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Section 1
How to read this Insurance Policy

1.1 Some of the words in this insurance Policy have special meanings. These meanings can be found in Section 12 of the Policy ("Words with special meanings"). If a word has a special meaning, it appears in this Policy in bold type and with a capital letter. These words may appear without bold type in endorsements in the Policy Schedule.

Section 2
The Insurance Contract

2.1 We agree to provide the Cover described in this Policy upon full payment of the Gross Premium as stated in the Policy Schedule.

2.2 Before this Policy came into effect, We were provided with information by or on behalf of the Insured (and those referred to in Section 4.2 of this Policy) in the Proposal, and perhaps in other ways. We have relied on this information to decide whether to enter into this contract and on what terms.

2.3 If any of that information is wrong or false, it may affect entitlement to Cover under this Policy.

2.4 This Policy is in force for the Period of Insurance stated in the Schedule.

2.5 If full payment of the Gross Premium as stated in the Schedule is not made, there is no Cover.

Section 3
The Cover We Provide

3.1 The Cover We Provide

We indemnify the Insured up to the Policy Limit (see Section 5) for any Civil Liability to any third party which is incurred by the Insured in the conduct of the Professional Services and which Claims:

(a) are made against the Insured (or, those referred to in Section 4.2 of this Policy) while this Policy is in force; and

(b) We are told about in writing as soon as reasonably possible while this Policy is in force; and

(c) arise from an act, error or omission on or after the Retroactive Date as stated in the Schedule; and

3.2 The types of Claim We Cover

The Civil Liability We provide Cover for in this Policy includes (but is not limited to) the following types of Civil Liability Claims arising in the conduct of the Professional Services:

(a) breach of duty (including a duty of confidentiality).

(b) unintentional defamation.

(c) loss of or damage to Documents which were in the Insured's physical custody or control at the time of loss or damage.

(d) dishonest, fraudulent, criminal or malicious acts or omissions or any breach of fiduciary duty by any person entitled to indemnity under this Policy (but there is no Cover to that person for these Claims).

(e) unintentional infringement of Intellectual Property.


(g) breach of warranty of authority committed, by or on behalf of the Insured, in good faith and in the belief that appropriate authority was held.
3.3 Employment Practices Liability Cover

Notwithstanding Section 6.9, **We Cover** the Insured, and each Employee (subject to the Specific Cover Limit set out in the Schedule for ‘Employment Practices Liability’ and the special provisions in Section 9 of this Policy), for Claims brought against the Insured or an Employee (including Claims brought by principals, partners, directors, officers and employees, contract or temporary workers of the Insured) for that Loss which the Insured is legally obliged to pay arising from:

(a) discrimination against any Employee, former Employee or applicant for employment because of race, colour, age, sex, disability, pregnancy, marital status, sexual orientation, sexual preference or otherwise;

(b) wrongful dismissal of any Employee;

(c) workplace harassment (whether sexual or otherwise) of an Employee;

(d) breach of an implied term of an oral or written employment contract;

(e) wrongful demotion, failure to promote, wrongful deprivation of career opportunity, wrongful discipline, negligent evaluation or failure to grant tenure of employment to an Employee;

(f) wrongful refusal to employ a potential Employee;

(g) defamation arising from employment related matters;

(h) misleading misrepresentation or advertising as to the terms and conditions of employment;

(i) denial of natural justice to an Employee in respect of any issue concerning his or her employment.

If no Specific Cover Limit is indicated in the Schedule for ‘Employment Practices Liability’, then no Cover is provided by this Policy for ‘Employment Practices Liability’.

3.4 Claim Investigation Costs

**We** also pay in addition to the Policy Limit (but only up to an amount equal to the Policy Limit) **Claim Investigation Costs**.

**We** only pay these, however, if either:

(a) **We** incur them; or

(b) the Insured incurs them after first obtaining Our agreement in writing and the costs and expenses are in Our view reasonable and necessary.

**We** are not obliged to defend, or to continue to defend, any Claim (or Covered Claim) or pay, or continue to pay, any costs or expenses associated with such defence, once the Policy Limit has been exhausted.

3.5 Enquiries

For those Enquiries of which the Insured first becomes aware and of which **We** are told about in writing as soon as reasonably possible while this Policy is in force, **We Cover** the Insured and Employees of the Insured (subject to the terms of Section 4.2 of the Policy) for the following (subject to the Specific Cover Limit set out in the Schedule for ‘Enquiries’):

Cover is provided for legal costs and expenses (incurred with Our prior written approval and which in Our view are reasonable and necessary) for the representation of the Insured at any Enquiry. This Cover does not extend to paying the Insured’s regular or overtime wages, salaries or fees, or those of the Insured’s Employees.

If no Specific Cover Limit is indicated in the Schedule for ‘Enquiries’, then no Cover is provided by this Policy for Enquiries.

3.6 Continuous Cover

**We Cover** the Insured, for any Claim otherwise Covered by this Policy, arising from a Known Circumstance (notwithstanding Section 6.1 of this Policy) if:

(a) There has been no fraudulent non-disclosure or fraudulent misrepresentation in respect of such Known Circumstance; and

(b) **We** were the professional liability insurer of the Insured when the Insured first knew of such Known Circumstance; and

(c) **We** continued without interruption to be the Insured’s professional liability insurer up until this Policy came into effect; and

(d) Had **We** been notified by the Insured of the Known Circumstance when the Insured first knew of it, the Insured would have been Covered under the policy in force at that time but is not now entitled to be Covered by that policy, and the Insured would (but for Section 6.1 of this Policy) otherwise be Covered under this Policy; and

(e) Neither the Claim nor Known Circumstance have previously been notified to Us or to any other insurer.

If the Insured was entitled to have given notice under any other policy of insurance and thereby have an entitlement to indemnity, in whole or in part, then this Continuous Cover extension does not apply to provide indemnity under this Policy.

**We** may reduce the amount **We** pay out under this provision by the amount of any prejudice **We** may suffer in consequence of any delayed notification to Us.

The Policy Limit of the Cover **We** provide under this provision is the lesser available under the
terms of the policy in force at the earlier time referred to in paragraph (c) above, or under this Policy. The terms of this Policy otherwise apply.

3.7 Claims Preparation Costs

We also pay all reasonable and necessary out of pocket costs incurred by the Insured at Our request in the preparation of a defence to a Claim Covered by this Policy up to an aggregate amount of $25,000 (which is included within and not in addition to the Policy Limit) in respect of all Claims Covered by this Policy.

Notwithstanding 7.12(b) the Excess Covered by this Section 3.7 will be $1,000.

Payments provided under this Section 3.7, shall not include any Claims Investigation Costs.

3.8 Advancement of Claims Investigation Costs

If We elect not to take over and conduct the defence or settlement of any Claim, We will pay all Claims Investigation Costs provided that:

(a) We have not already denied indemnity under the Policy; and

(b) Our written consent is obtained prior to the Insured incurring such Claims Investigation Costs (such consent not to be unreasonably withheld).

We reserve the right to recover any Claims Investigation Costs paid under this Section 3.8 from the Insured or others Covered by this Policy:

(i) if the Insured makes an admission in writing of any fraudulent, dishonest, malicious or intentional conduct; or

(ii) in the event and to the extent that it is subsequently established by judgment or other final adjudication, that the Insured was not entitled to Cover under this Policy.

3.9 Compensatory Penalties

Notwithstanding Exclusion 6.10, We Cover Claims for compensatory civil penalties. Our total liability for the payment of compensatory civil penalties under the Policy shall not exceed $250,000 in the aggregate, which is included within and not in addition to the Policy Limit.

However, We will not be liable to Cover the Insured for any compensatory civil penalty:

(a) for which We are legally prohibited at law from indemnifying the Insured;

(b) based upon, attributable to or in consequence of any:

(i) wilful, intentional or deliberate failure to comply with any lawful notice, direction, enforcement action or proceeding under any legislation; or

(ii) gross negligence or recklessness; or

(iii) requirement to pay taxes, rates, duties, levies, charges, fees or any other revenue charge or impost.

3.10 Run-off Cover for Insured until the end of the Policy period

In the event that a Run-Off Event occurs to an entity which is Covered by this Policy either before or during the Period of Insurance stated in the Schedule, the Cover provided by this Policy with respect to such entity shall continue until the expiry date of this Policy in respect of any Claim otherwise Covered by this Policy arising from any act, error or omission prior to the date of the Run-Off Event.

For the purposes of this Section 3.10, “Run-Off Event” means an Insured entity ceasing to exist or operate, or being disposed of or merged with or acquired by another entity.
Section 4
Who is Covered

4.1 Insured

We Cover the Insured named in the Schedule (and as defined in Section 12 of the Policy) for Claims or losses and costs of the type and on the basis specified in Section 3, arising from the conduct of the Professional Services by or on behalf of the Insured.

The conduct of the Professional Services by or on behalf of the Insured includes, for the purpose of this Policy, acts, errors or omissions of agents or consultants of the Insured while undertaking work which is reasonably incidental to the conduct by the Insured of the Professional Services and for which the Insured is liable. Such agents and consultants, however, are not Covered by this Policy.

4.2 Others

In addition, We Cover the following for Claims or losses and costs of the type and on the basis specified in Section 3 of this Policy:

(a) Employees (and former Employees)

Employees (and former Employees) of the Insured in respect of Civil Liability arising from the conduct of the Professional Services but not in respect of Claims or losses under Section 3.2(d) of this Policy, (Dishonest, fraudulent, criminal or malicious acts or omissions or breach of fiduciary duty).

(b) Principal’s Incoming

Notwithstanding Section 6.3(e) Principals of the Insured in respect of Civil Liability arising in their capacity as a Principal of a prior professional practice, disclosed in the Proposal, (practicing in the same professional discipline as the Professional Services).

(c) Prior Corporate Entities

Corporate entities through which the Insured previously traded, in the course of the conduct of the Professional Services.

This extension of Cover, however, is subject to receipt by Us, at the time of any such Claim, of an express written request from the named Insured under the Policy to so extend the Policy Cover.

(d) Mergers and Acquisitions

Entities (practicing in the same professional discipline as the Professional Services) which are merged with or acquired by the Insured while this Policy is in force. This Cover is only for a maximum of thirty days from the date of the merger or acquisition (or until the Policy expires if that is sooner). We may agree to extend this period (subject to additional premium) after receipt of a satisfactory underwriting submission in respect of the merged or acquired entity. The Retroactive Date for such Cover is deemed to be the date of the merger or acquisition by the Insured unless We otherwise agree in writing.

We only provide Cover to the persons, firms or incorporated bodies described in Section 4.2 (a) to (d) above if the persons, firms or incorporated bodies claiming the coverage each agree in writing within a reasonable time of notification of the Claim or circumstance to Us:

(i) to be bound by this Policy; and

(ii) to be liable individually, and together with the Insured, for paying the Excess (or any other payment due to Us under this Policy) in respect of any Cover provided to them under this Policy.

4.3 Cover to Estates and Legal Representatives

If an Insured, or anyone entitled to Cover under this Policy, dies or becomes legally incompetent or insolvent, We Cover the estate, legal representative or assigns of the Insured, or the party entitled to Cover, to the same extent as Cover would otherwise be available to the Insured.

4.4 Joint Venture

If the name of a Joint Venture is included in the Schedule, under ‘Joint Ventures’, then We Cover the Insured for the Insured’s individual and joint liability in respect of that Joint Venture as otherwise Covered by this Policy. If the name of the Joint Venture is not included in the Schedule under ‘Joint Ventures’, then We Cover the Insured only for the Insured’s individual liability as otherwise Covered by this Policy (and not for the Insured’s joint liability).
Section 5
Limits to the amount of Cover

5.1 The Policy Limit
The Policy Limit applies to any one Claim and, subject to this Section 5, applies to the total of all Claims Covered by this Policy.

5.2 Reinstatement of the Policy Limit
The Policy Limit is the maximum amount We will indemnify the Insured for in respect of any one Claim. Subject to the following limitations, We will provide indemnity to a maximum of twice the Policy Limit for all Claims Covered by this Policy.

(a) Limits on reinstatement
However:
(i) We do not provide indemnity for an amount in the aggregate more than the Specific Cover Limits for losses under Section 3.5, ‘Enquiries’ or for Claims under Section 3.3, ‘Employment Practices Liability Cover’.
(ii) the aggregate indemnity under this Policy shall not exceed the Policy Limit for any one Claim or series of Claims (including Covered Claims) arising from the same acts, errors or omissions.
(iii) if there is extra insurance in excess of the limit of this Policy, then indemnity in excess of one Policy Limit (up to a maximum of twice the Policy Limit) is only available for so much of the liability (otherwise Covered by this Policy) which is not Covered by the extra insurance.

(b) Limit of Cover for Claim Investigation Costs
Where indemnity is provided under this Policy for any Claim then Claim Investigation Costs are paid in respect of that Claim up to an amount equal to the Policy Limit in accordance with Section 3.4 of this Policy. The aggregate amount We pay for Claim Investigation Costs for or in respect of all Claims Covered by this Policy does not exceed an amount equal to twice the Policy Limit.

5.3 Cover for Claim Investigation Costs if the Policy Limit is exceeded
If the amount that has to be paid to dispose of a Claim exceeds the Policy Limit, then We only pay for the same proportion of the Claim Investigation Costs as the Policy Limit bears to the amount to be paid to settle the Claim. But We never pay more than the Policy Limit.

5.4 Limit if multiple persons insured
The Policy Limit does not increase if there is more than one person, firm or incorporated body insured under this Policy, or if more than one insured person causes or contributes to the Claim.

5.5 Specific Cover Limits
If the Schedule indicates any Specific Cover Limits for specific types of Cover under this Policy, then these Specific Cover Limits apply only to Claims under that Specific Cover. The Policy Limit itself still applies to all other Claims individually and to the total of all Claims added together (including Claims for which Specific Cover Limits apply, which are included within and not in addition to the Policy Limit).

5.6 GST Input Tax Credits
Where and to the extent that We are entitled to claim an Input Tax Credit for a payment made under the Policy, then any monetary limit in the Policy on Our obligation to make a payment of this kind, shall be deemed to be net of Our entitlement to the Input Tax Credit.

Where and to the extent that the Insured is entitled to claim an Input Tax Credit for a payment required to be made by the Insured as an Excess, then the monetary limit of the Excess shall be deemed to be net of the entitlement of the Insured to the Input Tax Credit.
Section 6
What is not Covered

We do not provide Cover for any of the following Claims, (or losses or liabilities) or any associated costs:

6.1 Known Claims and Known Circumstances
   (a) known Claims (or losses) as at the inception date of this Policy; or
   (b) Claims (or losses) arising from a Known Circumstance; or
   (c) Claims (or losses) directly or indirectly based upon, attributable to, or in consequence of any such Known Circumstance or known Claims (or losses); or
   (d) Claims (or losses) disclosed in the Proposal or arising from facts or circumstances disclosed in the Proposal; or
   (e) to the extent that the Policy is endorsed or amended mid term, for any Claim that arose from a Known Circumstance (as at the effective date of the amendment/endorsement) to the extent that that Claim would not have been covered by the Policy before such amendment/endorsement.

6.2 Foreign Courts
   Claims:
   (a) first brought in a court outside Australia or New Zealand (or outside any country specified in the ‘Jurisdictional Limits’ in the Schedule); or
   (b) brought in a court within Australia or New Zealand to enforce a judgment handed down in a court outside Australia or New Zealand; or
   (c) where the proper law of a country other than Australia or New Zealand (or any country specified in the ‘Jurisdictional Limits’ of the Schedule) is applied to any of the issues in any Claim or loss Covered by this Policy.

6.3 Assumed duty or obligation
   Claims:
   (a) alleging a liability under a contractual warranty, guarantee or undertaking (unless liability would have existed regardless of the contractual warranty, guarantee or undertaking); or
   (b) about circumstances where a right of contribution or indemnity has been given up by an Insured; or
   (c) about circumstances where someone has done work or provided services under an arrangement or agreement with the Insured which limits any potential right for the Insured to receive contribution or indemnity from that person; or
   (d) arising from any Civil Liability which the Insured agrees to accept outside that which is normal in the course of the conduct of the Professional Services; or
   (e) arising from any business not conducted for or on behalf of the Insured. firm or incorporated body.

6.4 Related parties
   Claims:
   (a) against the Insured by or on behalf of:
      (i) any person, firm or incorporated body Covered by this Policy; or
      (ii) any company or trust which is operated or controlled by an Insured or an Insured’s Employees, nominees or trustees, and in which an Insured has a direct or indirect financial interest; or
      (iii) any other person, firm or incorporated body having control of over 10% or more of the voting shares or rights or an executive role in the operation of the Insured.
   (b) By or on behalf of the Insured and / or any person or entity entitled to be Covered under this Policy, against any person, firm and or incorporated body entitled to be Covered by this Policy.

6.5 Refund of Professional Fees and Trading Debts
   Claims:
   (a) for refund of professional fees or charges (by way of damages or otherwise); or
   (b) for the costs and expenses incurred by or on behalf of the Insured in complying with any contractual obligations or making good any faulty product; or
   (c) arising directly or indirectly from the provision of cost guarantees, estimates of probable costs, estimates of probable financial savings or contract price or cost estimates being exceeded; or
   (d) arising from a liability to pay trading debts, trade debts or the repayment of any loan.

6.6 Profit
   Loss or expense incurred by the Insured by or on behalf of the Insured (other than as Covered by Sections 3.4 and 3.5 of this Policy) which is not a liability to a third party. In particular, there is no indemnity or Cover under this Policy for any component of profit derived or derivable by the Insured from the sale or supply of any goods, services or rights by or on behalf of the Insured.
6.7 Insolvency
Claims directly or indirectly arising out of or in any way connected to the Insured's insolvency, bankruptcy or liquidation.

6.8 Goods & Workmanship
Claims:
(a) directly or indirectly arising from the manufacture, installation, assembly, processing, sale, supply or distribution of goods or products by or on behalf of the Insured; or
(b) directly or indirectly arising from workmanship in manufacture, fabrication, construction, erection, installation, assembly, alteration, servicing, remediation, repair, demolition or disassembly (including any materials, parts or equipment furnished in connection therewith) by or on behalf of the Insured; or from supervision of such workmanship by an Insured.

6.9 Employers, Liability, Directors' & Officers’ Liability, Occupier’s Liability, Motor, Marine, etc
Claims:
(a) Directly or indirectly based upon, attributable to or in consequence of the Insured's liability as an employer; or
(b) arising out of or in respect of actual or alleged unlawful discrimination (or other unlawful act, error or omission) by any Insured against any employee or employment applicant; or
(c) (if an Insured is either an incorporated body or a director or officer of an incorporated body) arising from any act, error or omission of a director or officer of that incorporated body while acting in that capacity; or
(d) arising from occupation (or alleged occupation) of land or buildings by an Insured; or
(e) arising from or in respect of an Insured's liability as an owner or operator of any aircraft, marine craft or motor vehicles of any kind.

6.10 Punitive & Exemplary Damages
Claims for punitive, aggravated or exemplary damages or for fines or penalties. In addition, this Policy does not provide Cover for any investigation or defence costs associated with such Claims.

6.11 Intentional Damage
(a) Claims arising from acts, errors or omissions by the Insured or any person entitled to indemnity under this Policy with the intention of causing a third party loss, damage or injury, or with reckless disregard for the consequences; or
(b) any wilful breach of any statute, contract or duty by an Insured or any person entitled to indemnity under this Policy.

6.12 Deregistration
In so far as the Insured is required by law to maintain a statutory registration in order to be entitled to practice or provide the Professional Services, Claims arising from acts, errors or omissions by or of behalf of the Insured subsequent to the cancellation or suspension of such statutory registration.

6.13 Asbestos
Claims which would not have arisen but for the existence of asbestos.

6.14 Radioactivity & Nuclear Hazards
Claims arising from:
(a) ionising radiations or contamination by radioactivity from any nuclear material; or
(b) the hazardous properties of any nuclear explosive, assembly or component.

6.15 War & Uprisings
Claims arising directly or indirectly from:
(a) war, invasion, acts of foreign enemies, civil or military uprisings, hostilities (even if war is not declared), or government power being taken unlawfully; or
(b) property being taken, damaged or destroyed by a government or public or local authority.

6.16 Terrorism
Claims directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with:
(a) any act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, illness, injury, death, cost or expense; or
(b) any action in controlling, preventing, suppressing, retaliating against, or responding to any act of Terrorism.

6.17 Pollution
Claims arising directly or indirectly from the discharge, dispersal, release or escape of Pollutants into or upon land, the atmosphere, or any water course or body of water.

For the purposes of this Section 6.18, ‘Pollutants’ shall mean any solid, liquid, gases or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalines, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.
Section 7
Investigation, defence and settlement of Claims

7.1 We must be told about Claims
The Insured must tell Us in writing about a Claim or loss as soon as possible and while this Policy is in force. If this is not done the Insured's right to Cover under this Policy may be affected.

7.2 Claims co-operation
Each Insured must:
(a) diligently do, and allow to be done, everything reasonably practicable to avoid or lessen the Insured's liability in relation to a Claim (or Covered Claim) or loss otherwise Covered by this Policy;
(b) immediately give Us all the help and information that We reasonably require to:
   (i) Investigate and defend a Claim or loss; and
   (ii) Work out Our liability under this Policy.

7.3 We can protect Our position
When We receive a notification of a Claim, or of a fact or circumstance which may give rise to a Claim which may be Covered under this Policy, then We can take whatever action We consider appropriate to protect Our position.

This does not, however:
(a) indicate that any Insured is entitled to be Covered under this Policy; or
(b) jeopardise Our rights under the Policy or at law.

7.4 Disclosure of information to Us in respect of the Cover and the Claim (or Covered Claim)
The solicitors instructed by Us to act on behalf of the Insured for any Claim (or Covered Claim) are at liberty to disclose to Us any information they receive in that capacity, wherever they obtain it from, including from the Insured. By claiming under this Policy, the Insured (and any person entitled to indemnity under this Policy) authorises such solicitors to disclose this information to Us and waives all claim to legal professional privilege which might otherwise prevent those solicitors from disclosing this information to Us.

7.5 We can manage the Claim (or Covered Claim) on the Insured's behalf
We can:
(a) take over and defend or settle any Claim (or Covered Claim) in the Insured's name; and
(b) claim in the Insured's name, any right the Insured may have for contribution or indemnity.

7.6 An Insured must not admit liability for or settle any Claim (or Covered Claim)
An Insured must not:
(a) admit liability for, or settle any Claim (or Covered Claim); or
(b) incur any costs or expenses for a Claim (or Covered Claim) without first obtaining Our consent in writing. If Our prior consent is not obtained, the Insured's right to Cover under this Policy may be affected.

7.7 Insured's right to contest
If an Insured elects not to consent to a settlement that We recommend and wants to contest or continue the legal proceedings, then We only Cover the Insured (subject to the Policy Limit) for:
(a) the amount We could have settled the matter for; less
(b) the relevant Excess listed in the Schedule; plus
(c) the Claim Investigation Costs calculated to the date the Insured elected not to consent to the settlement.

7.8 Senior Counsel
(a) unless a Senior Counsel, that We and the Insured both agree to instruct, advises that the Claim proceedings should be contested, then neither We nor the Insured can require the other to contest any legal proceedings about a Claim if the other does not agree to do so.
(b) in formulating his or her advice, Senior Counsel must be instructed to consider:
   (i) the economics of the matter; and
   (ii) the damages and costs likely to be recovered; and
   (iii) the likely costs of defence; and
   (iv) the Insured's prospects of successfully defending the Claim.
(c) the cost of Senior Counsel's opinion is to be taken as part of the Claim Investigation Costs.
(d) if Senior Counsel advises that the matter should be settled and if the terms of settlement which We recommend are within limits which are reasonable (in Senior Counsel's opinion and in the light of the matters he/she is required to consider), then:
   (i) the Insured cannot (subject to Section 7.7, Insured's right to contest) object to the settlement; and
   (ii) the Insured must immediately pay the relevant Excess or Excesses listed in the Schedule.
7.9 Payments to settle potential Claims
Any money We pay to settle anything which might give rise to a Claim, is taken to be:
(a) a payment to settle a Claim; and in addition,
(b) a payment for the purpose of calculating the total of all Claims under this Policy.

7.10 Recovering money from Employees
We must not recover any amount paid out as a Claim or loss under this Policy from any Employee or former Employee of the Insured unless the Claim or loss arose from serious or wilful misconduct by the Employee or former Employee.

7.11 Offsetting of costs & expenses the Insured owes Us against what We owe the Insured
If We incur costs or expenses above Our liability under the Policy for Claim Investigation Costs, then the Insured must pay whatever amount is above that liability immediately We ask for it. We can offset that payment due from the Insured against (and deduct that amount from) any amount We must pay to or for the Insured under this Policy.

7.12 The Excess
(a) we only Cover the Insured (up to the Policy Limit) for that part of the Covered Claim above the Excess.
(b) there are different Excesses that may be applicable, depending on the type of Covered Claim involved:
(i) the Insured must pay the amount of the Excess for Australia and New Zealand Jurisdictions specified in the Schedule if the Covered Claim arises under the jurisdiction of an Australian or New Zealand court.
(ii) the Insured must pay the amount of the Excess for other Jurisdictions specified in the Schedule if the Covered Claim arises under the jurisdiction of a court other than Australia or New Zealand. The Insured must also pay this Excess when We provide Cover for the Claim Investigation Costs of this Covered Claim if the Schedule states ‘Costs inclusive’. There is no Excess for Claim Investigation Costs when We Cover an Insured for this Covered Claim if the Schedule states ‘Costs exclusive’.
(iii) the Insured must pay the amount of Excess for costs of Enquiries specified in the Schedule when We provide Cover for legal costs and expenses associated with an Enquiry which We Cover under Section 3.5 of this Policy.
(iv) the Insured must pay the amount of Excess for ‘Employment Practices Liability’ specified in the Schedule when We provide Cover for an Employment Practices Liability Claim which We Cover under Section 3.3 of this Policy. The Insured must also pay this Excess when We provide Cover for Claim Investigation Costs for this Covered Claim.
(v) the Insured must pay only one Excess for all Covered Claims or losses Covered by this Policy arising from the same act, error or omission.
(c) in the event of a Claim, Covered Claim or loss arising from separate acts, errors or omissions, then an Excess shall apply in respect of each such act, error or omission.
(d) where the Excess is indicated in the Policy Schedule as ‘Costs inclusive’, the amount of the Excess is exclusive (ie. net) of any GST payable in respect of legal or similar investigation or defence costs.

7.13 GST Basis of Settlement
Where payment is made under this Policy for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any Input Tax Credit that the Insured is, or will be, entitled to under A New Tax System (Goods and Services Tax) Act 1999 in relation to that acquisition, whether or not that acquisition is made.
Where payment is made under this Policy as compensation instead of payment for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any Input Tax Credit that the Insured would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or other supply.

7.14 Loss Prevention
The Insured shall, as a condition to Cover under this Policy, take all reasonable steps to prevent any act, error, omission or circumstance which may cause or contribute to any Claim or loss which may be Covered under this Policy.

7.15 Other Insurance Which May Cover The Risk
The Insured must immediately advise Us in writing of any insurance already affected or which may subsequently be affected covering, in total or in part and whether absolutely or contingently, the risk, or any part of it, Covered by this Policy.

7.16 Material Change in the Risk
The Insured must immediately advise Us in writing of any material change in the risk insured by this Policy.
Section 8
Special Provisions for Dishonesty and Fraud

8.1 When the Claim under Section 3.2(d), involves theft or misappropriation of money, then We only provide Cover if:
   (a) the Insured kept a separate trust account for that money, and the account was audited at least annually by a qualified independent accountant; and
   (b) all cheques prepared on that trust account are required to be signed by a Principal or two authorised people;

8.2 The Insured must take all reasonable precautions to prevent any loss and continue to perform all the supervision, controls, checks and audits declared in the Proposal, unless We consent to a change.

8.3 We deduct from any money We pay for a Claim or loss under Section 3.2(d):
   (a) the amount of any money which the Insured would have paid to the fraudulent, dishonest, criminal or malicious person entitled to indemnity under this Policy, if they had not been fraudulent, dishonest, criminal or malicious; and
   (b) the amount of any money the person referred to in paragraph (a) above which the Insured holds (if We can do so by law).

8.4 Notwithstanding Section 3.2(d), there is no Cover under this Policy to any person entitled to indemnity under this Policy, for any Claim or loss directly or indirectly based upon, or attributable to, or in consequence of any dishonest, fraudulent, criminal or malicious acts or omissions or breach of fiduciary duty of which the Insured or that person had knowledge, or had reason to suspect, at or prior to the time of such acts or omissions or breach, and failed to take any reasonable action to prevent such dishonest, fraudulent, criminal or malicious acts or omissions or breach of fiduciary duty or any loss arising therefrom.

8.5 There is no Cover under this Policy for any Claim or loss arising from or related to any dishonest, fraudulent, criminal, malicious acts, errors or omissions or breach of fiduciary duty other than pursuant to Section 3.2(d) of this Policy.

Section 9
Additional Special Provisions for Employment Practices Liability Cover

9.1 Loss
In relation to Section 3.3, ‘Employment Practices Liability Cover’ only, ‘Loss’ means the amount payable in respect of a Claim made against the Insured and any of its Employees under a contract of service and shall include damages, judgments, settlements, interest, costs, defence costs and back pay where reinstatement by a court or tribunal is ordered. Loss excludes any amount which the Insured is or was required to pay pursuant to a specific obligation imposed under a contract of employment, employment agreement, or pursuant to statute, award or otherwise.

9.2 Claim
In relation to Section 3.3, ‘Employment Practices Liability Cover’ only, ‘Claim’ means the receipt by the Insured of:
   (a) any originating process (in a legal proceeding or arbitration), cross claim or counter claim or third party or similar notice claiming compensation against the Insured; or
   (b) any written demand from a third party claiming compensation against the Insured.

9.3 Special Exclusions
In relation to Section 3.3, ‘Employment Practices Liability Cover’ only, We do not Cover any of the following Claims (or losses or liabilities) or legal proceedings or any associated costs:
   (a) Strikes, lock-outs etc
      Claims brought about by, contributed to by, or which involve acts committed during or in connection with any industrial dispute (whether between employer and Employee or between Employees or their unions or generally), strike, picket, lock-out, go slow or work to rule action;
   (b) Insolvency
      Claims brought after the appointment of any liquidator, receiver and manager, official manager, administrator, official trustee in bankruptcy, or trustee administering a compromise or scheme of arrangement of the Insured but this exclusion is not to apply to Claims notified prior to the appointment;
(c) **Workers Compensation/Occupational Health and Safety Legislation**

Claims brought about by, contributed to by or which involve claims arising under, or pursuant to, or in relation to any Workers’ Compensation or Occupational Health and Safety Acts or similar legislation;

(d) **Bodily Injury**

Claims arising from bodily injury (except emotional distress or mental anguish), sickness, disease or death of any person;

(e) **Physical Modifications to Premises**

Claims for the cost of physical modifications to premises, plant or equipment owned or occupied by the Insured;

(f) **Unfair Contract Claims**

(i) Claims or proceedings for or in respect of a contract of employment alleged to be unfair; or

(ii) the seeking of relief pursuant to Section 127A of the Workplace Relations Act (Commonwealth) or Section 106 of the Industrial Relations Act (NSW) 1996 or Section 276 of the Industrial Relations Act (Queensland) 1999 or similar legislation in the other states or territories of the Commonwealth of Australia or in New Zealand.

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**Section 10 Other Matters**

10.1 **The Proposal**

The Proposal We were given by or on behalf of the Insured before this Policy commenced, is taken to be a separate Proposal for each natural person or entity Covered under this Policy.

If there is any fact or misstatement in the Proposal that relates to one natural person who is an Insured, We do not attribute it to any other natural person who is an Insured, for the purposes of this Policy.

10.2 **Authority to accept notices & to give instructions**

The persons listed as the Insured in the Schedule are appointed individually and jointly as agent of:

(a) each Insured; and

(b) any person who is entitled to a benefit under this Policy (when they request Cover or suffer a loss under this Policy) in all matters relating to this Policy, and to Claims or losses Covered by it.

In particular (but without limitation) the persons listed in the Schedule, as the Insured, are agents for the following purposes:

(i) to give and receive notice of Policy cancellation, to pay premiums and to receive any return premiums that may become due under this Policy; and

(ii) to accept endorsements or other notices provided for in this Policy; and

(iii) to give instructions to solicitors or counsel that We appoint or agree to, and to receive advice from them and to act on that advice; and

(iv) to consent to any settlement We recommend; and

(v) to do anything We or Our legal advisers think might help with the procedures set out in this Policy for settling and defending Claims or Covered Claims; and

(vi) to give Us information relevant to this Policy, which We can rely on when We decide whether to accept the risk, and set the Policy terms or the premium.

10.3 **Singular & Plural**

The singular includes the plural and the plural includes the singular, except if the context requires otherwise.
10.4 Payment in Australian dollars in Australia

All premiums and Claims must be paid in Australian dollars in Australia.

10.5 Law of the Policy

This Policy is governed by the law of the Territory or State where the Policy was issued, which is stated in the Schedule. The courts of that place have jurisdiction in any dispute about or under this Policy.

10.6 Territory Covered by this Policy

Cover under this Policy is not restricted by where anything giving rise to the Claim occurred. However, Our Cover is restricted to Claims brought under the legal jurisdiction of the courts of Australia and New Zealand (or any country specified in the Schedule, under the heading 'Jurisdictional Limits').

10.7 Schedule must be included

This Policy is only legally enforceable if it includes a Schedule signed by one of Our officers.

Section 11
Cancelling the Policy

11.1 The Insured Can Cancel the Policy

The Insured is entitled to cancel this Policy from the date We receive a written request to cancel the Policy, provided that any such cancellation is subject to the following terms: We will be entitled to retain premium for pro-rata ‘time on risk’ subject to a minimum administration charge of $250 plus applicable statutory charges. (Note stamp duty for a mid term cancellation is not refundable in some states).

11.2 We can cancel the Policy

(a) We may cancel this Policy at any time in accordance with the relevant provisions of Section 60 of the Insurance Contracts Act 1984, by giving notice in writing to the Insured of the date from which cancellation is to take effect.

We may deliver this notice to the Insured personally, or post it by certified mail (to the Insured’s broker or to the address the Insured last gave Us). Proof that We mailed the notice is sufficient proof that the Insured received the notice.

(b) Under Section 60 of the Insurance Contracts Act 1984, We may cancel this Policy at any time where:

(i) it is in force by virtue of Section 58 of the Insurance Contracts Act 1984; or

(ii) it is an interim contract of general insurance.

11.3 After cancellation pursuant to Section 11.2, We will refund the premium for the time remaining on the Policy, less any non-refundable duties, unless an Insured has made a fraudulent claim under the Policy.
Section 12
Words with special meanings

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

12.2 Civil Liability

Liability for the compensatory damages, costs and expenses which a civil court orders the Insured to pay on a Claim (as opposed to criminal liability or penalties). It includes the legal costs of the person making the Claim, for which the Insured becomes liable.

12.3 Claim (or Claims)

The receipt by the Insured of:

(a) any originating process (in a legal proceeding or arbitration), cross claim or counter claim or third party or similar notice claiming compensation against the Insured; or

(b) any written or verbal demand from a third party claiming compensation against the Insured.

12.4 Claim Investigation Costs

The legal costs and expenses of investigating, defending or settling any Claim (or anything which might result in a Claim), which would be Covered by this Policy at the time the legal costs and expenses arise. (Refer Section 3.4, Claim Investigation Costs.)

12.5 Cover (and ‘Covered’)

Reference to ‘Cover’ and ‘Covered’ under this Policy shall mean indemnity and indemnity shall not include any component of profit.

12.6 Covered Claim

The term Covered Claim means the Claims, liabilities, losses, costs or circumstances which may give rise to a Claim, which We may agree to Cover under this Policy.

12.7 Documents

Documents of any nature including the electronically stored data, software or computer programs for or in respect of any computer system; but not including bearer bonds, coupons, bank notes, currency notes or negotiable instruments.

Loss or damage to Documents does not include loss or damage (including rearrangement) to such electronically stored data, software or computer programs arising from any computer virus or from any design or programming defect in any computer program or computer operating system.

12.8 Employee

A natural person who is not a Principal, but who:

(a) has at any time entered into a contract of service with the Insured firm or incorporated body and is compensated for that service; and

(b) is, or was, at the time of the relevant act, error or omission giving rise to the Claim Covered under this Policy under the Insured's direct control and supervision in the course of the conduct of the Professional Services.

12.9 Enquiry (or Enquiries)

Any legal or quasi legal enquiry (into a matter in respect of which this Policy would otherwise respond had a Claim for compensation been made against the Insured arising from a matter which is the subject of the enquiry) in respect of which the Insured is legally required to participate by reason of the fact that the body conducting the enquiry (including a regulatory, licensing or statutory body) has legal jurisdiction over the Insured (either by reason of a statutory power or by reason of the Insured's membership of a professional association which has the power to discipline its members) but which does not have the power to make an order for compensation to a third party or to award any pecuniary penalty.

12.10 Excess

The part the Insured must pay of each Covered Claim. It is described in more detail in Section 7.12, the Excess.

12.11 Former Principal

A person who has been, but is no longer:

(a) a Principal of an Insured; or

(b) the Principal of any firm or incorporated body declared in the Proposal, which previously conducted the business which is now the Professional Services.

12.12 (an / the) Insured

Each of the following, individually and jointly:

(a) each person, firm or incorporated body identified in the Schedule as an Insured and each current or Former Principal of any such firm or incorporated body; and

(b) any entity which is engaged in the Professional Services and which is created and controlled, while this Policy is in force, by anyone identified in the Schedule as an Insured; and

(c) anyone who becomes a Principal of the Insured while this Policy is in force (but only in respect of work undertaken for or on behalf of the Insured firm or incorporated body).
12.13 Professional Services
The business of provision by the *Insured* of the Professional Services stated in the Schedule.

12.14 Intellectual Property
Copyright, Design, Patent, Trade Mark or Moral Right (under the Copyright Act 1968 Cwlth).

12.15 Joint Venture
An undertaking (regardless of what it is called) which the *Insured* carries on together with someone else who is not otherwise *Covered* under this *Policy*.

12.16 Known Circumstance
Any fact, situation or circumstance which:
(a) an *Insured* was aware of at any time before this *Policy* began or before this *Policy* was amended/endorsed; or
(b) a reasonable person in the *Insured's* professional position would have thought, at any time before this *Policy* began or before this *Policy* was amended/endorsed, might result in someone making an allegation against an *Insured* in respect of a liability, loss or costs, that might be *Covered* by this *Policy* or the amendment/endorsement to this *Policy*.

12.17 Policy
The insurance *Policy* made up of:
(a) this *Policy* document;
(b) the Schedule to this *Policy*;
(c) the endorsements, if any, contained in the Schedule; and
(d) the information given to Us by or on behalf of the *Insured* in the *Proposal* and in any other way.

12.18 Policy Limit
The limit stated in the Schedule as the ‘Total Sum Insured’. See also Section 5 of this *Policy*.

12.19 Principal
A sole practitioner, a partner of a firm, or a director of a company, which firm or company is *Covered* by this *Policy*.

12.20 Proposal
The written *Proposal* form (the date of which is stated in the Schedule) together with any supplementary material completed by or on behalf of the *Insured*, that was given to Us, and relied on by Us to effect this *Policy*.

12.21 Specific Cover
The *Cover* outlined in Section 3.3 and 3.5 of this *Policy*.

12.22 Specific Cover Limit(s)
The limit of *Our* insurance *Cover* for each of the matters listed in the Schedule under ‘Specific Cover Limits’. See Section 3.3 and 3.5 of this *Policy*.

12.23 Terrorism
*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 thereof, 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; or
(b) involves damage to property; or
(c) endangers life other than that of the person committing the action; or
(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.

12.24 We or Us or Our
CGU Professional Risks Insurance, a division of CGU Insurance Limited ABN 27 004 478 371.
Section 13
The way We handle your personal information

We collect personal information from you for the purpose of providing you with insurance products, services, processing and assessing claims.

You can choose not to provide this information, however, we may not be able to process your requests.

We may disclose information we hold about you to other insurers, an insurance reference service or as required by law. In the event of a claim, we may disclose information to and/or collect additional information about you from investigators or legal advisors.

If you wish to update or access the information we hold about you, please contact us.

General Insurance Code of Practice

CGU Insurance proudly supports the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry.

The objectives of the Code are:

◆ to promote better, more informed relations between insurers and their customers;
◆ to improve consumer confidence in the general insurance industry;
◆ to provide better mechanisms for the resolution of complaints and disputes between insurers and their customers; and
◆ to commit insurers and the professionals they rely upon to higher standards of customer service.

Brochures on the Code are available from your nearest CGU office.

Our service commitment

CGU Insurance is proud of its service standards and supports the General Insurance Code of Practice. In an unlikely event that you are not satisfied with the way in which we have dealt with you, as part of our commitment to customer service, we have an internal dispute resolution process in place to deal with any complaint you may have.

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

◆ one of our products;
◆ our service;
◆ the service of our authorised representatives, loss adjusters or investigators; or
◆ our decision on your claim.

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

Brochures outlining our internal dispute resolution process are available from your nearest CGU Insurance office.

Intermediary Remuneration

CGU Insurance Limited pays remuneration to insurance intermediaries when we issue, renew or vary a policy the intermediary has arranged or referred to us. The type and amount of remuneration varies and may include commission and other payments. If you require more information about remuneration we may pay your intermediary you should ask your intermediary.
Contact Details

Adelaide
80 Flinders Street
Adelaide SA 5000
Tel (08) 8425 6650
Fax (08) 8425 6592

Brisbane
189 Grey Street
South Bank QLD 4101
Tel (07) 3135 1566
Fax (07) 3135 1564

Melbourne
181 William Street
Melbourne VIC 3000
Tel (03) 9601 8700
Fax (03) 9602 5255

Perth
46 Colin Street
West Perth WA 6005
Tel (08) 9254 3750
Fax (08) 9254 3751

Sydney
388 George Street
Sydney NSW 2000
Tel (02) 8224 4655
Fax (02) 8224 4030

Website: