

Vero Steadfast Client Trading Platform (SCTP) Professional Indemnity Insurance



Vero SCTP Professional Indemnity Insurance Policy

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About this booklet

This booklet contains 2 separate parts: Notices and the Policy Terms and Conditions.

Introduction

Please read the policy carefully to ensure that it meets your requirements. It is written on a claims made and notified basis, which means that, subject to the 'Continuous Cover' clause, it will only respond to claims first made against the insured and notified to the insurer during the period of insurance (or notified in accordance with the terms of any applicable additional or extended notification period).

Any word or expression to which a specific meaning has been attached shall bear that specific meaning wherever it may appear.

You received important notices about your duty of disclosure, unusual terms in professional indemnity insurance policies and our privacy statement prior to purchasing this policy. The notices are replicated below for your reference. A reference to "you" or "your" in the notices section below includes the Insured.

Policy terms and conditions

The Policy part of this booklet contains the Policy Terms and Conditions, which detail all the terms, conditions and exclusions relating to the Policy. It forms part of your legal contract with us.

If we issue you with an insurance policy, you will be given a Policy Schedule. The Policy Schedule sets out the specific terms applicable to your cover and should be read together with the Policy Terms and Conditions.

The Policy Terms and Conditions and the Policy Schedule we send to you forms your legal contract with us so please keep them in a safe place for future reference.

If you require further information about this product, please contact your Steadfast broker.

About Vero

Supported by over 180 years of experience, Vero provides market leading insurance products and solutions to businesses of all sizes. From small start-ups right through to some of Australia's largest corporations, our mission is to help secure the longevity of your business – whether you run a small business or a large corporation.

We offer our products exclusively through insurance brokers and authorised agents because we believe that impartial, specialist advice is paramount when it comes to selecting business insurance. We also understand the importance of a good relationship when it comes to claim time. That's why we do all we can to work closely with you and your selected broker to get your business back to business quickly.

When choosing Vero, we offer more than insurance. We offer insurance with insight.

Vero is a member of the Suncorp Group.

About Steadfast

Steadfast, established in 1996, is the largest general insurance broking network and the largest underwriting agency group in Australia and New Zealand. Our network provides services to over 340 broker businesses across Australia, New Zealand, Singapore and London. Steadfast Network Brokers and Steadfast Underwriting Agencies generated billings of more than \$6 billion for the 12 months ended 30 June 2016. Steadfast also operates as a co-owner and consolidator through its equity interests in a number of broker businesses, underwriting agencies and other complementary businesses.

Important information about Steadfast's advice

Any advice Steadfast gives about the policy does not take into account any of your particular objectives, financial situation or needs. For this reason, before you act on Steadfast's advice, you should consider the appropriateness of the advice taking into account your own objectives, financial situation and needs. Before you make any decisions about whether to acquire this policy we recommend you should read this Insurance policy.

Notices

These notices do not form part of the policy.

Your duty of disclosure

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

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract. You do not need to tell us anything that:

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

If you do not tell us something

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

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

Claims made and notified basis of coverage and retroactive date

This policy is issued on a 'claims made and notified' basis. This means that the policy covers claims:

1. first made against you during the policy period; and
2. that you tell us about during the policy period.

Where your policy has an additional or extended reporting period, subject to the terms of the policy, you may have:

- (i) an additional period to tell us about claims first made against you during the policy period; and/or
- (ii) cover for claims first made against you during the extended reporting period and which you tell us about during the extended reporting period – provided the claims are based on an act, error, or omission alleged to have been committed prior to the expiry of the policy period.

Pursuant to section 54 of the Insurance Contracts Act 1984 (Cth), if you tell us about claims first made against you during the policy period (or additional or extended reporting period, if applicable), after the policy period and any applicable additional or extended reporting period expires, we may be able to reduce our liability by an amount that fairly represents the extent to which our interests were prejudiced as a result of your delay in notifying us of the claim.

Written notification of facts pursuant to section 40(3) of the Insurance Contracts Act 1984 (Cth): If during the policy period, you learn about facts that might lead to a claim and you tell us in writing about these facts as soon as reasonably practicable after you became aware of those facts but before the end of the policy period, we will treat any subsequent claim arising from those facts as though it was made against you during the policy period.

The policy doesn't cover claims or potential claims that you knew about prior to the policy period which would have put a reasonable person in your position on notice that a claim may be made against you. (There are some exceptions to this rule if a 'Continuous Cover' extension applies).

If a retroactive date is applied or shown on the policy schedule, the policy doesn't cover claims resulting from an act or failure to do something before that date.

Preservation of rights of recovery / subrogation waiver

This policy contains provisions that have the effect of excluding the insurer's liability for a loss or liability due to the insured entering into:

- (a) any agreement whereby the insured releases, agrees not to sue or waives or prejudices any rights of recovery;
- (b) any deed or agreement excluding, limiting or delaying the legal rights of recovery against another party; or
- (c) any agreement or compromise whereby any rights or remedies to which the insurer would be subrogated are or may be prejudiced.

Overseas or worldwide activities

If this policy provides cover for the conduct of activities outside of Australia or claims brought in legal jurisdictions outside of Australia, it is possible other countries' laws or regulations may nevertheless prevent this policy from responding to provide that cover. If you conduct activities overseas we recommend you seek specific advice in relation to the relevant countries' insurance requirements from your insurance broker or a legal professional.

Privacy statement

AAI Limited trading as Vero Insurance is the insurer and issuer of your commercial insurance product, and is a member of the Suncorp Group, which we'll refer to simply as "the Group".

Why do we collect personal information?

Personal information is information or an opinion about an identified individual or an individual who is reasonably identifiable. We collect personal information so that we can:

- ▼ identify you and conduct appropriate checks;
- ▼ understand your requirements and provide you with a product or service;
- ▼ set up, administer and manage our products and services and systems, including the management and administration of underwriting and claims;
- ▼ assess and investigate any claims you make under one or more of our products;
- ▼ manage, train and develop our employees and representatives;
- ▼ manage complaints and disputes, and report to dispute resolution bodies; and
- ▼ get a better understanding of you, your needs, your behaviours and how you interact with us, so we can engage in product and service research, development and business strategy including managing the delivery of our services and products via the ways we communicate with you.

What happens if you don't give us your personal information?

If we ask for your personal information and you don't give it to us, we may not be able to provide you with any, some, or all of the features of our products or services.

How we handle your personal information

We collect your personal information directly from you and, in some cases, from other people or organisations. We also provide your personal information to other related companies in the Group, and they may disclose or use your personal information for the purposes described in 'Why do we collect personal information?' in relation to products and services they may provide to you. They may also use your personal information to help them provide products and services to other customers, but they'll never disclose your personal information to another customer without your consent.

Under various laws we will be (or may be) authorised or required to collect your personal information. These laws include the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), Personal Property Securities Act 2009 (Cth), Corporations Act 2001 (Cth), Autonomous Sanctions Act 2011 (Cth), Income Tax Assessment Act 1997 (Cth), Income Tax Assessment Act 1936 (Cth), Taxation Administration Act 1953 (Cth), A New Tax System (Goods and Services Tax) Act 1999 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth), as those laws are amended and includes any associated regulations.

We will use and disclose your personal information for the purposes we collected it as well as purposes that are related, where you would reasonably expect us to. We may disclose your personal information to and/or collect your personal information from:

- ▼ other companies within the Group and other trading divisions or departments within the same company (please see our Group Privacy Policy for a list of brands/companies);
- ▼ any of our Group joint ventures where authorised or required;
- ▼ customer, product, business or strategic research and development organisations;
- ▼ data warehouse, strategic learning organisations, data partners, analytic consultants;
- ▼ social media and other virtual communities and networks where people create, share or exchange information;
- ▼ publicly available sources of information;
- ▼ clubs, associations, member loyalty or rewards programs and other industry relevant organisations;
- ▼ a third party that we've contracted to provide financial services, financial products or administrative services – for example:
 - ▼ administration or business management services, consultancy firms, auditors and business management consultants,
 - ▼ marketing agencies and other marketing service providers,
 - ▼ claims management service providers,

- ▼ print/mail/digital service providers, and
- ▼ imaging and document management services;
- ▼ any intermediaries, including your agent, adviser, a broker, representative or person acting on your behalf, other Australian Financial Services Licensee or our authorised representatives, advisers and our agents;
- ▼ a third party claimant or witnesses in a claim;
- ▼ accounting or finance professionals and advisers;
- ▼ government, statutory or regulatory bodies and enforcement bodies;
- ▼ policy or product holders or others who are authorised or noted on the policy as having a legal interest, including where you are an insured person but not the policy or product holder;
- ▼ in the case of a relationship with a corporate partner such as a bank or a credit union, the corporate partner and any new incoming insurer;
- ▼ the Australian Financial Complaints Authority or any other external dispute resolution body;
- ▼ credit reporting agencies;
- ▼ other insurers, reinsurers, insurance investigators and claims or insurance reference services, loss assessors, financiers;
- ▼ legal and any other professional advisers or consultants;
- ▼ hospitals and, medical, health or wellbeing professionals;
- ▼ debt collection agencies;
- ▼ any other organisation or person, where you've asked them to provide your personal information to us or asked us to obtain personal information from them, eg your mother.

We'll use a variety of methods to collect your personal information from, and disclose your personal information to, these persons or organisations, including written forms, telephone calls and via electronic delivery. We may collect and disclose your personal information to these persons and organisations during the information life cycle, regularly, or on an ad hoc basis, depending on the purpose of collection.

Overseas disclosure

Sometimes, we need to provide your personal information to – or get personal information about you from – persons or organisations located overseas, for the same purposes as in 'Why do we collect personal information?'

The complete list of countries is contained in our Group Privacy Policy, which can be accessed at www.vero.com.au/privacy, or you can call us for a copy.

From time to time, we may need to disclose your personal information to, and collect your personal information from, other countries not on this list. Nevertheless, we will always disclose and collect your personal information in accordance with privacy laws.

How to access and correct your personal information or make a complaint

You have the right to access and correct your personal information held by us and you can find information about how to do this in the Suncorp Group Privacy Policy.

The Suncorp Group Privacy Policy also includes information about how you can complain about a breach of the Australian Privacy Principles and how we'll deal with such a complaint. You can get a copy of the Suncorp Group Privacy Policy.

Please use the contact details in **Contact Us**.

Contact us

For more information about our privacy practices including accessing or correcting your personal information, making a complaint, obtaining a list of overseas countries or giving us your marketing preferences you can:

- ▼ Visit www.vero.com.au/privacy.
- ▼ Speak to us directly by phoning us on: 1300 888 073 or
- ▼ Email us at privacyaccessrequests@vero.com.au

General Insurance Code of Practice

We support the General Insurance Code of Practice. A copy of the Code can be obtained from the Insurance Council of Australia by:

- ▼ Telephone (02) 9253 5100 or 1300 728 228
- ▼ Website www.insurancecouncil.com.au

Our complaints handling procedures

We are committed to:

- ▼ listening to what you tell us;
- ▼ being accurate and honest in telling you about our products and services;
- ▼ communicating with you clearly; and
- ▼ resolving any complaints or concerns you have in a fair, transparent and timely manner.

How to contact us with a complaint

Let us know

If you experience a problem, are not satisfied with our products or services or a decision we have made, let us know so that we can help.

Contact us:

- ▼ By phone: 1300 888 073
- ▼ By email: claims@vero.com.au

Complaints can usually be resolved on the spot or within 5 business days.

Review by our Customer Relations Team

If we are not able to resolve your complaint or you would prefer not to contact the people who provided your initial service, our Customer Relations team can assist:

- ▼ By phone: 1300 264 470
- ▼ By email: idr@vero.com.au
- ▼ In writing: Vero Customer Relations Team, PO Box 14180, Melbourne City Mail Centre VIC 8001 Customer Relations will contact you if they require additional information or they have reached a decision.

When responding to your complaint you will be informed of the progress of and the timeframe for responding to your complaint.

Seek review by an external service

We expect our procedures will deal fairly and promptly with your complaint. However, if you remain dissatisfied, there are external dispute remedies such as mediation, arbitration or legal action you may pursue.

Goods and Services Tax

As part of the premium, the Insurer will charge the Named Insured an amount on account of GST, stamp duty and any other government charges and levies that apply. The premium also includes any discounts the Insurer has given the Named Insured, and these discounts are applied before the addition of any applicable government taxes and charges.

The Insured must tell the Insurer about the input tax credit (ITC) the Insured is entitled to for their premium and the Insured's claim, each time the Insured makes a claim. If the Insured does not give the insurer this information or if the Insured tells the Insurer an incorrect ITC, the Insurer will not pay any GST liability the Insured incurs.

The Insurer's liability to the Insured will be calculated taking into account any ITC to which the Insured is entitled for any acquisition which is relevant to the claim, or to which the Insured would have been entitled had the Insured made a relevant acquisition.

In respect of the Insured's Policy, where the Insured is registered for GST purposes the Insured should calculate the insured amount having regard to the Insured's entitlement to ITCs. The Insured should, therefore, consider the net amount (after all ITCs) which is to be insured and determine an insured amount on a GST exclusive basis.

This outline of the effect of the GST on the Insured's Policy is for general information only. The Insured should not rely on this information without first seeking expert advice on the application of the GST to the Insured's circumstances.

'GST', 'input tax credit' and 'acquisition' have the meaning given in A New Tax System (Goods and Services Tax) Act 1999.

Policy Terms and Conditions

For Professional Indemnity policy

Agreement between the named insured and the insurer

In consideration of payment of the Premium, We and the Named Insured agree that We will provide insurance in accordance with, and subject to, the terms of this Policy.

Insurer

The Policy is underwritten by AAI Limited ABN 48 005 297 807 trading as Vero Insurance.

Your policy

The Professional Indemnity Policy consists of the Policy Terms and Conditions in this booklet and the Policy Schedule We give the Insured.

The Insured should read the Policy carefully and satisfy itself that it provides the cover required.

If the Insured wants more information about any part of the Policy, please ask Us, or your Steadfast broker.

The Insured should keep the policy booklet and Policy Schedule together in a safe and convenient place for future reference.

Preventing our right of recovery

If the Insured has agreed not to seek compensation from another person who is liable to compensate the Insured for any loss, damage or liability which is covered by this Policy, We will not cover the Insured under this Policy for that loss, damage or liability.

How Goods and Services Tax affects any payments we make

We will reduce the GST amount We pay for by the amount of any input tax credits to which the Insured is or would be entitled if it made a relevant acquisition. In these circumstances, the Input Tax Credit may be claimable through the Insured's Business Activity Statement (BAS).

The Insured must advise Us of its correct Australian Business Number & Taxable Percentage.

Where our 'prior consent' is required

There are some covers under the Policy, where the Insured will need to obtain Our prior consent, for example, before incurring costs. Where prior consent is required, Our consent must be obtained, unless Policy Extension 3.17 (Emergency costs and expenses) applies or is otherwise specified in the Policy. Our consent will not be unreasonably withheld or delayed.

Where prior consent has not been obtained as required, it does not mean the Insured cannot make a claim. However, We may be able to reduce the claim payable by an amount that fairly represents the extent to which Our interests were prejudiced by the failure to obtain prior consent.

Payment of reasonable amounts of any costs, charges, expenses and fees under this policy

A range of different costs, charges, expenses and fees are covered under this Policy. Unless otherwise specified in the Policy, the Policy provides cover for the 'reasonable' amount of such cost, charge, expense or fee. Reasonable amount means an amount that is not excessive and where the Insured has given reasonable consideration in the circumstances to the different courses of action available prior to incurring the amount and the course of action taken was prudent in that context.

Where consent is required before incurring such costs, when the Insured contacts Us to seek Our consent, the Insured can let Us know the steps it has taken to consider the courses of action available and discuss the circumstances with Us. If the amounts which are to be incurred are reasonable in the circumstances, We will provide consent for the costs to be incurred.

Section 1 – Insuring clauses

Insuring clause A

1.1 Civil liability insuring clause

We will indemnify the Insured against civil liability for compensation (including Claimant's Costs) arising from any Claim first made against the Insured during the Period of Insurance and notified to Us during the Period of Insurance in respect of civil liability incurred or alleged to have been incurred in the conduct of the professional activities and duties of the Professional Business.

Insuring clause B

1.2 Costs and expenses insuring clause

We will pay reasonable Costs and Expenses incurred by Us or with Our prior consent in addition to the Indemnity Limit, up to an amount not exceeding the Indemnity Limit, in respect of any Claim indemnified by this Policy.

We will advance reasonable Costs and Expense incurred with Our prior consent as they are incurred and prior to the final adjudication of a Claim.

In determining the Insured's entitlement to indemnity under this Policy in respect of a Claim, We will not rely on Exclusion 5.6 (Fraud, dishonesty or intentional acts) unless and until:

- (a) the Insured makes an admission in writing of any conduct described in Exclusion 5.6 (Fraud, dishonesty or intentional acts); or
- (b) it has been established through a judicial process that the Insured has committed any conduct described in Exclusion 5.6 (Fraud, dishonesty or intentional acts).

The payment of any Costs and Expenses is subject to the following conditions:

- (i) the payment of any Costs and Expenses to the Insured by Us does not constitute an acceptance by Us of the Insured's right to indemnity for any Claim;
- (ii) if either (a) or (b) above applies or for any other reason it is determined that a Claim is not covered by this Policy, We will cease to pay Costs and Expenses to or on behalf of the Insured; and
- (iii) where either (a) or (b) above applies or for any other reason it is determined that a Claim is not covered by this Policy, the Insured will refund Costs and Expenses paid by Us.

Provided that when (a) or (b) above apply to an Insured, We will only exercise our right under (ii) above to cease to pay Costs and Expenses to or on behalf of that Insured, and only that Insured is required under (iii) above to refund Costs and Expenses paid to or on behalf of that Insured.

Insuring clause clarification

For the avoidance of doubt, the indemnity provided by Insuring Clauses A and B (clauses 1.1 and 1.2) includes, but is not limited to any civil liability incurred or alleged to have been incurred by the Insured in the conduct of the professional activities and duties of the Professional Business:

- 1.3 subject to Exclusion 5.2 (Contractual liability), for breach of a contract for the provision of professional services.
- 1.4 for breach of fiduciary duty.
- 1.5 for 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.
- 1.6 for any unintentional infringement of copyright, moral right (under the Copyright Act 1968 (Cth)), trademarks, service marks, registered design or patent, or any plagiarism or breach of confidentiality.
- 1.7 for defamation, provided that the Insured did not make the defamatory material or statement with ill intent or for an improper purpose.
- 1.8 under the terms of the Competition and Consumer Act 2010 (Cth) or similar legislation enacted by the other states or territories of the Commonwealth of Australia or the Dominion of New Zealand for the protection of consumers, including any amendment, consolidation, re-enactment, replacement or successor of such legislation.

Section 2 – Retroactive date

- 2.1 "Unlimited Retroactive Cover" – if no retroactive date is specified in the Schedule or if the retroactive date is specified in the Schedule as "Unlimited", this Policy shall provide indemnity in respect of Claim(s) arising from acts, errors or omissions committed or alleged to have been committed irrespective of when such acts, errors or omissions were committed (or were alleged to have been committed).
- 2.2 "Limited Retroactive Cover" – where a retroactive date is specified in the Schedule, then this Policy shall only provide indemnity in respect of Claim(s) arising from acts, errors or omissions committed or alleged to have been committed on or after the retroactive date.

Section 3 – Automatic policy extensions

Preamble

We will provide indemnity as is available under this Section, for no additional premium, provided always that:

- (a) the indemnity provided by each Policy Extension is subject to the Schedule, Insuring Clauses, Conditions, Definitions, Exclusions, Deductible and other terms of this Policy (unless otherwise expressly stated herein);
- (b) the inclusion of any Policy Extension shall not increase the Indemnity Limit or the Maximum Aggregate Limit; and
- (c) the total of all payments made under the Policy Extensions will be part of and not in addition to the Indemnity Limit and the Maximum Aggregate Limit, unless otherwise stated.

3.1 Additional benefit – Claims preparation costs

We will pay up to \$25,000 in the aggregate during the Period of Insurance for reasonable professional fees and such other expenses incurred by the Insured for the preparation of any claim against this Policy.

We will pay these amounts as they are incurred and prior to determining the Insured's entitlement to indemnity for the claim, provided always that if it is determined that such claim is not covered by this Policy, the Insured will refund any amounts paid by Us under this Policy Extension.

The cover provided under this Policy Extension operates in addition to the Indemnity Limit. Provided always that such cover shall not include any Costs and Expenses (as defined in Definition 8.5 (Costs and Expenses)).

3.2 Consultants, sub-contractors and agents

The conduct of the professional activities and duties of the Professional Business shall be deemed to include acts, errors or omissions of consultants, sub-contractors or agents of the Named Insured, while undertaking work in connection with the conduct of the professional activities and duties of the Professional Business and for which the Named Insured is liable.

We will also indemnify any consultant, sub-contractor or agent themselves, provided always that:

- (a) this cover shall only apply in respect of services provided for and on behalf of the Named Insured; and
- (b) the relevant act, error or omission giving rise to the Claim occurred at the time when the consultant, sub-contractor or agent was undertaking work under a contract for services entered into with the Named Insured.

3.3 Continuous cover

We will indemnify the Insured for any Claim, otherwise covered by this Policy, arising from any Known Circumstance (notwithstanding Exclusion 5.12 (Known claims and known circumstances)) if:

- (a) We were the professional liability insurer of the Insured when the Insured first knew of such Known Circumstance (the relevant professional liability insurance policy which the Insured was insured under at this time is referred to as "the previous policy" in this Policy Extension);
- (b) We continued without interruption to be the Insured's professional liability insurer up until this Policy came into effect;
- (c) 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 previous policy but is not now entitled to be covered by that policy; and
- (d) there is an absence of fraudulent noncompliance with the Insured's duty of disclosure and an absence of fraudulent misrepresentation by the Insured in respect of such Known Circumstance.

The Insured must not seek indemnity from Us in respect of the Claim or any Claim arising out of the Known Circumstance under any other policy issued by Us.

We may reduce the amount We pay out under this provision by the amount of any prejudice We may suffer in connection of any delayed notification to Us. For the purpose of this Policy Extension, prejudice will include any lost opportunity to resolve the Claim and increased costs incurred in defending a Claim due to the delay in notification.

The limit of Our liability provided under this Policy Extension is the lesser of:

- (i) the limit of Our liability under the terms of the previous policy;
- (ii) if the aggregate limit of Our liability under the terms of the previous policy has been eroded by the payment of claims or other amounts under the previous policy such that the available aggregate limit of Our liability is less than the amount noted under (i) above, the available aggregate limit of Our liability;
- (iii) if any Claim resulting from such Known Circumstances would have been subject to a sub-limit of cover under the terms of the previous policy, such sub-limit of cover;
- (iv) if a sub-limit of cover that would apply per (iii) above has been eroded by the payment of claims or other amounts under the previous policy, the remaining amount of such sub-limit;
- (v) the Indemnity Limit under this Policy; or
- (vi) any applicable sub-limit of cover under this Policy.

The terms of this Policy otherwise apply.

For the purpose of (ii) above, "aggregate limit of Our liability" means the maximum aggregate limit, the limit of indemnity plus any reinstatement of such limit, or equivalent provisions under the previous policy.

As an example of the operation of paragraph (ii) above, if the aggregate limit of Our liability has been completely eroded by the payment of claims or other amounts under the previous policy, such that there is no available aggregate limit of Our liability, then no cover will be available under this Policy.

3.4 Court attendance costs

For any person described in (a) or (b) below who actually attends court in connection with a Claim notified under this Policy, it is agreed that reasonable Costs and Expenses will include the following rates per day on which attendance in court has been required:

- (a) for any person who was or is a principal, partner or director of the Named Insured: \$500.
- (b) for any person who was or is an Employee of the Named Insured: \$500.

If and to the extent that it is determined that such Claim is not covered by this Policy, then all amounts paid to an Insured under this Policy Extension in respect of that Claim shall be repaid to Us by that Insured.

No Deductible shall apply to this Policy Extension.

3.5 Estates and legal representatives

The definition of the Insured (Definition 8.13) is extended to include the estate, heirs, legal representatives or assigns of any Insured in the event of the death, mental disorder and/or other incapacity or insolvency or bankruptcy of such Insured in respect of any civil liability of the Insured that would have been covered by Insuring Clause A and/or B if the Insured was alive, had capacity or was not insolvent or bankrupt. Provided always that all such third party beneficiaries must comply with the terms and conditions of the Policy, including without limitation, the claims conditions.

3.6 Extended notification period

In the event that this insurance is not renewed or is cancelled for any reason other than non-payment of premium or due to fraud, then the Insured can continue to notify Us during the Extended Notification Period of any Claim first made against the Insured during the Period of Insurance or Extended Notification Period.

The "Extended Notification Period" is the lesser of the following:

1. Sixty (60) days commencing on the day immediately following the expiry of this Policy or, in the event of cancellation, the cancellation date; or
2. The period commencing on the day immediately following the expiry of this Policy or, in the event of cancellation, the cancellation date, and ending at such time the Insured effects another professional indemnity insurance policy either with Us or any other insurer.

Provided always that:

- (a) We will treat that Claim as if it had been made against the Insured and notified to Us during the immediately preceding Period of Insurance;
- (b) coverage afforded under this Policy Extension does not reinstate or increase the Indemnity Limit or the Maximum Aggregate Limit or extend the Period of Insurance; and
- (c) coverage afforded under this Policy Extension will only apply to acts, errors or omissions committed or alleged to have been committed by the Insured before the end of the Period of Insurance or the cancellation date of this Policy where this Policy has been cancelled and not before the retroactive date.

3.7 Civil penalties

Notwithstanding exclusion 5.5 (Fines and penalties), we will indemnify the Insured against compensatory civil penalties imposed by law in connection with a Claim notified under Insuring Clause A (clause 1.1). Our total liability for the payment of compensatory civil penalties during any one Period of Insurance shall not exceed \$250,000 in the aggregate, which amount shall form part of and not increase the Indemnity Limit.

Provided further that We will not be liable to indemnify the Insured for any compensatory civil penalty:

- (a) for which We are legally prohibited from indemnifying the Insured under Australian law; or
- (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;
 - (ii) recklessness; or
 - (iii) requirement to pay taxes, rates, duties, levies, charges, fees or any other revenue or impost.

3.8 Fraud, dishonesty or intentional acts

We will indemnify the Insured against civil liability for compensation (including Claimant's Costs) arising from any Claim made against that Insured and notified under Insuring Clause A (clause 1.1), which would otherwise be excluded by reason of Exclusion 5.6 (Fraud, dishonesty or intentional acts).

Provided further that:

- (a) such indemnity shall not be provided to any Insured who committed or condoned any act, error or omission excluded by reason of Exclusion 5.6 (Fraud, dishonesty or intentional acts); and
- (b) such indemnity shall not apply to any Claim against any Insured directly or indirectly based upon, attributable to, or in consequence of:
 - (i) the loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes;
 - (ii) the loss of an electronic record which represents a current and transferable obligation of a person to pay the holder of the electronic record an amount or amounts of money described in the electronic record in exchange for delivery, adjustment or cancellation of the electronic record; or
 - (iii) a transaction, direction or dealing involving or in any way relating to a right to be paid money or to have any of the items referred to in subparagraph (i) or (ii) of this paragraph (b) delivered, negotiated or assigned or an electronic record of such a right.

3.9 Joint venture

If the name of a Joint Venture is included in the Schedule under 'Joint Ventures', then We will indemnify the Insured under Insuring Clause A (clause 1.1) for the Insured's joint and individual civil liability, arising out of the conduct of the professional activities and duties of such Joint Venture.

If the name of the Joint Venture is not included in the Schedule under 'Joint Ventures', then, We will indemnify the Insured under Insuring Clause A (clause 1.1) only for the Insured's individual civil liability and not for the Insured's joint civil liability arising out of the conduct of the professional activities and duties of such Joint Venture.

Provided always that the business of such Joint Venture is the same as the Professional Business (as defined in Definition 8.24 (Professional Business)).

3.10 Loss of documents

We will, in the event of loss of or damage to Documents occurring in connection with the Professional Services, indemnify the Insured for the reasonable costs, charges and expenses of whatsoever nature incurred by the Insured in replacing and/or restoring any Documents (including but not limited to Documents which are the property of the Insured).

Provided always that:

- (a) such loss of Documents was first discovered by the Insured during the Period of Insurance and was notified to Us as soon as reasonably practicable after the date of such discovery during the Period of Insurance (or any Extended Notification Period applicable under Policy Extension 3.6 (Extended notification period));
- (b) the amount of any claim for such costs, charges and expenses shall be supported by proof of loss or damage to Documents (for example bills and accounts) which shall be subject to approval by an appropriately qualified and experienced professional or advisor to be nominated by Us and agreed to by the Insured, or if such agreement is withheld, by the President of the Law Society of the State or Territory where the Policy was issued;
- (c) We will not be liable for loss or damage caused by or arising directly or indirectly from, in connection with or in respect of any Cyber Act; and
- (d) such indemnity shall be limited to the loss of any Documents:
 - (i) which were in the physical custody or control of either the Named Insured or any third party to whom a reasonable person in the Named Insured's professional position would entrust the Documents with the expectation that the Documents would be protected from loss or damage; or
 - (ii) which occurred whilst such Documents were in transit.

Where the Documents are in electronic format, the Named Insured must:

- A. ensure the following information technology ("IT") security measures are in place or undertake reasonable enquiries to verify whether a third party to whom the Named Insured has entrusted the Documents, has the following IT security measures in place:
 - (i) procedures in place to back up such Documents at least once a week;
 - (ii) active and up-to-date IT security that, at a minimum, has the ability to:
 - i. identify and remove software viruses and other types of harmful and malicious software ("Viruses");
 - ii. automatically scan files, documents, emails, email attachments, folders and other means of storing, transmitting and using digital information, for Viruses;
 - iii. provide firewall protection; and
 - iv. automatically receive updates from the relevant provider of such Virus and firewall protection; and

- B. do everything that a reasonable person in the Named Insured's professional position would do to ensure that the abilities listed in A(i) and A(ii) above are enabled and fully utilised on an ongoing basis by either the Named Insured or the third party.

If the Named Insured fails to comply with paragraphs A. and B. of this Policy Extension, We may be able to:

- (i) refuse to pay a claim by reason of that failure, but only to the extent that such failure caused or contributed to the loss which gives rise to the claim; or
- (ii) reduce Our liability by an amount that fairly represents the extent to which We have been prejudiced by that failure.

3.11 Newly created or acquired subsidiary

The definition of Insured (Definition 8.13) is extended to include any Subsidiary created or acquired by the Named Insured during the Period of Insurance for a period of up to thirty (30) days (but never beyond the expiry date of the Period of Insurance) from the date of such creation or acquisition.

Provided always that this Policy Extension will only apply in respect of Claim(s) against the Subsidiary:

- (a) arising from an act, error or omission occurring subsequent to the date of creation or acquisition of that Subsidiary; and
- (b) in respect of the conduct of the professional activities and duties of the Professional Business (as defined in Definition 8.24 (Professional Business)).

The Insured may apply to Us, within such thirty (30) day period, to vary this Policy to continue the cover provided by this Policy Extension until the expiry date of the Period of Insurance and We will confirm whether We are willing to offer to continue the cover, on what terms and for what additional premium. The Insured shall supply Us with such additional information relating to the new Subsidiary as We may reasonably require and pay any reasonable additional premium as may be required by Us.

We must provide Our response to any such application as soon as possible but no later than the end of the thirty (30) day period, or, where the Insured contacts Us less than five business days before the end of that thirty (30) day period, We must provide our response within five business days.

This clause shall not extend cover to any Subsidiary created or acquired by the Named Insured that is domiciled or incorporated in the United States of America or its territories or protectorates.

3.12 Official investigations and enquiries – costs and expenses

We will pay reasonable Investigation Costs and Expenses incurred by Us or by the Insured with Our prior consent. Provided always that:

- (a) the notice of intended official investigation, examination or enquiry is served upon the Insured during the Period of Insurance and is notified to Us during the same Period of Insurance;
- (b) Our total liability in respect of Investigation Costs and Expenses for all claims made under this Policy Extension shall not exceed \$250,000.

We will advance reasonable Investigation Costs and Expenses incurred by Us or the Insured with Our prior consent as they are incurred.

In determining the Insured's entitlement to indemnity under this Policy Extension, We will not rely on Exclusion 5.6 (Fraud, dishonesty or intentional acts) unless and until:

- I. the Insured makes an admission in writing of any conduct described in Exclusion 5.6 (Fraud, dishonesty or intentional acts); or
- II. it has been established through a judicial process that the Insured has committed any conduct described in Exclusion 5.6 (Fraud, dishonesty or intentional acts).

In the event that either I or II above applies, a claim for payment of Investigation Costs and Expenses is withdrawn or it is determined that a Claim is not covered by this Policy Extension, We will cease to pay Investigation Costs and Expenses to or on behalf of the Insured and the Insured will refund Investigation Costs and Expenses paid by Us to the extent that the Insured was not entitled to such Investigation Costs and Expenses. Provided that when I or II above apply to an Insured, We shall only exercise our right to cease paying Investigation Costs and Expenses to that Insured, and only that Insured is required to refund Investigation Costs and Expense paid to or on behalf of that Insured.

For the purpose of this Policy Extension, an official investigation, examination or enquiry includes but is not limited to:

- (i) any investigation, examination or enquiry by way of a Royal Commission or Coronial Enquiry, or conducted by a regulatory authority such as the Australian Securities and Investments Commission; or
- (ii) any investigation, examination or enquiry conducted by any disciplinary committee of any association, industry or professional body of which the Insured is a member.

We will not provide indemnity in respect of any industry-wide investigation, routine supervision, inspection, compliance or similar reviews of an Insured conducted by any regulatory, self-regulatory, professional, statutory or official body or institution.

This Policy Extension does not apply to an investigation, examination or enquiry arising from or in respect of a Privacy Breach for which the Insured has an obligation under the Privacy Act 1988 (Cth) (including any amendment, consolidation, re-enactment, replacement or successor of such legislation) to notify the Office of the Australian Information Commissioner (OAIC) (or other responsible agency or person as set out in the Privacy Act 1988 (Cth) or any amendment, consolidation, re-enactment, replacement or successor of such legislation) and affected individuals to whom the information relates.

3.13 Public relations expenses

Where the Insured retains the services of a public relations consultant for the sole purpose of protecting the Insured's reputation that has been brought into question as a direct result of a Claim notified under this Policy, We will pay any reasonable fees, costs and expenses of such public relations consultant. Provided always that:

- (a) the Insured notifies Us as soon as reasonably practicable within the Period of Insurance after first becoming aware of the Insured's reputation being brought into question, including relevant details of the circumstances surrounding the event;
- (b) We have given prior consent to retain the services of such public relations consultant; and
- (c) Our total aggregate liability during any one Period of Insurance for all public relations expenses shall not exceed \$50,000.

We will pay these amounts as they are incurred and prior to determining the Insured's entitlement to indemnity for the Claim that has resulted in the Insured's reputation being brought into question, provided always that if it is determined that such Claim is not covered by this Policy, the Insured will refund any amounts paid by Us under this Policy Extension.

The assessment of whether the Insured's reputation has been brought into question as a direct result of a Claim notified under this Policy shall be based on the reasonable opinion of a principal, partner or director of the Named Insured.

3.14 Run off cover until expiry of the period of cover

In the event that an Insured entity ceased or ceases to exist or operate or be a subsidiary of another entity or became or becomes consolidated with, merged into or acquired by any other entity either before or during the Period of Insurance then the coverage provided under this Policy with respect to such Insured entity shall continue until the expiry date of the Period of Insurance.

Provided always that such coverage will only apply in respect of Claim(s) arising from any act, error or omission occurring prior to the effective date that such Insured entity ceased to exist or operate or was consolidated with, merged into or acquired by another entity.

3.15 Severability

Where any Insured:

- (a) failed to comply with the duty of disclosure contained in the Insurance Contracts Act 1984 (Cth);
- (b) made a misrepresentation to Us before this contract of insurance was entered into; or
- (c) fails to comply with any conditions of this Policy,

the right of any other Insured to indemnity under this Policy will not be prejudiced as a result. Provided always that this Policy Extension will only apply when:

- (i) such other Insured will be entirely innocent of and has no prior knowledge of any such conduct; and
- (ii) such other Insured will, as soon as is reasonably practicable upon becoming aware of any such conduct, advise Us in writing of all known facts in relation to such conduct.

Notwithstanding the above, any fact or knowledge possessed by any past or present partner, principal, director, chairman, chief executive officer, chief operating officer, chief financial officer, company secretary, chief legal officer or the holder of any similar or equivalent positions will be imputed to the Named Insured.

3.16 Previous business

We will indemnify any principal, partner or director of the Insured for Claims resulting from professional services they performed prior to joining the Insured.

This extension will only apply if:

- (a) the professional services were performed in the same profession as the Professional Business of the Insured; and
- (b) at the time such principal, partner or director performed such professional services, there were no more than 10 partners or directors in the past business in which the principal, partner or director practiced.

Notwithstanding Clauses 2.1 and 2.2, the retroactive date for this Policy Extension is limited to the commencement date of the past business in which the principal, partner or director practiced.

Any cover afforded by this Policy Extension will be specifically excess of:

- (i) any indemnity available (other than under an insurance policy) from or through the past business; and

- (ii) any other valid and collectible insurance available from or through the past business under which cover is available for Claims resulting from the principal's, partner's or director's performance of professional services for or on behalf of the past business, unless the principal, partner or director entered into that policy in their own name.

3.17 Emergency costs and expenses

We will pay reasonable Costs and Expenses or reasonable Investigation Costs and Expenses incurred by the Insured prior to obtaining Our consent, until such time as the Insured contacts or could reasonably have contacted Us, and provided that for the purposes of this Policy Extension only:

- (a) We are only liable to indemnify the Insured for that part of the Insured's liability in respect of each Claim, reasonable Costs and Expenses and reasonable Investigation Costs and Expenses in excess of the Deductible, and
- (b) if and to the extent We subsequently determine that the Insured is not entitled to indemnity under the Policy, the Insured must reimburse Us for any Costs and Expenses or Investigation Costs and Expenses that We have paid in advance, according to their respective rights and interests.

In the event the Insured incurs Costs and Expenses or Investigation Costs and Expenses without Our prior consent after such time the Insured could reasonably have contacted Us to request Our prior consent, We may reduce Our liability for such Costs and Expenses or Investigation Costs and Expenses by an amount that fairly represents the extent to which Our interests are prejudiced by the Insured's failure to request Our prior consent.

3.18 Loss mitigation

We will indemnify the Insured for the reasonable costs and expenses incurred by the Insured with Our prior consent to rectify or to mitigate the effects of any act, error or omission of the Insured in the Professional Business which is first discovered during the Period of Insurance and notified to Us during the Period of Insurance:

- (a) which would otherwise result in a Claim under this Policy; and
- (b) where such rectification or mitigation is reasonably likely to avoid or reduce the loss or potential loss which would be the subject of the Claim specified in (a) above.

No payment will be made to the Insured in relation to a cyber ransom or extortion payment, meaning payment demanded by a third party who has committed, or has threatened to commit, an unauthorised, malicious or criminal act in respect of Computer Systems or Data that would result in, or is intended to result in, harm or loss being suffered by the Insured or any other party.

The sub-limit of liability for all such payments under this extension is \$100,000 in respect of any one matter and \$200,000 in the aggregate for all such matters.

Section 4 – Optional extensions

Preamble

It is agreed that:

- (a) the indemnity provided by each Optional Extension is subject to the Schedule, Insuring Clauses, Conditions, Definitions, Exclusions, Deductible and other terms of this Policy (unless otherwise expressly stated herein);
- (b) the inclusion of any Optional Extension will not increase the Indemnity Limit or the Maximum Aggregate Limit; and
- (c) where an Optional Extension is not specified as included in the Schedule then this Policy will not provide any indemnity in relation to coverage specified under such Optional Extension.

4.1 Fidelity

Notwithstanding Exclusion 5.6 (Fraud, dishonesty or intentional acts) We will indemnify the Insured against loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes belonging to the Insured or for which the Insured is legally liable where any such loss is sustained in consequence of any dishonest or fraudulent act or omission of any Insured. Provided always that:

- (a) such loss is first discovered by the Insured during the Period of Insurance and is notified to Us as soon as reasonably practicable during the Period of Insurance;
- (b) We will not be liable for any loss sustained in consequence of any act or omission occurring after the discovery of facts or circumstances that would cause a reasonable person in the Insured's position to suspect another Insured had committed or was intending to commit an act of fraud or dishonesty;
- (c) We will not be liable to indemnify any Insured who committed or condoned any dishonest or fraudulent conduct in consequence of which the loss occurred;
- (d) Our liability for each loss under this Optional Extension and Our aggregate liability for all losses under this Optional Extension will not exceed \$250,000.

4.2 Multi-year run-off after merger, takeover, sale, winding up of named insured

A. Entitlement to run-off period

If, during the Period of Insurance:

- (a) the Named Insured is subject to a merger, takeover, sale or winding up ('the Run-off Event'); and
- (b) prior to the expiry of the Period of Insurance, the Named Insured provides Us with a signed and dated declaration confirming:
 - (i) the date of the Run-off Event;
 - (ii) that the Insured has not had any registration or membership with any association or governing body related to the Professional Business cancelled, withdrawn, revoked or suspended as a result of misconduct during the Period of Insurance;
 - (iii) the Insured is not the subject of a disciplinary action or criminal inquiry, conviction or penalty in relation to the provision of Professional Business that has not already been notified to Us or any previous insurer;
 - (iv) that after reasonable enquiries the Named Insured is not aware of any Claims or Known Circumstances that have not already been notified to Us or any previous insurer,

then the expiry date of the Period of Insurance will be extended by seven (7) years, or a shorter period of time requested by the Named Insured, subject to the payment of additional premium calculated by Us at the rates at which We ordinarily calculate premiums for multi-year run-off policies.

We must advise the Named Insured of the additional premium amount as soon as reasonably practicable after We receive the declaration set out in (b) above. Payment of the additional premium must be made to Us within thirty (30) days of when We advise the Named Insured of the additional premium amount, or such other later date We specify in writing (the "Due Date"). If the Named Insured fails to pay the additional premium by the Due Date, the Period of Insurance will not be extended.

Notwithstanding the above, if during the Period of Insurance the Named Insured is the subject of a Run-off Event but does not satisfy the requirements of paragraph (b) above, the Named Insured will be entitled to apply for an extension of the Period of Insurance. We will consider such application on its merits. We will not unreasonably withhold or delay any offer to extend the Period of Insurance. We may decline to offer an extension of the Period of Insurance. We will provide reasons for any decline to that Named Insured. Factors taken into account when considering an application for an extension of the Period of Insurance include but are not limited to the circumstances for failing to satisfy the requirements of paragraph (b) above, the Named Insured's claims experience, any notification of matters of the type set out under (b)(iv) above, or whether the Named Insured is the subject of disciplinary action or criminal inquiry, conviction or penalty in relation to the provision of the Professional Business.

B. Offer of a run-off period

If We offer to extend the Period of Insurance for a Named Insured who does not satisfy the requirements of paragraph (b) in section A above, Our offer will specify the duration of the extension, additional terms of the extension (for example, any additional endorsements amending cover or special conditions that may need to be applied) and the additional premium applicable for the extension. The duration, terms and additional premium of the extended Period of Insurance will be based on the factors taken into account when considering the application for the extension, also referred to in the above paragraph.

Our offer lapses upon either the expiry of the Period of Insurance, or another date We specify in writing to the Named Insured.

Any extension of the Period of Insurance is not effective until the Named Insured provides us with written acceptance of Our offer and payment of any additional premium. Until that time the extension will not be provided.

Payment of the additional premium must be made to the Us within thirty (30) days of the Named Insured's written acceptance of Our offer, or such other later date We specify in writing (the "Due Date"). If the Named Insured fails to pay the additional premium by the Due Date, the Period of Insurance will not be extended.

C. Details of the run-off period

This Policy Extension will only apply with respect to any Claim(s) arising from any act, error or omission occurring prior to the effective date of such merger, takeover, sale or winding up.

If Optional Extension 4.1 (Fidelity) has been included, then this Policy Extension will only apply to loss as described in that clause sustained in consequence of any dishonest or fraudulent act or omission committed prior to the date of the Run-off Event.

The purchase of an extension of the Period of Insurance under this Policy Extension will not increase or reinstate the Indemnity Limit, the Maximum Aggregate Limit or any sub-limit specified in the Policy.

The Named Insured agrees that when the Period of Insurance has been extended under this Policy Extension, this Policy becomes non-renewable and is not "renewable insurance cover" within the meaning of Section 58(1) Insurance Contracts Act 1984 (Cth).

Section 5 – Exclusions

5.1 Aircraft, motor vehicles and watercraft

We will not be liable under this Policy to provide indemnity in respect of any Claim based upon, attributable to, or in consequence of the ownership, lease, operation or use of any aircraft, motor vehicle or watercraft by an Insured.

5.2 Contractual liability

We will not be liable under this Policy to provide indemnity in respect of any Claim based upon, attributable to, or in consequence of any duty or obligation assumed by an Insured by way of any contractual undertaking, warranty, guarantee or indemnity, to the extent that such liability exceeds the liability the Insured would have incurred in the absence of such contractual undertaking, warranty, guarantee or indemnity.

5.3 Asbestos

We will not be liable under this Policy to provide indemnity in respect of any Claim which would not have arisen but for the existence of asbestos.

5.4 Directors and officers liability or trustees liability

We will not be liable under this Policy to provide indemnity in respect of any Claim based upon, attributable to, or in consequence of any activities as a trustee, director, secretary or officer unless that liability would have arisen if the Insured had not held that position as a trustee, director, secretary or officer.

5.5 Fines and penalties

We will not be liable under this Policy to provide indemnity in respect of any Claim for punitive, aggravated, multiple or exemplary damages, or fines or penalties imposed by law, other than as provided for in Policy Extension 3.7 (Civil penalties).

5.6 Fraud, dishonesty or intentional acts

We will not be liable under this Policy to provide indemnity in respect of any Claim based upon, attributable to, or in consequence of:

- (a) any dishonest, fraudulent, criminal, or malicious act or omission of an Insured or their consultants, sub-contractors or agents; or
- (b) any act or omission of an Insured or their consultants, sub-contractors, or agents with the intention of causing a third party loss, damage or injury or committed with a reckless disregard for the consequences thereof; or
- (c) any wilful breach of any statute, contract or duty by an Insured or their consultants, sub-contractors or agents,

other than as provided for in Policy Extension 3.8 (Fraud, dishonesty or intentional acts).

Provided always that this exclusion will not apply unless and until:

- (i) the Insured makes an admission in writing of any conduct described in clauses (a), (b) and/or (c) above; or
- (ii) it has been established through a judicial process that the Insured has committed any conduct described in clauses (a), (b) and/or (c) above.

5.7 Jurisdictional limits

We will not be liable under this Policy to provide indemnity in respect of any:

- (a) Claim brought in a court of law within the territorial limits of the United States of America or its territories or protectorates; or
- (b) Claim or liability arising out of the enforcement of any judgment, order or award obtained within, or determined pursuant to, the laws of the United States of America or its territories or protectorates.

5.8 Radioactivity and nuclear hazards

We will not be liable under this Policy to provide indemnity in respect of any Claim or liability arising from or directly or indirectly attributable to or in connection with any:

- (a) loss or destruction of or damage to any property whatsoever, or any resultant loss or expenses whatsoever; or
- (b) consequential loss; or
- (c) legal liability of whatsoever nature,

directly or indirectly caused by or contributed to by or arising from:

- (i) ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (ii) the radioactive, toxic, explosive or other hazardous properties or any explosive nuclear assembly or nuclear component thereof.

5.9 Obligations to workers

We will not be liable under this Policy to provide indemnity in respect of any Claim based upon, attributable to, or in consequence of:

- (a) Bodily Injury of any Worker of an Insured or damage to or destruction of any property of any Worker of an Insured, including loss of use of property, arising out of, or in the course of, their employment.
- (b) any actual or alleged Employment Practice Breach (as defined in Definition 8.11).

For the purposes of Exclusions 5.9(a) and 5.9(b) only, the term "Worker" means any person employed by, or who is deemed to be employed by, the Insured pursuant to any Workers' Compensation Law.

5.10 Occupier's liability

We will not be liable under this Policy to provide indemnity in respect of any Claim based upon, attributable to, or in consequence of any liability incurred or alleged to have been incurred as a result of occupation, control, management or ownership of any real property by an Insured.

5.11 Pollution

We will not be liable under this Policy to provide indemnity in respect of any Claim arising from or directly or indirectly attributable to or in consequence of the actual or alleged release or discharge of Pollutants into or upon land, the atmosphere or any water course or body of water. However, this exclusion will not apply if the Pollution results from an error or omission in design and/or advice and/or specification in the provision of the Professional Business.

5.12 Known claims and known circumstances

We will not be liable under this Policy to provide indemnity in respect of any:

- (a) Claims (or losses or claims) which were known to the Insured as at the inception date of this Policy, or
- (b) Claims (or losses or claims) arising from any Known Circumstance(s); or
- (c) Claims (or losses or claims) disclosed in the Proposal form.

5.13 Product liability

We will not be liable under this Policy to provide indemnity in respect of any Claim based upon, attributable to, or in consequence of the manufacture, preparation, modification, repair, supply, maintenance or treatment of any goods or products sold, supplied or distributed by the Insured, except where such Claim arises solely and directly from any advice, design or specification prepared by the Insured in the conduct of the professional activities and duties of the Professional Business.

5.14 Related or associated entities

We will not be liable under this Policy to provide indemnity in respect of any Claim brought or maintained by or on behalf of an Insured or any Subsidiary or parent of an Insured.

This exclusion will not apply to:

- (a) a cross-claim or Claim brought by an Insured against another Insured for the purposes of contribution or indemnity where a claim is brought by a third party; or
- (b) a Claim brought by or on behalf of a Named Insured's Employee directly in relation to the provision of the professional activities and duties of the Professional Business by an Insured to that Employee.

5.15 Territorial limits

We will not be liable under this Policy to provide indemnity in respect of any Claim based upon, attributable to, or in consequence of an act, error or omission occurring within the territorial limits of the United States of America or its territories or protectorates.

5.16 War/terrorism

We will not be liable under this Policy to provide indemnity in respect of any Claim or liability of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following, regardless of any cause or event contributing concurrently or in any other sequence:

- (a) War, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power;
- (b) Any act of terrorism; or
- (c) Any action taken in controlling, preventing, suppressing or in any way relating to (a) and/or (b) above.

For the purposes of this exclusion, an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

5.17 Trade debts

We will not be liable under this Policy to provide indemnity in respect of any Claim directly or indirectly based upon, attributable to, or in consequence of:

- (a) any trade debt incurred by an Insured or any guarantee given by an Insured for a debt; or
- (b) the refund of the Insured's professional fees or charges (by way of damages or otherwise).

5.18 Restrictive trade practices

We will not be liable under this Policy to provide indemnity in respect of any Claim directly or indirectly based upon, attributable to, or in consequence of any actual or alleged restrictive trade practices, restraint of trade or unfair competition.

5.19 Sanctions

We will not provide any cover, pay any claim, make any payment (including any refund), or provide any benefit under this Policy, if doing so will contravene or violate any sanction, prohibition, restriction, proscription or prevention under any sanctions, laws or regulations, including but not limited to sanctions, laws or regulations of Australia, New Zealand, the European Union, the United Kingdom or the United States of America or those set out in any United Nations resolutions.

Section 6 – Claims conditions

In the event of a failure by the Insured to comply with a provision requiring the Insured's compliance under this section 6 (Claims Conditions), We may be able to:

- (a) refuse a claim but only to the extent that such failure caused or contributed to the loss which gives rise to the claim;
- (b) reduce Our liability to pay a claim by an amount that fairly represents the extent to which Our interests are prejudiced by the failure to comply; or
- (c) cancel the Policy.

6.1 Claims mitigation and co-operation

- (a) If the Insured becomes aware of a situation which could lead to a Claim or increase the quantum of a Claim, the Insured must do all things reasonably practicable to avoid or diminish any liability hereunder, for example:
 - (i) stopping use of processes or documentation which the Insured suspects may have contributed to the loss or potential loss suffered by the third party;
 - (ii) where applicable to the Insured's Professional Business, checking the functionality of any standard measures, processes or procedures (for example, risk control processes) in place to prevent loss;
 - (iii) avoiding confrontational engagement with an aggravated claimant or potential claimant;
 - (iv) maintaining a detailed record of all communications with any party about the situation; or
 - (v) where the Insured is the Named Insured, taking steps which a reasonable person in the Insured's professional position would take (for example, suspending an employee) where the Insured has confirmed or suspects dishonesty or a fraudulent or malicious act or omission has contributed to situation.

Costs and expenses incurred by the Insured in compliance with this clause 6.1(a) will be at the Insured's cost, unless otherwise covered under the Policy or agreed in writing by Us.

- (b) The Insured must disclose to Us all relevant information and will provide any reasonable assistance We may require in connection with any investigation, negotiation, recovery, defence and legal proceeding or settlement of any Claim under this Policy and/or to enable Us to determine Our liability under this Policy. This information and assistance may include:
 - (i) lodging a police report;
 - (ii) providing a more detailed version of facts, including signing statements and affidavits;
 - (iii) providing further information, evidence and documentation;
 - (iv) attending court or meetings with appointed legal or other experts;
 - (v) making available Employees, principals, partners and directors for interviews, meetings and court attendance;
 - (vi) providing contact details of individuals (if available) who may have information that is relevant to the Claim (to the extent that the provision of such details would not breach any legally enforceable privacy or confidentiality requirement); or
 - (vii) providing access to systems and records (to the extent that doing so would not breach any legally enforceable privacy or confidentiality requirement).

Costs and expenses incurred by the Insured in compliance with this clause 6.1(b) will be paid by Us in accordance with Policy Extension 3.1 (Additional benefit - Claims preparation costs). Costs and expenses in

excess of the cover provided by Policy Extension 3.1 (Additional benefit - Claims preparation costs) will be borne by the Insured, unless otherwise covered under the Policy.

Costs and expenses incurred by Us to enable Us to determine Our liability under this Policy will be at Our own cost.

6.2 Defence and settlement

- (a) The Insured must not settle any Claim, incur any Costs and Expenses or Investigation Costs and Expenses, make any admission, offer or payment or otherwise assume any contractual obligation or admit any liability with respect to any Claim or loss without Our prior consent. We will not be liable for any settlement, Costs and Expenses, Investigation Costs and Expenses, admission, offer or payment, or assumed obligation to which We have not provided prior consent to the extent Our interests are prejudiced by the Insured's failure to obtain Our consent.
- (b) We have the right and full discretion, but are not obligated, to take over and conduct, in the name of the Insured, the defence or settlement of any Claim at any time (including in relation to insured, underinsured and uninsured losses). In the event that this occurs, We will then have sole control of the Claim. We may engage legal or other representatives to assist in the conduct of the Claim.
- (c) We reserve entirely Our rights under this Policy, including Our right to agree or deny cover while We assess a Claim or conduct the defence. Our rights under this Policy are not affected if We do not conduct the defence.
- (d) If We retain lawyers to conduct, in the name of the Insured, the investigation, defence or settlement of any Claim, those lawyers will only act on behalf of Us in relation to any issue regarding the Insured's entitlement to indemnity from Us and they will not act on the Insured's behalf in respect of any such issue. Any information that is received by lawyers retained by Us in the course of investigating, defending or settling any Claim against the Insured can be provided to Us and relied upon by Us in relation to any issue that may arise regarding Our liability to indemnify the Insured. We have a common interest with the Insured and with appointed legal advisers in the investigation, defence and settlement of any matter notified to Us under the Policy (Common Interest).

All confidential information provided to Us (including information which is subject to legal professional privilege), and/or to the legal advisers We appoint, by or on behalf of the Insured, which the Insured hereby irrevocably consents to appointed legal advisers providing to Us, is so provided on the basis that:

- (i) Subject to (iii) below, the information is provided to Us for that Common Interest purpose, is to be kept confidential and will not be further disclosed without the written consent of the Insured;
 - (ii) In respect of confidential information which is subject to legal professional privilege, the Insured does not waive legal professional privilege; and
 - (iii) The information may be disclosed by Us to Our legal advisers and reinsurers on the basis that the above conditions apply to those persons' use of such information.
- (e) The lawyers retained by Us to conduct the investigation, defence or settlement of any Claim, may provide advice to Us on any issue regarding Our liability to indemnify the Insured and, whilst doing so, may continue to act in the investigation, defence or settlement of the Claim on behalf of both Us and the Insured.
 - (f) The Insured agrees that all communications between Us and lawyers retained by Us to act in the conduct of the investigation, defence or settlement of any Claim which relate to the Insured's entitlement to indemnity from Us are privileged as between Us and the lawyers and the Insured agrees that it is not entitled, under any circumstances, to access or obtain any such communications.
 - (g) If any actual or apparent conflict arises between Our interests and the Insured's interests, the lawyers retained by Us to conduct the investigation, defence or settlement of any Claim may cease acting on behalf of the Insured and may continue to act on behalf of Us in relation to any dispute between Us and the Insured with respect to the Insured's entitlement to indemnity from Us. We will at Our cost facilitate the transfer of client documents held by Our lawyers to the Insured or the Insured's new lawyers, following any such request by the Insured.

6.3 Insured's right to contest

In the event that We recommend a settlement or compromise in respect of any Claim and the Insured does not agree that such Claim should be settled or compromised, then the Insured may elect to contest such Claim. Provided always that Our liability in connection with such Claim will not exceed the amount for which the Claim could have been so settled or compromised by Us plus the Costs and Expenses incurred with Our consent up to the date of such election, less the Deductible.

In the event that We recommend a resolution in respect of a Claim under Policy Extension 3.12 (Official investigations and enquiries - costs and expenses) and the Insured does not agree that such Claim should be resolved, then the Insured may elect to contest such Claim. Provided always that Our liability for Investigation Costs and Expenses in connection with such Claim will not exceed the amount of Investigation Costs and Expenses which would have been incurred to resolve the Claim as recommended by Us, less the Deductible.

6.4 Reporting and notice

- (a) The Insured must give Us a notification of any Claim made against an Insured as soon as reasonably practicable during the Period of Insurance (or any Extended Notification Period applicable under the Policy).
- (b) Notice of any Claim will be sent to the address next to 'Claims notification' specified in the Schedule.

6.5 Disputes about defence

- (a) If the Insured disputes Our approach to defending the Claim, We and the Insured will endeavour to settle this dispute by mediation administered by the Australian Disputes Centre (ADC) before having recourse to arbitration or litigation.
- (b) The mediation will be conducted in accordance with the ADC Guidelines for Commercial Mediation operating at the time the matter is referred to the ADC (the Guidelines).
- (c) The terms of the Guidelines are hereby deemed incorporated into this Policy.
- (d) The cost of such mediation will be paid by Us in addition to the Indemnity Limit.

6.6 Subrogation and allocation of the proceeds of recoveries

In respect of any Claim covered by this Policy, and without limiting Our rights at law, We will be subrogated to all the Insured's rights of recovery, and the Insured will do all things reasonably necessary to secure and preserve such rights, including the execution of documents necessary to enable Us to commence any legal proceeding in the name of the Insured.

The Insured must not, without obtaining Our prior consent or at Our direction, do anything or fail to do anything which excludes, limits or prejudices Our rights of subrogation. In particular, without limiting the operation of this provision, the Insured will not enter into any contract or agreement which excludes, limits or prejudices a right of recovery which the Insured may have in respect of any Claim covered by this Policy.

Should the Insured incur any legal liability which is not covered by this insurance:

- (a) due to the application of any Deductible, and/or
- (b) where the amount(s) of any judgment(s) or settlement(s) exceed(s) the Indemnity Limit or any applicable sub-limit as specified in the Policy;

the Insured will be receive the benefit of all recoveries made, by either the Insured or Us, on account of such legal liability until fully reimbursed for such uninsured amount or amounts and any remaining recovery amount(s) will be applied to Our reimbursement.

All recoveries will be applied as set out above only after reimbursement of the reasonable costs of obtaining recovery, where incurred by Us.

6.7 Allocation

6.7.1 When this clause applies

This clause applies to any civil liability for compensation (including Claimant's Costs), Costs and Expenses (including amounts covered under Policy Extension 3.4 (Court attendance costs), compensatory civil penalties covered under Policy Extension 3.7 (Civil penalties) and Investigation Costs and Expenses (referred to collectively as "Loss" under this clause), which are either or both:

- (a) in respect of more than one person or entity (at least one of whom is an Insured), whether jointly or severally; or
 - (b) partly covered and partly not covered under this Policy;
- (together 'Loss to be Allocated')

We must decide a fair and reasonable allocation of the covered part of the Loss to be Allocated among the relevant Insureds and Us having regard to the extent of each Insured's comparative responsibility for the Loss to be Allocated.

6.7.2 What we must take into account when deciding Loss to be Allocated

Our consideration of what is fair and reasonable will include without limitation, the following factors:

- (a) the nature of the Claim against each Insured;
- (b) the issues of fact and law in relation to each Insured;
- (c) the content and the manner of the conduct of any defence of the Claim;
- (d) the relative degree of personal responsibility for the Loss;
- (e) the extent to which the Insured's responsibility for the Loss is joint, several or shared;
- (f) the extent to which any person or entity, other than that Insured, would obtain a benefit from the payment by Us;
- (g) the extent to which the Loss is solely of that Insured;
- (h) the extent to which the issues in the Claim against that Insured are in common with the issues in the Claim against any other person or entity;
- (i) the extent to which the Loss is partly covered and partly not covered under this Policy; and
- (j) in the event of a settlement, the likely comparative responsibility had the settlement not occurred.

6.7.3 If the insured does not agree with our decision relating to the allocation of loss

If the Insured wishes to dispute Our decision in respect of allocation, each party agrees that the dispute must be referred for expert determination in accordance with the Australian Disputes Centre's ("ADC") Rules for Expert Determination ("Rules") available on the ADC's website, to an expert agreed by the parties, or if the parties do not agree on an expert, an expert appointed by the ADC in accordance with the Rules.

Each party agrees to sign an agreement with the expert that confirms the following matters, unless contrary to the Rules or the requirements of the ADC:

- (a) the payment of fees for the appointed expert (Note: refer to 'Cost of the expert determination' below for more information);
- (b) the expert may:
 - (i) consider relevant industry practice;
 - (ii) consider all information presented to the expert by either party;
 - (iii) request more information from either party; or
 - (iv) request a meeting with the parties (to which they may bring their legal representatives or other persons with information or knowledge relevant to the determination) (Note: in accordance with the Rules, the meeting is not a hearing);
- (c) the expert must provide a determination, subject to receiving all information required, within thirty days after the agreement is signed, unless:
 - (i) another time is agreed between the parties, in which case the agreement will provide for this timeframe; or
 - (ii) the expert must comply with a timeframe as set by the ADC, in which case the agreement will provide for this timeframe;
- (d) the expert must provide written reasons for the determination;
- (e) the expert's decision will be binding on the parties and final; and
- (f) the liability of the expert to either party (including liability for negligence) will be excluded to the full extent permitted by law.

This allocation applies for all purposes under this Policy including Costs and Expenses advanced under Insuring Clause B (clause 1.2 - Costs and Expenses Insuring Clause).

Any allocation of Loss will not apply to or create a presumption with respect to the allocation of other Loss on account of such Claim.

6.7.4 Cost of the expert determination

We will pay for the cost of the expert determination above, including the Insured's share of the costs.

The ADC may require each party to bear the cost of the expert determination in equal proportions and require each party to individually pay their share of any cost required directly (including any fee, deposit or other amount charged). Where this is required, the Insured must pay the costs accordingly and We will separately reimburse the Insured for the cost of the expert determination.

6.8 Foreign currency

All amounts referred to in this Policy are in Australian Dollars.

If the Insured incurs liability to settle any Claim for an amount stated in the local currency of any country or territory outside the Commonwealth of Australia, where an award is made or a settlement is agreed upon, then, the amount payable by Us will be the value of such award or settlement together with costs awarded or payable to any claimant converted to Australian Dollars at the free rate of exchange published in the Australian Financial Review on the date on which We pay to the Insured (or some other person at the Insured's direction) the indemnity in respect of such award or settlement; subject always to the Indemnity Limit.

6.9 Fidelity mitigation

This Claims Condition applies to Optional Extension 4.1 (Fidelity).

The Insured must as soon as reasonably practicable after the discovery of facts or circumstances that caused the Insured to suspect that acts of fraud or dishonesty have been committed or that someone was intending to commit such acts, take the following steps to prevent loss or further loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes:

- (a) secure the money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes that may be the subject of the fraud or dishonesty;
- (b) check the functionality of any security measures or processes in place to prevent fraud or dishonesty;
- (c) suspend or increase supervision of any Employee suspected of committing or intending to commit any act of fraud or dishonesty;
- (d) notify the police of the suspected fraud or dishonesty; or

- (e) take any additional action a reasonable person in the Insured's position would take to prevent loss or further loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes.

6.10 Fidelity recoveries

This Claims Condition applies to Optional Extension 4.1 (Fidelity).

In the event of any payment in respect of a loss under Optional Extension 4.1 (Fidelity):

- (a) the Named Insured must, if requested by Us, take steps to help recover the lost money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes from any person committing or condoning the dishonest or fraudulent act or from the legal representatives of such person. This help may include:
 - (i) providing a more detailed version of events including completing a diagram or statement/affidavit;
 - (ii) providing copies of any available photographs or footage of the incident;
 - (iii) lodging a police report;
 - (iv) filing searches to locate the person or their representative;
 - (v) attending court (only if required); or
 - (vi) providing evidence and documentation relevant to the loss and executing such documents, including signed statements which the Insurer reasonably requests; and
- (b) to the extent allowed by law, We will deduct the following from any amount payable in respect of loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes caused by or resulting from a dishonest or fraudulent act:
 - (i) any monies which but for such dishonest or fraudulent act would be due from the Named Insured to the person committing or condoning such act but only to the extent that the Named Insured has the right to offset such amount against the amount of the lost money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes;
 - (ii) any monies held by the Named Insured and belonging to such person, but only to the extent that the Named Insured has the right to offset such amounts against the amount of the lost money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes; and
 - (iii) any monies recovered under (a) above.

Section 7 – General conditions

7.1 Alteration to risk

7.1.1 The named insured's obligation to notify us of certain matters

The Named Insured must notify Us during the Period of Insurance as soon as reasonably practicable of any of the following matters:

- (a) an Insured going into voluntary bankruptcy, receivership, liquidation or any other form of external administration or an Insured failing to pay debts or breaching any other obligation giving rise to the appointment of a receiver or bankruptcy or winding-up proceedings;
- (b) if the Insured starts (or intends to start) conducting business activities that differ from the Professional Business;
- (c) if the Insured starts (or intends to start) conducting specific activities (being activities specifically asked about on the Proposal or by Us), where at the time of commencing or renewing the Policy, the Insured had advised Us that it did not conduct those specific activities, including any express or passive confirmation of such at the time of renewing the Policy;
- (d) if there has been a loss of or condition imposed upon any licence or authority required by the Insured to conduct the Professional Business;
- (e) if there has been a loss of or condition imposed upon any professional membership held by the Insured in connection with the Professional Business.

If the Named Insured has not told Us about any of the above matters having occurred during any other period of insurance the Named Insured held this professional indemnity policy with Us of which this Policy is a renewal or replacement, the Named Insured must notify Us as soon as reasonably practicable.

7.1.2 What will happen once the named insured contacts us

Following notification of the matters referred to in (a) to (e) above, We will advise the Named Insured as to whether We are willing to provide additional cover or continue offering cover, and if so, on what terms (for example, any endorsements, additional deductible or special condition that may need to be applied) and for what additional premium (if any). Factors taken into account when considering the provision of cover include but are not limited to the nature of the matter or matters notified of under paragraphs (a) to (e), Our risk appetite and underwriting guidelines.

If the change in risk means that the risk is no longer acceptable under Our risk appetite or underwriting guidelines, We may cancel the Policy.

Any offer by Us to provide additional cover is not effective until the Named Insured provides Us with written acceptance of Our offer. Until that time, the changes in cover notified in the offer are not covered.

The Named Insured is entitled to cancel the Policy at any time, including where We do not offer to cover the change in risk or the Named Insured does not accept Our offer to cover the change in risk.

If a Claim arises from changes in risk which are not yet covered or We do not agree to provide cover, We may reduce or refuse to pay such claim to the extent it arises from the change in risk.

If the Named Insured does not contact Us as required, it may lead to Us:

- (i) refusing a claim, but only to the extent that such failure caused or contributed to the loss which gives rise to the claim;
- (ii) reducing a claim, but only by an amount that fairly represents the extent to which Our interests are prejudiced by that failure; and/or
- (iii) cancelling this Policy.

7.2 Assignment of interest

No change in, or modification of, or assignment of interest under this Policy will be effective except when made with our prior written consent.

7.3 Cancellation

- (a) The Named Insured may cancel this Policy at any time in writing to Us and specify the date from which it would like to cancel the Policy. The date cannot be earlier than the date We receive the request.
- (b) We may cancel this Policy where the law allows Us to do so, including where:
 - (i) an Insured has failed to comply with a provision of the Policy; or
 - (ii) the Named Insured has failed to comply with a provision of the Policy including with respect to payment of premium.
- (c) In the event of cancellation by the Named Insured or by Us, We will provide to the Named Insured a pro-rata refund of Premium actually paid (including GST if applicable) less any non-refundable government charges, for the unexpired Period of Insurance unless there has been a notification of facts which may give rise to a Claim or of any Claim during the Period of Insurance, or the Policy is cancelled due to fraud, in which case no refund will be given.

7.4 Deductible

- (a) If the Deductible is specified as 'Inclusive of Costs and Expenses' in the Schedule, the Named Insured must pay the amount of any compensation (including Claimant's Costs) and reasonable Costs and Expenses that are collectively equal to or less than the Deductible for any one Claim. We have no liability for the amount of compensation (including Claimant's Costs) or Costs and Expenses that is equal to or less than the Deductible for any one Claim.
- (b) If the Deductible is specified as 'Exclusive of Costs and Expenses' in the Schedule, the Deductible does not apply to Costs and Expenses but the Named Insured must pay the amount of any compensation (including Claimant's Costs) that is equal to or less than the Deductible for any one Claim. We have no liability for the amount of compensation (including Claimant's Costs) that is equal to or less than the Deductible for any one Claim.
- (c) The Deductible is deducted from compensation (including Claimant's Costs) or reasonable Costs and Expenses payable before the application of the Indemnity Limit.
- (d) The Named Insured must pay the amount of any reasonable costs, charges and expenses that is equal to or less than the Deductible for any one Claim under Policy Extension 3.10 (Loss of documents). The Deductible is deducted from the reasonable costs, charges and expenses payable under that clause before the application of the Indemnity Limit. We have no liability for the amount of any reasonable costs, charges and expenses that is equal to or less than the Deductible for any one Claim under Policy Extension 3.10.
- (e) The Named Insured must pay the amount of any reasonable Investigation Costs and Expenses that is equal to or less than the Deductible for any one Claim under Policy Extension 3.12 (Official investigations and enquiries - costs and expenses). The Deductible is deducted from reasonable Investigation Costs and Expenses before the application of the sub-limit specified in paragraph (b) of Policy Extension 3.12. We have no liability for the amount of reasonable Investigation Costs and Expenses that is equal to or less than the Deductible for any one Claim under Policy Extension 3.12.
- (f) The Named Insured must pay the amount of reasonable costs and expenses that is equal to or less than the Deductible for any one matter claimed under Policy Extension 3.18 (Loss mitigation). The Deductible is deducted from reasonable costs and expenses payable before the application of the sub-limit specified in Policy Extension 3.18. We have no liability for reasonable costs and expenses that are equal to or less than the Deductible for any one matter claimed under Policy Extension 3.18.
- (g) The Named Insured must bear the amount of loss that is equal to or less than the Deductible for one loss claimed under Optional Extension 4.1 (Fidelity). The Deductible is deducted from the loss covered before the application of the sub-limit specific in paragraph (d) of Optional Extension 4.1. We have no liability for the amount of loss that is equal to or less than the Deductible for any one loss claimed under Optional Extension 4.1 (Fidelity).

- (h) The Named Insured agrees that the Deductible must be borne by the Named Insured and is to remain uninsured.
- (i) The method for payment of the Deductible will depend on the particular circumstances of the Claim or loss, for example:
 - (i) We may pay the amount of compensation, Costs and Expenses or Investigation Costs and Expenses that is equal to or less than the Deductible, and then require repayment of this amount from the Named Insured;
 - (ii) We may deduct the amount of the Deductible from the amount payable by Us to the Insured; or
 - (iii) We may require the Named Insured to pay the Deductible directly to a third party.
- (j) Any Costs and Expenses incurred by Us to determine whether We have a liability to indemnify the Insured under this Policy will not be subject to the Deductible but will be borne by Us.

7.5 Indemnity limit

Subject to Insuring Clause B (clause 1.2 – Costs and Expenses Insuring Clause) and Policy Extension 3.1 (Additional benefit – Claims preparation costs), Our total liability under the Policy:

- (a) for any one Claim including reasonable Costs and Expenses will not exceed the Indemnity Limit; and
- (b) for all Claims including reasonable Costs and Expenses will not exceed in the aggregate the Maximum Aggregate Limit.

7.6 Multiple claims

- (a) All causally connected or interrelated acts, errors or omissions will jointly constitute a single act, error or omission under this Policy.
- (b) Where a single act, error, or omission gives rise to more than one Claim, all such Claim(s) will jointly constitute one Claim under this Policy and will attract one Indemnity Limit and one Deductible.
- (c) For the purposes of Extension 3.10 (Loss of documents), all loss of Documents as described in that clause consequent upon or attributable to one source or original cause is deemed to constitute one Claim under that clause and will attract one Indemnity Limit and one Deductible.
- (d) For the purposes of Extension 3.13 (Public relations expenses), all events bringing the Insured's reputation into question resulting from one Claim will be deemed to be one claim under that clause and will attract one Deductible.
- (e) For the purposes of Extension 3.18 (Loss mitigation), all rectification or mitigation in respect of a single act, error or omission is deemed to be one matter and will attract one Deductible.
- (f) For the purposes of Optional Extension 4.1 (Fidelity), all loss sustained in consequence of interrelated individual dishonest or fraudulent acts or omissions is deemed to constitute one loss and one Deductible will apply to such loss.

7.7 Policy construction and interpretation

- (a) The construction, interpretation and meaning of the provisions of this Policy will be determined in accordance with the laws of Australia and its States and Territories. Each party agrees to submit to the jurisdiction of any Court of competent jurisdiction in a State or Territory of Australia and to comply with all requirements necessary to give such Court jurisdiction. All disputes arising under this Policy will be determined in accordance with the law and practice of such Court.
- (b) The marginal notes and titles of paragraphs in this Policy are included for descriptive purposes only and do not form part of this Policy for the purpose of its construction or interpretation.
- (c) Under this Policy, the neutral gender includes the female and male genders and the singular includes the plural and vice versa and reference to a person includes a body corporate, an authority, an association or a Joint Venture (whether incorporated or unincorporated), a partnership and a trust.
- (d) A reference in this Policy to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision (whether of the Commonwealth of Australia or elsewhere).
- (e) Some of the words in this insurance policy have special meanings. These meanings can be found in Section 8 (Definitions) of the Policy. If a word has a special meaning, it appears in this document with a capital letter. Capitalised words used in the endorsements and in the Schedule have the same meaning given to them as in Section 8 (Definitions) of the Policy unless they are defined differently in an endorsement. If the words are defined differently in an endorsement that definition only applies to that endorsement, unless clearly specified otherwise in that endorsement.

7.8 Complaints procedures

Any enquiry or complaint relating to this Insurance should be referred to Us in the first instance, as set out under the heading 'Our complaints handling procedures' in the Notices section of this booklet.

7.9 Service of suit (Australia)

In the event of a dispute arising under this Policy, We will, at the request of the Insured, submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute will be determined in accordance with the law and practice applicable in such Court.

Section 8 – Definitions

8.1 Bodily Injury

“Bodily Injury” means physical injury, sickness, disease, death, mental or psychological injury, mental anguish, nervous shock or emotional distress of any person, including any resultant loss of consortium.

8.2 Claim

“Claim” means:

- (a) the receipt by the Insured of any written or oral demand for compensation made by a third party against the Insured.
- (b) any writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, counterclaim or third or similar party notice served upon the Insured which seeks compensatory relief made by a third party against the Insured.
- (c) for the purpose of Policy Extension 3.10 (Loss of documents) only, discovery by the Insured of the loss of any Documents as described in that clause.
- (d) for the purpose of Policy Extension 3.12 (Official investigations and enquiries - costs and expenses) only, any notice received by an Insured of an investigation, examination or enquiry that relates to the Insured’s conduct of the professional activities and duties of the Professional Business.

8.3 Claimant’s Costs

“Claimant’s Costs” means legal costs, fees and expenses the Insured is liable to pay to the person making a Claim against the Insured.

8.4 Computer System

“Computer System” means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

8.5 Costs and Expenses

“Costs and Expenses” means the legal costs and other expenses (including but not limited to legal counsels’ fees and experts’ fees) incurred by or on behalf of the Insured or by Us in the investigation, defence or settlement of a Claim, or in bringing or defending appeals in connection with a Claim.

8.6 Cyber Act

“Cyber Act” means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

8.7 Data

“Data” means information, facts, concepts, code or any other information of any kind that is converted, recorded or transmitted in a form to be accessed, communicated, displayed, distributed, interpreted, processed, transmitted or stored or used in or by a Computer System.

8.8 Deductible

“Deductible” means the amount shown as the ‘Deductible’ in the Schedule.

8.9 Documents

“Documents” means deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material but will not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.

8.10 Employee

“Employee” means any person employed under a contract of service or apprenticeship.

8.11 Employment Practice Breach

“Employment Practice Breach” means any breach of any obligation owed as an employer to any past, present or prospective employee or Worker, including but not limited to:

- (a) employment related discrimination against any Worker or applicant for employment whether because of race, colour, age, sex, disability, pregnancy, marital status, sexual orientation, sexual preference or otherwise,
- (b) wrongful dismissal of any Worker;

- (c) workplace harassment whether sexual or otherwise, including bullying, of any Worker;
- (d) breach of any 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 any Worker;
- (f) failure to provide or adhere to adequate employment policies or procedures;
- (g) defamation arising from employment related matters;
- (h) employment related invasion of privacy;
- (i) false or misleading advertising or representation involving terms and conditions of employment;
- (j) violation of any Federal, State or local statute or regulation governing employment practices; and/or
- (k) denial of natural justice to any Worker concerning employment.

For the purpose of this Definition, the term "Worker" means any person employed by, or who is deemed to be employed by, the Insured pursuant to any Workers' Compensation Law.

8.12 Indemnity Limit

"Indemnity Limit" means the limit of Our liability under this Policy as specified in the Schedule and in any certificate of insurance issued by Us and is exclusive of GST to the extent the Insured is entitled to claim an input tax credit.

8.13 Insured

"Insured" means:

- (a) the Named Insured;
- (b) any predecessor in business of the Named Insured;
- (c) any person who is, during the Period of Insurance, a principal, partner or director of the Named Insured but only in respect of work performed while a principal, partner or director of the Named Insured;
- (d) any person who is, during the Period of Insurance, an Employee of the Named Insured but only in respect of work performed while an Employee of the Named Insured;
- (e) any former principal, partner, director or Employee of the Named Insured, but only in respect of work performed while such person was a principal, partner, director or Employee of the Named Insured; and/or
- (f) any consultant, sub-contractor or agent but only to the extent that they are indemnified under Policy Extension 3.2 (Consultants, sub-contractors and agents).

8.14 Investigation Costs and Expenses

"Investigation Costs and Expenses" means legal costs and other expenses incurred by or on behalf of the Insured or by Us arising out of any attendance by an Insured at or any response by an Insured to any official investigation, examination or enquiry that relates to the Insured's conduct of the professional activities and duties of the Professional Business.

"Investigation Costs and Expenses" does not include any fine, penalty or order for the payment of monetary compensation.

8.15 Joint Venture

"Joint Venture" means the entering into of a venture (by whatever name called) which the Named Insured carries on together with any other person, company, corporation, partnership or other entity not otherwise deemed to be an Insured under this Policy.

8.16 Known Circumstance

"Known Circumstance" means any fact, situation or circumstance which:

- (a) an Insured knew at any time before the Period of Insurance or any relevant amendment or endorsement of the Policy; or
- (b) a reasonable person in the Insured's professional position would have thought, at any time before this Policy began or before any relevant amendment or endorsement of the Policy;

might result in someone making a Claim against the Insured that might be covered by this Policy,

For the purposes of this Definition 8.16, 'Insured' does not include 'Employee' (as defined in Definition 8.10 (Employee)) or any consultant, sub-contractor or agent (as referred to in sub clause (f) of Definition 8.13 (Insured)).

8.17 Maximum Aggregate Limit

"Maximum Aggregate Limit" means the amount specified against "Maximum Aggregate Limit" as shown in the Schedule.

8.18 Named Insured

"Named Insured" means the person, persons, partnership, company, corporation or other entity specified as the Named Insured in the Schedule.

If more than one person, partnership, company, corporation or other entity is specified as the Named Insured in the Schedule, then for the purposes of the following clauses the first listed person, partnership, company, corporation or other entity is deemed to be the Named Insured:

- (a) General Condition 7.3 (Cancellation)
- (b) General Condition 7.4 (Deductible)

8.19 Period of Insurance

"Period of Insurance" will mean the period specified in the Schedule.

8.20 Policy

"Policy" means:

- (a) the Schedule, Insuring Clauses, Extensions, Conditions, Definitions, Exclusions and other terms contained herein;
- (b) any endorsement attaching to and forming part of this Policy either at inception or during the Period of Insurance; and
- (c) the Proposal.

8.21 Pollutants

"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant including but not limited to smoke, vapours, fumes, soot, acids, alkalis, chemicals and waste material. 'Waste material' includes materials that are intended to be recycled, reconditioned or reclaimed.

8.22 Premium

"Premium" means the premium specified in the Schedule and in any endorsement to the Schedule.

8.23 Privacy Breach

"Privacy Breach" means an incident involving the unauthorised disclosure, loss, modification, misuse, interference or access of:

- (a) personal information, as defined in the Privacy Act 1988 (Cth) including any amendment, consolidation, re-enactment, replacement or successor of such legislation; or
- (b) third party corporate information that is identified as confidential.

8.24 Professional Business

"Professional Business" means the business which is conducted by the Named Insured as specified in the Schedule.

If the Named Insured should change its name and there is no other change which materially alters the risk, the Professional Business will continue to be covered by this Policy.

8.25 Proposal

"Proposal" means the written proposal or declaration made by the Insured to Us containing particulars and statements which, together with other information provided by the Insured, are considered as incorporated herein.

8.26 Schedule

"Schedule" means the schedule to this Policy.

8.27 Subsidiary

"Subsidiary" means:

- (a) any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of the Named Insured specified in the Schedule; or
- (b) any entity over which a Named Insured is in a position to exercise effective direction or control.

8.28 Taxable Percentage

"Taxable Percentage" is the Insured's entitlement to an Input Tax Credit on the Premium as a percentage of the total GST on that premium.

8.29 We or Our or Us

"We" or "Us" or "Our" or "Insurer" means AAI Limited ABN 48 005 297 807 trading as Vero Insurance.

End of Policy wording

