Schedule** for Insuring Clause 1.2 or Insuring Clause 1.4.

### 6.5 Subrogation

If **Liberty** grants indemnity under this **Policy**, then **Liberty** will be subrogated to all of the **Insured's** rights of recovery against any person, trustee, company or entity whether or not payment has in fact been made and whether or not the **Insured** has been compensated in full for their loss. Each **Insured** must, at its own cost, provide all reasonable assistance to **Liberty** (including, but not limited to, giving information, signing documents, giving evidence and allowing **Liberty** to commence proceedings in the **Insured's** name) to help enforce those rights.

The **Insured** must not do anything (including but not limited to excluding or limiting the liability of other parties in contracts, whether or not they are written contracts) that may prejudice **Liberty's** position or its potential or actual rights of recovery against any party.

**Liberty** will not exercise any available right of subrogation against an **Insured Person** under this **Policy**, unless Exclusion 4.2 in respect of "Fraud & Dishonesty" applies to such **Insured Person**.

Any amounts recovered by **Liberty** pursuant to its rights of subrogation will be distributed as follows:

- (a) first, repayment of all costs and expenses incurred by **Liberty** in the recovery action;
- (b) second, repayment of all amounts paid by **Liberty** pursuant to this **Policy** to replenish the **Limit of Liability** correspondingly; and
- (c) third, any additional amounts to be paid to the **Insured**.

The **Insured** must not do anything to prejudice **Liberty's** ability to assert any of its rights under this general condition.

### 6.6 Assignment

This **Policy** and any rights under or in respect of it cannot be changed, modified or assigned without **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed).

### 6.7 Authorisation

The **Named Insured** will act on behalf of all **Insureds** with respect to this **Policy**, except in relation to any Claims Conditions, in respect of which each **Insured** will be entitled, but not obligated, to act on their own behalf.

### 6.8 Severability, Non Avoidance & Non Imputation

The proposal will be construed as a separate proposal for each **Insured**.

Failure by an **Insured** to comply with their duty of disclosure, or misrepresentation by an **Insured** to **Liberty**, will not prejudice the right to cover under this **Policy** of any other **Insured** who is innocent of and has no prior knowledge of such failure or misrepresentation.

In the case of:

- (a) fraudulent non-disclosure or fraudulent misrepresentation by an **Insured**, other than where the

## Directors & Officers Liability Insurance

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fraudulent non-disclosure or fraudulent misrepresentation is established by **Final Adjudication**;  
or

(b) non-fraudulent non-disclosure or non-fraudulent misrepresentation by an **Insured**,  
**Liberty** will waive its rights under Section 28(3) of the Insurance Contracts Act 1984 (Cth).

For the purposes of determining the availability of cover provided under this **Policy**, no statements made by, fact pertaining to, knowledge possessed by or conduct of an **Insured** will be imputed to any other **Insured Person**.

In respect of Insuring Clause 1.3 "Company Securities Liability", only the awareness of any statement, fact, knowledge or conduct of any past or present chairperson of the board, chief executive officer, chief operating officer, chief financial officer or chief legal officer (or any person performing the duties of such officers irrespective of their title) of the **Company** will be imputed to the **Company**.

### 6.9 Cancellation

**Liberty** will not cancel this **Policy**, except for non-payment of the **Premium**.

### 6.10 Change in Control

If a **Change in Control** occurs during the **Policy Period**, this **Policy** will continue to provide cover but only in respect of:

- (a) any **Claim** provided it results from a **Wrongful Act**; or
- (b) any **Self-Report, Raid, Internal Inquiry** or **Inquiry** provided it results from conduct, committed or allegedly committed prior to the effective date of the **Change in Control**.

### 6.11 Governing Law & Exclusive Jurisdiction

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

### 6.12 Sanction Limitation & Exclusion Clause

**Liberty** will not be deemed to provide cover nor be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose **Liberty** or its parent to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom, United States of America or other applicable jurisdiction.

### 6.13 Liberty Mutual AGM

**Liberty** is a branch of Liberty Mutual Insurance Company (LMIC), a stock insurance company incorporated in Massachusetts USA. LMIC is an indirect subsidiary of Liberty Mutual Holding Company Inc. (LMHC), a Massachusetts USA mutual holding company. Notice is hereby given that the annual meeting of LMHC is held on the second Wednesday in April of each year at ten o'clock in the morning, local time, at LMHC's office at 175 Berkeley Street, Boston, Massachusetts USA.

This notice is for members of LMHC only. One becomes a member of LMHC by virtue of being a policyholder of LMIC. Membership rights terminate when one ceases to be a policyholder of LMIC. Members of LMHC may request a copy of LMHC's annual financial statements, which are posted on Liberty Mutual's website at [www.libertymutual.com](http://www.libertymutual.com), by writing to Liberty Mutual Holding Company Inc., 175 Berkeley Street, Boston, Massachusetts 02116.

## Directors & Officers Liability Insurance

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### 6.14 Electronic Communications

**Liberty** may issue by electronic mail or post any notices required to be given under the Insurance Contracts Act 1984 (Cth) or otherwise.

### 6.15 Policy Interpretation & Construction

The headings in this **Policy** are for descriptive purposes only and do not form part of this **Policy** for the purpose of its construction or operation. Words used in the singular will include the plural and vice versa. For the meaning of any words in bold refer to the **Schedule** or to Section 7 "Definitions".

### 6.16 Valuation & Foreign Currency

Unless specifically stated otherwise, all amounts referred to in this **Policy** are expressed and payable in the **Currency** specified in the **Schedule**. If judgment is rendered, settlement is negotiated or any element of **Loss**, any other amount insured under this **Policy** or applicable **Excess** is stated in a currency other than that **Currency**, then payment under this **Policy** will be made at the rate of exchange as published on www.oanda.com on the date, or if not published on that date then immediately thereafter, the final judgment is reached, the settlement is agreed upon or any other amount is paid.

### 6.17 Tax

The **Insured** must inform **Liberty** of any input tax credit entitlement for the **Premium** at or before making a claim under this **Policy**.

Any amount payable by **Liberty** under this **Policy** will be reduced by the amount of any input tax credit that the **Insured** is entitled to claim.

The **Excess** will be calculated after deducting the amount of any input tax credit that the **Insured** is entitled to claim.

### 6.18 Confidentiality

The **Insured** must not publish or disclose the existence of this **Policy**, except as required by law to their professional advisers or where the **Insured** has obtained **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed) to do so. The **Insured** will only state within their annual report that they have agreed to pay a premium for this **Policy** and will not publish or disclose any other details of this **Policy**.



## 7. Definitions

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In this **Policy**:

**7.1 Change in Control** means any one of the following events:

- (a) the **Named Insured** consolidates or merges with another entity such that it is not the surviving entity, or sells all or substantially all of its assets to another person, entity or group of persons or entities acting in concert;
- (b) the **Named Insured** becomes a subsidiary of another entity, or any person, entity or group of persons or entities acting in concert acquire more than half of the issued share capital of the **Named Insured**; or
- (c) any person, entity or group of persons or entities acting in concert acquire control of the appointment of the majority of the directors of the **Named Insured**, other than where an administrator, receiver, provisional liquidator or liquidator is appointed.

**7.2 Claim** means any:

- (a) written demand for monetary or non-monetary relief, including injunctive relief;
- (b) civil proceeding, including any arbitration, mediation, conciliation or alternative dispute resolution proceeding;
- (c) criminal proceeding; or
- (d) administrative or regulatory proceeding,

for a **Wrongful Act**, first made or brought against an **Insured Person** and notified to **Liberty** during the **Policy Period** (or any applicable **Extended Reporting Period**).

**Claim** also means:

- (e) in respect of Insuring Clause 1.3 "Company Securities Liability", any **Securities Claim**;
- (f) any **Shareholder Derivative Suit**; and
- (g) in respect of Optional Extension 3.2 "Company Employment Practices Liability", a claim as defined in (a) to (d) above, for an **Employment Practice Breach** instead of a **Wrongful Act**.

**7.3 Company** means the **Named Insured** specified in the **Schedule** and its **Subsidiaries** prior to or at the commencement of the **Policy Period**.

**7.4 Cost of Living Expenses** means:

- (a) rental payments or mortgage repayments on the **Insured Person's** primary residence;
- (b) primary and secondary school fees and related expenses, including school uniforms and stationary;
- (c) water, electricity and gas bills in respect of the **Insured Person's** primary residence;
- (d) telephone bills; and
- (e) insurance premiums for home and contents in respect of the **Insured Person's** primary residence, motor vehicle cover, life and health insurance policies,

calculated by reference to the amounts paid by the **Insured Person** in respect of (a) to (e) in the preceding 12 month period.

## Directors & Officers Liability Insurance

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**7.5 Defence Costs** means the reasonable costs and expenses incurred by **Liberty**, or by or on behalf of an **Insured** but only with **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed), for the benefit of the **Insured** in the investigation, monitoring, settlement, defence or appeal of any **Claim** covered under this **Policy**.

**Defence Costs** excludes salaries, wages, allowances, travel or accommodation expenses incurred by the **Insured** in assessing, investigating, dealing with and assisting others to deal with any **Claim**.

**7.6 Director** means a person who:

- (a) is appointed to the position of director, or equivalent position in any other jurisdiction, of the **Company**;
- (b) is appointed to the position of an alternate director, or equivalent position in any other jurisdiction, of the **Company**; or
- (c) is a **Shadow Director**.

**7.7 Disclosure Document** means any prospectus, product disclosure statement, information memorandum, registration statement or similar document, whether or not it has been, or is required to be, filed or registered with the Australian Securities and Investments Commission, the U.S. Securities and Exchange Commission, any local or foreign stock exchange or any similar administrative or regulatory authority in any other jurisdiction.

**7.8 Employee** means a person who:

- (a) is employed by the **Company** as a full time, part time or casual employee; or
- (b) is engaged by the **Company** as a consultant, independent contractor or secondee, but only:
  - (i) whilst acting in a managerial or supervisory capacity;
  - (ii) where such person is named as a co-defendant to a **Claim**; or
  - (iii) where such person is required to attend an **Internal Inquiry** or **Inquiry** with any **Director** or **Officer**.

**7.9 Employment Practice Breach** means any:

- (a) unfair, harsh, unreasonable, unjust or unlawful dismissal or termination of employment for which a statutory or civil remedy exists or allegedly exists;
- (b) harassment (including sexual harassment or bullying) of any kind in the workplace including the alleged creation or permission of a harassing workplace environment;
- (c) discrimination on any unlawful basis;
- (d) victimisation on any unlawful basis;
- (e) misleading or deceptive advertising or representation in respect of employment;
- (f) unfair failure to employ or promote, unfair deprivation of a career opportunity, unfair discipline, unfair failure to grant tenure or negligent performance evaluation;
- (g) unlawful interference with privacy;
- (h) denial of natural justice or denial of procedural fairness;
- (i) defamation; or

## Directors & Officers Liability Insurance

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(j) infliction of emotional distress, mental anguish or humiliation, committed or allegedly committed against an employee or prospective employee in respect of that person's past, present or prospective employment with the **Company**.

**7.10 Employment Wrongful Act** means any actual or alleged act, error or omission with respect to the employment or prospective employment of any past, present, future or prospective employee or **Insured Person** of the **Company**.

**7.11 Extended Reporting Period** means the applicable extended reporting periods in Extension 2.4 in respect of "Change in Control – Run Off Cover", Extension 2.10 in respect of "Extended Reporting Period" and Extension 2.13 in respect of "Lifetime Cover for Former Insured Persons".

**7.12 Extradition Proceeding** means any proceeding in connection with a **Wrongful Act**, first brought against an **Insured Person** and notified to **Liberty** during the **Policy Period** (or any applicable **Extended Reporting Period**), requesting the deportation, extradition or arrest where an **Insured Person** is served with an extradition order.

**7.13 Final Adjudication** means any conviction, judgment or refusal of relief in any legal, administrative or regulatory proceedings:

- (a) if not appealed against, when the period in which an appeal must be brought has expired; or
- (b) if appealed against, when such appeal has been determined or otherwise ceased and the period in which any further appeal must be brought has expired.

**7.14 Industrial Instrument** means:

- (a) an award, collective or individual agreement, minimum wage order or any other instrument made or authorised under statute; or
- (b) any other collective agreement, which regulates the terms and conditions of employment.

**7.15 Inquiry** means any administrative or regulatory proceeding, official investigation, examination, inquiry or hearing (including any notice to produce documents) into the affairs of the **Company** or an **Insured Person** in their capacity as such and includes any request, direction or notice issued by an administrative, regulatory or other authority or person empowered by law which requires a response or attendance by an **Insured Person**. The request, direction or notice requiring the **Insured Person** to respond or attend has to be first served upon the **Company** or the **Insured Person** and notified to **Liberty** during the **Policy Period** (or any applicable **Extended Reporting Period**).

**Inquiry** excludes any routine supervision, inspection, compliance audit or similar review.

**7.16 Insured** means any **Insured Person** and / or **Company**.

## Directors & Officers Liability Insurance

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**7.17 Insured Person** means any past, present or future:

- (a) **Director, Officer or Employee;**
- (b) legal representative, heir, assign or estate of a deceased, incapacitated or bankrupt **Director, Officer or Employee** in respect of any **Wrongful Act**, or in the case of an **Inquiry**, alleged conduct, of such **Director, Officer or Employee;**
- (c) lawful spouse or domestic partner of a **Director, Officer or Employee** in respect of any **Wrongful Act**, or in the case of an **Inquiry**, alleged conduct, of such **Director, Officer or Employee;**
- (d) prospective **Director** in any listing particulars, prospectus or information memorandum issued by the **Company;**
- (e) natural person trustee, director, officer or policy committee member of a superannuation, pension, retirement or provident fund established for the benefit of the employees of the **Company;**
- (f) management committee member or member of a supervisory or management board of the **Company;**
- (g) compliance committee member of the **Company;** or
- (h) company secretary of the **Company,**

but only to the extent that such **Insured Person** is acting for and on behalf of the **Company** in any of the capacities referred to above.

**Insured Person** excludes any external auditors, receivers, managers, liquidators, administrators, mortgagees in possession or the like, or any employees of such persons or entities.

**7.18 Internal Inquiry** means any internal inquiry conducted by the **Company** into its affairs or those of an **Insured Person** in their capacity as such, at the request of any administrative, regulatory or other authority or person empowered by law, following the provision of a **Self-Report**.

**Internal Inquiry** excludes any routine supervision, inspection, compliance audit or similar review.

**7.19 Liberty** means Liberty Mutual Insurance Company, Australia Branch (ABN 61 086 083 605) trading as Liberty Specialty Markets incorporated in Massachusetts, USA (the liability of members is limited).

**7.20 Loss** means any amounts an **Insured Person** (or the **Company** in respect of Insuring Clause 1.3 "Company Securities Liability" or Optional Extension 3.2 "Company Employment Practices Liability") is legally liable to pay, including but not limited to:

- (a) damages or claimant's costs, or both, pursuant to an award or judgment;
- (b) settlements negotiated by **Liberty** and consented to by the **Insured;**
- (c) settlements negotiated by the **Insured** but only with **Liberty's** prior written consent (which consent will not be unreasonably withheld or delayed);
- (d) compensation or interest awarded;
- (e) **Defence Costs;** and

## Directors & Officers Liability Insurance

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- (f) aggravated, exemplary, multiplied or punitive damages where permissible and insurable under applicable laws.

**Loss** also includes any amounts insured under any extension or by endorsement to this **Policy**.

**Loss** excludes:

- (a) salaries, wages, allowances, travel or accommodation expenses of an **Insured** incurred in assessing, investigating, dealing with or assisting others to deal with a **Claim**;
- (b) amounts uninsurable at law;
- (c) the cost of removing, nullifying, remediating or cleaning up any **Pollutant**;
- (d) taxes or amounts payable in relation to taxes, except as provided by Extension 2.17 in respect of "Personal Taxation & Superannuation Liability"; or
- (e) in respect of Insuring Clause 1.3 "Company Securities Liability", the loss of or failure to obtain or receive stock or securities by an **Insured Person**.

**7.21 Market Rates** means any hourly rate the **Insured** has negotiated on a corporate retainer with the appointed **Non-Panel Law Firm** or, in the absence of a corporate retainer, the standard hourly rate of that **Non-Panel Law Firm**.

**7.22 Non-Panel Law Firm** means any law firm that is not a **Panel Law Firm**.

**7.23 Officer** means a person who:

- (a) makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the **Company**;
- (b) is concerned in, or takes part in, the management of the **Company**; or
- (c) has the capacity to affect significantly the **Company's** financial standing.

**7.24 Panel Law Firm** means any law firm which, at the time of retainer, is listed by **Liberty** at <https://lmi.co/dopanellawfirms> as an approved law firm at pre-agreed panel rates in the jurisdiction in which the **Claim, Self-Report, Raid, Internal Inquiry** or **Inquiry** is brought. **Liberty** reserves the right to change panel law firms from time to time.

**7.25 Policy** means this policy wording, any endorsements to it and the **Schedule**.

**7.26 Policy Period** means the period of time specified in the **Schedule** unless this **Policy** is cancelled in which event the **Policy Period** will end on the effective date of the cancellation.

**7.27 Pollutant** means any solid, liquid, gaseous, biological or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, noise, acids, alkalis, compounds, chemicals, asbestos, mould or waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**7.28 Premium** means the amount payable by the **Insured** for this **Policy**, including any applicable charges advised by **Liberty**.



## Directors & Officers Liability Insurance

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- 7.29 Raid** means any raid or on-site visit by any administrative, regulatory or other authority or person empowered by law to investigate the affairs of the **Company** or an **Insured Person**, which first takes place and is notified to **Liberty** during the **Policy Period**, that involves the interviewing of an **Insured Person** or the production, review, copying or confiscation of documents.
- 7.30 Schedule** means the schedule attached to this **Policy** and signed by a person authorised by **Liberty**.
- 7.31 Securities** means any security representing an equity interest in, or debt of, the **Company**.
- 7.32 Securities Claim** means any:
- (a) written demand or civil proceeding brought either directly or derivatively by any person or entity, including but not limited to any holder of **Securities**;
  - (b) criminal proceeding; or
  - (c) administrative or regulatory proceeding,
- for or arising out of a **Wrongful Act**, first made or brought against the **Company** and notified to **Liberty** during the **Policy Period** (or any applicable **Extended Reporting Period**).
- 7.33 Self-Report** means any formal written notification of a suspected **Wrongful Act** which is first made to any relevant administrative, regulatory or other authority or person empowered by law to investigate the affairs of the **Insured** and notified to **Liberty** during the **Policy Period** (or any applicable **Extended Reporting Period**) regarding the affairs of the **Company** or an **Insured Person**.
- Self-Report** excludes any routine supervision, inspection, compliance audit or similar review.
- 7.34 Senior Counsel** means a Senior Counsel to be mutually agreed upon by **Liberty** and the **Insured** or, in the absence of agreement, to be appointed by the current President of the Law Society in the State or Territory in which this **Policy** is issued.
- 7.35 Shadow Director** means a person who is not validly appointed to the position of director of the **Company**, if:
- (a) they act in the position of a director of the **Company**; or
  - (b) the directors of the **Company** are accustomed to act in accordance with such person's instructions or wishes, but not merely because the directors act on advice given by that person in the proper performance of functions attaching to their professional capacity or business relationship with the directors or the **Company**.
- 7.36 Shareholder Derivative Demand** means a written demand made by a holder of **Securities** upon the board of directors of the **Company** to commence civil proceedings against an **Insured Person** for a **Wrongful Act**, first made and notified to **Liberty** during the **Policy Period** (or any applicable **Extended Reporting Period**).

## Directors & Officers Liability Insurance

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**7.37 Shareholder Derivative Investigation Costs** means the reasonable costs and expenses incurred by the **Company** in determining its response to:

- (a) a **Shareholder Derivative Demand**; or
- (b) a **Shareholder Derivative Suit**.

**7.38 Shareholder Derivative Suit** means a civil proceeding by a holder of **Securities** brought derivatively on behalf of the **Company** against an **Insured Person** for a **Wrongful Act**, first made or brought and notified to **Liberty** during the **Policy Period** (or any applicable **Extended Reporting Period**).

**7.39 Subsidiary** means any entity which the **Named Insured**, either directly or indirectly through one or more other entities:

- (a) controls or controlled the composition of the board of directors;
- (b) controls or controlled more than half of the shareholder or equity voting power;
- (c) holds or held more than half of the issued share capital or equity; or
- (d) exercises or exercised effective management control over a joint venture or other entity of the **Company**.

Cover in respect of any such entity applies only in respect of a **Wrongful Act** or conduct committed or allegedly committed whilst the entity was or is a **Subsidiary**.

**7.40 Wrongful Act** means any:

- (a) actual or alleged act, error or omission including breach of duty, breach of trust, neglect, misstatement, misleading statement, misrepresentation, defamation or breach of warranty of authority committed or allegedly committed by an **Insured Person** in their capacity as an **Insured Person**;
- (b) matter claimed against an **Insured Person** solely because of their status as an **Insured Person**; or
- (c) **Employment Wrongful Act**.

In respect of any **Securities Claim**, **Wrongful Act** means any actual or alleged act, error or omission including breach of duty, breach of trust, neglect, misstatement, misleading statement, misrepresentation or breach of warranty of authority committed or allegedly committed by the **Company** in connection with the ownership, purchase or sale of, or the offer to purchase or sell, **Securities**.