

Association Liability Insurance Policy



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Notices

These notices do not form part of the policy.

1. Duty of disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance, and if so, on what terms.

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

Your duty, however, does not require disclosure of any matter:

- ▼ that diminishes the risk to be undertaken by the insurer; or
- ▼ that is of common knowledge; or
- ▼ that your insurer knows or, in the ordinary course of his business, ought to know; or
- ▼ as to which compliance with your duty is waived by the insurer.

Non-disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim, refuse to pay the claim or may cancel the contract. If your nondisclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

Claims made and notified basis of cover

Some sections of this Association Liability Insurance Policy are issued on a 'claims made and notified' basis.

This means that these sections of the policy respond to:

- (a) claims first made against you during the policy period and notified to the insurer during the policy period, provided that you were not aware at any time prior to the policy inception of circumstances which would have put a reasonable person in your position on notice that a claim may be made against him/her; and
- (b) written notification of facts pursuant to Section 40(3) of the Insurance Contracts Act 1984. The facts that you may decide to notify are those which might give rise to a claim against you. Such notification must be given as soon as reasonably practicable after you become aware of the facts and prior to the time at which the policy expires. If you give written notification of facts the policy will respond even though a claim arising from those facts is made against you after the policy has expired. For your information, S40(3) of the Insurance Contracts Act 1984 is set out below:

"S40(3) Where the insured gave notice in writing to the insurer of facts that might give rise to claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim when made by reason only that it was made after the expiration of the period of insurance cover provided by the contract."

When the policy period expires, no new notification of claims or facts can be made on the expired policy even though the event giving rise to the claim against you may have occurred during the policy period. An exception to this is under the extended reporting period extension. If an extended reporting period is purchased as provided for in the extension, then some cover for new notification of claims or facts is available.

You will not be entitled to indemnity under your new policy in respect of any claim resulting from an act, error or omission occurring or committed or alleged to have occurred or been committed prior to the retroactive date, where one is specified in the policy terms which are offered to you.

2. Retroactive date

If a retroactive date applies to a section of this policy then it means that cover is excluded for any wrongful act occurring or committed prior to the retroactive date.

Our policy also contains provisions that exclude cover for any wrongful act occurring or committed by a subsidiary and its directors, officers or employees prior to its acquisition or creation by the insured.

3. Preservation of rights of recovery

Our policy contains a provision that has the effect of excluding or limiting our liability in respect of a loss, if the insured releases, agrees not to sue on, waives or prejudices its rights of recovery, or enters into any arrangement or compromise or does any act whereby any rights or remedies to which the insurer would be subrogated are or may be prejudiced.

4. Subrogation waiver

Our policy contains a provision that has the effect of excluding or limiting our liability in respect of a liability incurred solely by reason of the insured entering into a deed or agreement excluding, limiting or delaying the legal rights or of recovery against another.

5. 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, Personal Property Securities Act 2009, Corporations Act 2001, Autonomous Sanctions Act 2011, Income Tax Assessment Act 1997, Income Tax Assessment Act 1936, Income Tax Regulations 1936, Tax Administration Act 1953, Tax Administration Regulations 1976, A New Tax System (Goods and Services Tax) Act 1999 and the Australian Securities and Investments Commission Act 2001, 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:
 - ▼ information technology providers,
 - ▼ 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 Financial Ombudsman Service 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 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, or obtaining a list of overseas countries you can:

- ▼ Visit www.vero.com.au/privacy.
- ▼ Speak to us directly by phoning one of our Sales & Service Consultants on: 1300 888 073 or by
- ▼ Email us at claims@vero.com.au

6. General insurance code of practice

Vero Insurance has adopted the General Insurance Code of Practice which has been developed by the Insurance Council of Australia.

The Code is designed to promote good relations and good insurance practice between insurers, intermediaries and consumers. The Code sets out what insurers must do when dealing with the insured. Please contact Vero Insurance for more information about the Code, if required.

7. Our complaints handling procedures

Resolving your complaints

If you think we have let you down in any way, or our service is not what you expect (even if through one of our agents or representatives), please tell us so we can help. You can tell us by phone, in writing or in person.

Should you tell us in writing it will help to send us the full details of your complaint together with any supporting documents and an explanation of what you want us to do. If you would like to come in to talk to us face to face, please call and we will arrange an appointment for a meeting.

What we will do to resolve your complaint

When you first let us know about your complaint or concern the person trying to resolve your complaint will listen to you, consider the facts and contact you to resolve your complaint as soon as possible, usually within 24 hours.

If you are not satisfied with this person's decision on your complaint, then it will be referred to the relevant Operational Manager, who will contact you within 5 working days.

Should you not be satisfied with the Operational Manager's decision, then it will be referred to the General Manager (or their delegate). We will send you our final decision within 15 working days from the date you first made your complaint.

What if you are not satisfied with our final decision?

We expect our procedures will deal fairly and promptly with your complaint. However if you are not satisfied with our final decision there are external dispute remedies such as mediation, arbitration or legal action.

Preamble

Please read this **Policy** carefully to ensure that it meets your requirements.

In consideration of payment of the premium the **Insured** and the **Insurer** agree that the **Insurer** will provide insurance on the terms of this **Policy**.

1. Insuring clauses

Insuring clause 1: Civil liability professional indemnity insurance

The **Insurer** will pay on behalf of the **Insured**, **Loss** resulting from **Claims** first made against the **Insured** and notified to the **Insurer** during the **Policy Period** based on civil liability for **Professional Wrongful Acts** in the conduct of the **Professional Services**.

Insuring clause 2: Office bearer's liability

The **Insurer** will pay on behalf of the **Insured Persons**, **Loss** resulting from **Claims** first made against the **Insured Persons** and notified to the **Insurer** during the **Policy Period** based on **Officer Bearer's Wrongful Acts** for which the **Association** has not agreed to provide indemnity.

Insuring clause 3: Association reimbursement

The **Insurer** will pay on behalf of the **Association**, **Loss** resulting from **Claims** first made against the **Insured Persons** and notified to the **Insurer** during the **Policy Period** based on **Officer Bearer's Wrongful Acts**, if and to the extent that, the **Association** has agreed to provide indemnity to the **Insured Persons** for such **Loss**.

Insuring clause 4: Association liability

The **Insurer** will pay on behalf of the **Association**, **Loss** resulting from **Claims** first made against the **Association** and notified to the **Insurer** during the **Policy Period** based on **Association Wrongful Acts**.

Insuring clause 5: Employment practice liability

The **Insurer** will pay on behalf of the **Insured**, **Loss** resulting from **Claims** first made against the **Insured** and notified to the **Insurer** during the **Policy Period**, where such **Loss** is in respect of or arising out of an **Employment Wrongful Act**.

The total liability of the **Insurer** under this Insuring Clause will not exceed in the aggregate the Employment Practice Liability Sub-limit specified in the **Policy Schedule**.

Insuring clause 6: Fidelity

The **Insurer** will pay the **Association** for **Policy Claims** for **Fidelity Loss**, first **Discovered** and notified to the **Insurer** during the **Policy Period**.

The total liability of the **Insurer** under this Insuring Clause will not exceed in the aggregate the Fidelity Sub-limit specified in the **Policy Schedule**.

Insuring clause 7: Tax audit

If Tax Audit Cover is noted as 'Included' in the **Policy Schedule**, then following completion of a **Tax Audit** the **Insurer** will pay the **Association** for **Policy Claims** for **Professional Adviser Fees** incurred by the **Association** in connection with a **Tax Audit** commenced and notified to the **Insurer** during the **Policy Period**.

Provided that the **Association**:

- (a) lodges taxation and other **Returns** and pays all taxes within 90 days of the time limits prescribed by statute, or if an extension is granted by the **Auditor**, within the further period granted; and
- (b) responds to letters, requests and enquiries from the **Auditor** within a reasonable time; and
- (c) makes full and complete declarations of all relevant liabilities, income and capital gains derived by it and of all Commonwealth, State or Territory taxation liabilities due to be paid or remitted by it during each year of income covered by this **Policy**, and all deductions including capital losses or other amounts claimed by it in respect of the same period.

For the purpose of this Insuring Clause, the **Tax Audit** commences at the time the **Association** or its **Professional Adviser** first receives notice that the **Auditor** proposes to conduct a **Tax Audit** and is completed when:

- (d) the **Auditor** has given written notice to that effect; or
- (e) the **Auditor** notifies the **Association** that it has made a **Concluded Decision**; or
- (f) the **Auditor** has issued an assessment or an amended assessment of the **Association's Returns**; or
- (g) in the absence of d, e or f, where the **Association's Professional Adviser** declares in writing that such a **Tax Audit** has been concluded.

The total liability of the **Insurer** under this Insuring Clause will not exceed in the aggregate the Tax Audit Sub-limit specified in the **Policy Schedule**.

Insuring clause 8: Legal consultation

The **Insured** is entitled to up to two hours legal advice from the firm specified in the **Policy Schedule** on any matter related to the risks insured under this **Policy**, except in relation to the scope of cover provided under this **Policy**, or claims disputes or complaints against the **Insurer**, provided that:

- (a) the legal advice is sought during the **Policy Period**; and
- (b) the **Insured** must provide the legal adviser with the Policy number, **Policy Period** and name of the **Association**; and
- (c) the legal advice is limited to 30 minutes in relation to any particular matter.

The cost of the legal advice is to be paid by the **Insurer** and not the **Insured**.

2. Extensions

The total of all payments made under these Extensions will be part of and not in addition to the **Limit of Liability** and the **Maximum Aggregate Limit of Liability**, unless otherwise stated. These Extensions only extend the stated Insuring Clauses.

2.1 Acquisition or creation of new subsidiaries

Insuring Clauses 1, 2, 3, 4 and 5 are extended as follows:

If, during the **Policy Period**, the **Association** acquires or creates a new subsidiary that has total assets (by reference to the new subsidiary's most recent financial statements as at the time of acquisition or creation) that are no greater than the total assets of the **Association** (by reference to the **Association's** most recent financial statements as at the time of acquisition or creation), then the definition of **Association** will be extended to include the new subsidiary, but cover only applies in respect of Wrongful Acts or any dishonest or fraudulent act committed or alleged to have been committed subsequent to the acquisition or creation of such subsidiary.

The definition of **Association** will not be extended to include any new subsidiary acquired or created by the **Association** that is domiciled or incorporated in **North America**.

2.2 Advancement of defence costs and representation expenses

Insuring Clauses 1, 2, 3, 4 and 5 are extended as follows:

The **Insurer** will advance **Defence Costs** and, under the Representation Expenses Extension, Occupational Health and Safety Expenses Extension and Pollution Expenses Extension, **Representation Expenses**. However, if and to the extent that the **Insured** is not entitled to cover for **Loss** under the terms of this **Policy**, then the **Insurer** will cease to advance **Defence Costs** and **Representation Expenses** and any amounts previously advanced shall be repaid to the **Insurer** by the **Insured** within thirty days following a request by the **Insurer** for such repayment.

If a **Claim** alleges a **Wrongful Act** or illegal or improper conduct as described in the Dishonest or Criminal Intent/Improper Conduct Exclusion, then the **Insurer** will advance **Defence Costs** and **Representation Expenses** in respect of such **Claim** until it is found by way of an admission by the **Insured**, a judgment or other adjudication that such **Insured** did in fact commit such **Wrongful Act** or engage in such illegal or improper conduct.

2.3 Continuity

Insuring Clauses 1, 2, 3, 4 and 5 are extended as follows:

In the absence of fraudulent non-disclosure or fraudulent misrepresentation, where a **Claim** that would otherwise be covered by this **Policy** is excluded by the Known Claims and Circumstances Exclusion, then cover is provided under this **Policy**, provided that:

- (a) the **Insured** first became aware of the fact, event, circumstance or **Wrongful Act** that gave rise to the **Claim** on or after the Continuity Date specified in the **Policy Schedule**; and
- (b) the **Insured** was insured against the **Wrongful Act** by the **Insurer** at the time when the **Insured** first became aware of such fact, event, circumstance or **Wrongful Act** and has since been insured continuously by the **Insurer**, under a policy of which this **Policy** is a replacement; and
- (c) no **Related Claim** has been made against the **Insured** prior to the **Policy Period**.

The cover provided under this Extension will be in accordance with this **Policy**, except that:

- (i) if the excess applicable to the policy in force at the time when the **Insured** first became aware of such fact, event, circumstance or **Wrongful Act** is higher than the **Excess** specified in the **Policy Schedule**, then that higher amount will be deemed to be the **Excess** specified in the **Policy Schedule** in respect of such **Claim**; and
- (ii) if the amount of the limit of liability applicable to the policy in force at the time when the **Insured** first became aware of such fact, event, circumstance or **Wrongful Act** is lower than the amount of the **Limit of Liability**, then that lower amount will be deemed to be the amount of the **Limit of Liability** in respect of such **Claim**.

2.4 Dishonesty of insured persons

Notwithstanding the Dishonest or Criminal Intent / Improper Conduct Exclusion, Insuring Clause 1 is extended to cover **Claims** resulting from any dishonest, fraudulent, criminal or malicious act or omission by any **Insured Person** occurring or committed in connection with the **Professional Services**.

Provided that nothing in this Extension shall require the **Insurer** to indemnify any **Insured Person** who has perpetrated any such dishonest, fraudulent, criminal or malicious act or omission or who by act or omission has condoned any such act or omission.

2.5 Extended reporting period

Insuring Clauses 1, 2, 3, 4 and 5 are extended as follows:

In the event that this **Policy** is not renewed, nor replaced at the end of the **Policy Period** with insurance from an other insurer that covers substantially the same risk exposure as this **Policy**, the **Association** will be entitled to purchase an Extended Reporting Period of 90 days.

The Extended Reporting Period begins immediately following the expiry of the **Policy Period** and ends on the earlier of 4.p.m. L.S.T on the ninetieth day thereafter or at the time on the effective date on which the **Association** obtains insurance from another insurer that covers substantially the same risk exposure as this **Policy**.

The additional premium for the Extended Reporting Period will be 25% of the **Full Annual Premium**.

The entitlement to purchase the Extended Reporting Period lapses upon expiry of the **Policy Period**.

The application to purchase the Extended Reporting Period must be received by the **Insurer** prior to the expiry of the **Policy Period**, and payment of the additional premium must be made to the **Insurer** within thirty days of the same date.

In the event that a **Merger or Acquisition** takes place, the **Association** will not be entitled to purchase the Extended Reporting Period.

During the Extended Reporting Period the **Association** may continue to notify the **Insurer** of **Claims**, but only **Claims** based on **Wrongful Acts** committed or alleged to have been committed prior to the expiry of the **Policy Period**.

Any **Claim** notified to the **Insurer** during the Extended Reporting Period will be deemed to have been first made against the **Insured** and notified to the **Insurer** during the **Policy Period**.

2.6 Fraud investigator expenses

Insuring Clause 6 is extended to cover all reasonable expenses (excluding overtime wages, salaries, fees and other internal costs incurred in the normal course of business) incurred by the **Association** with the **Insurer's** prior written consent, solely to investigate, prove and substantiate the amount of a **Fidelity Loss**.

The total liability of the **Insurer** under this Extension will not exceed in the aggregate the Fraud Investigator Expenses Sub-limit specified in the **Policy Schedule**.

The Fraud Investigator Expenses Sub-limit is in addition to the Fidelity Sub-limit.

2.7 Joint venture liability

Insuring Clause 1 is extended to cover **Claims** resulting from the **Association's** participation in any joint venture in connection with the **Professional Services**.

Provided that:

- (a) the cover given will only relate to the **Association's** proportion of any liability incurred by such joint venture; and
- (b) the **Insured's** income derived from participation in such joint venture shall have been included in the calculation of income furnished by the **Insured** for the purposes of calculating the premium for this **Policy**.

2.8 Legal representatives

Insuring Clauses 1, 2, 3 and 5 are extended as follows:

If an **Insured Person** dies or becomes legally incapable or bankrupt, then this **Policy** will afford cover for **Loss** resulting from **Claims**:

- (a) first made against such **Insured Person's** estate, heirs, executors or other legal representatives; and
- (b) notified to the **Insurer**,

during the **Policy Period** based on **Wrongful Acts** by such **Insured Person**. However, the estate, heirs, executors or other legal representatives must comply with the terms of this **Policy**.

2.9 Lost documents

Insuring Clause 1 is extended as follow:

The **Insurer** will pay the **Association** for **Policy Claims** for costs and expenses reasonably incurred by them in replacing or restoring lost or damaged **Documents** where such loss or damage is first discovered by the **Insured** and notified to the **Insurer** during the **Policy Period**, provided that:

- (a) such loss or damage is sustained while the **Documents** are either in transit or in the care, custody or under the control of the **Insured** or of any person to whom the **Insured** has entrusted them; and
- (b) where the **Documents** are in electronic format, the **Insured** or any person to whom the **Insured** has entrusted them, have in place sufficient and proper procedures for the security and the daily back-up of the **Documents**.

The total liability of the **Insurer** under this Extension will not exceed in the aggregate the Lost Documents Sub-limit specified in the **Policy Schedule**.

The **Excess** does not apply to this Extension.

2.10 Occupational health and safety expenses

Subject to the provisions of the Advancement of Defence Costs and Representation Expenses Extension, Insuring Clauses 2, 3 and 4 are extended as follows:

Notwithstanding the Bodily Injury and Property Damage Exclusion or the Occupational Health and Safety Law Exclusion, the **Insurer** will pay, on behalf of the **Insured**:

- (a) **Defence Costs** incurred in defending **Claims** (other than a civil claim for compensation or damages) first made against the **Insured** and notified to the **Insurer** during the **Policy Period**, based on occupational health and safety law which results from a **Wrongful Act**; and
- (b) **Representation Expenses**, where the subject matter of the official investigation, examination, inquiry or other proceeding is occupational health and safety law.

The total liability of the **Insurer** under this Extension will not exceed in the aggregate the OH&S Expenses Sub-limit specified in the **Policy Schedule**.

If there is an entitlement to payment under the Pollution Expenses Extension then there is no entitlement to payment under this Extension.

2.11 Outside directorships (Past and current)

Insuring Clauses 2, 3 and 5 are extended to include as an **Insured Person** a person who, at the written request of the **Association** was prior to the **Policy Period** or is during or after the **Policy Period** a director or officer of, or occupies a position of equivalent status, in any **Outside Entity**.

Any cover afforded under this Extension will be specifically excess of:

- (a) any indemnity; or
- (b) cover available under any insurance contract, available from or through the **Outside Entity**.

2.12 Pecuniary penalties

Insuring Clauses 2, 3, 4 and 5 are extended to cover, to the extent permitted by law, any pecuniary penalties imposed upon the **Insured** based on **Wrongful Acts**, except for any pecuniary penalties imposed:

- (a) pursuant to any law regulating air, marine or vehicular traffic; or
- (b) directly or indirectly as a result of or in connection with a requirement to pay taxes, duties, rates, levies, charges, fees or any other revenue raising measure; or
- (c) where the **Insured** knew, or where a reasonable person in the circumstances ought reasonably to have known, prior to the **Policy Period** that the **Insured** had contravened a law and committed an offence pursuant to that law; or
- (d) as a result of further **Wrongful Acts** committed after the **Insured** first knew, or where a reasonable person in the circumstances ought reasonably to have known, that the **Insured** had contravened a law and committed an offence pursuant to that law, and which led to the imposition of increased or additional pecuniary penalties.

In the event of any conflict between this Extension and the Bodily Injury and Property Damage Exclusion, the Occupational Health and Safety Law Exclusion or the Pollution Exclusion, this Extension shall apply.

The cover provided under this Extension will only apply to such pecuniary penalties imposed in the jurisdictions of Australia and New Zealand and pursuant to the laws of Australia or New Zealand.

The total liability of the **Insurer** under this Extension will not exceed in the aggregate the Pecuniary Penalties Sub-limit specified in the **Policy Schedule**.

2.13 Pollution expenses

Subject to the provisions of the Advancement of Defence Costs and Representation Expenses Extension, Insuring Clauses 2, 3 and 4 are extended as follows:

Notwithstanding the Bodily Injury and Property Damage Exclusion, the Occupational Health and Safety Law Exclusion or the Pollution Exclusion, the **Insurer** will pay, on behalf of the **Insured**:

- (a) **Defence Costs** incurred in defending **Claims** (other than a civil claim for compensation or damages) first made against the **Insured** and notified to the **Insurer** during the **Policy Period**, based on **Pollution** which results from a **Wrongful Act**; and
- (b) **Representation Expenses**, where the subject matter of the official investigation, examination, inquiry or other proceeding is **Pollution**.

The cover provided under this Extension will only apply to **Claims** made in the jurisdictions of Australia or New Zealand and pursuant to the laws of Australia or New Zealand.

The total liability of the **Insurer** under this Extension will not exceed in the aggregate, the Pollution Expenses Sub-limit specified in the **Policy Schedule**.

2.14 Representation expenses

The **Insurer** will pay **Representation Expenses** on behalf of the **Insured**, subject to the provisions of the Advancement of Defence Costs and Representation Expenses Extension.

If there is an entitlement to payment under the Occupational Health and Safety Expenses Extension or the Pollution Expenses Extension, then there is no entitlement to payment under this Extension.

The total liability of the **Insurer** under this Extension will not exceed in the aggregate, the Representation Expenses Sub-limit specified in the **Policy Schedule**.

2.15 Spouses

Insuring Clauses 1, 2, 3 and 5 are extended as follows:

If a **Claim** against an **Insured Person** includes a claim against such **Insured Person's Spouse** solely by reason of (i) such **Spouse's** legal status as a **Spouse** of such **Insured Person**, or (ii) such **Spouse's** ownership interest in property which the claimant seeks as recovery for **Claims** made against such **Insured Person**, then all loss which such **Spouse** becomes legally liable to pay resulting from such **Claim** will be treated for the purposes of this **Policy** as **Loss**.

This Extension does not apply to the extent the **Claim** alleges any act, error or omission by such **Insured Person's Spouse**.

2.16 Sub-contractors and consultants

Insuring Clause 1 is extended as follows:

Insuring Clause 1 covers the acts, errors or omissions of sub-contractors and consultants, but only in respect of the **Insured's** civil liability for **Professional Wrongful Acts** in the conduct of the **Professional Services** provided by the sub-contractor and/or consultant on behalf of the **Insured**. Cover will not extend to the sub-contractor and/or consultant who committed the act, error or omission.

2.17 Thirty day post merger cover

Insuring Clauses 1, 2, 3, 4 and 5 are extended as follows:

If during the **Policy Period** the **Association** merges with another incorporated association whose total assets (by reference to such incorporated association's most recent financial statements as at the time of merger) are no more than the total assets of the **Association** (by reference to the **Association's** most recent financial statements as at the time of merger), and a new entity is created by such merger then the definition of **Association** will be extended to include the new entity created by the merger for a thirty day period from the date of merger.

In order for cover for the new entity to be extended beyond the thirty day period, the new entity must, prior to the end of the thirty day period:

- (a) give the **Insurer** written notice of any such merger together with such additional information as the **Insurer** may require; and
- (b) accept any notified alteration in the terms of this **Policy**; and
- (c) pay any additional premium required by the **Insurer**.

If the **Association** or the other incorporated association prepares consolidated financial statements, then the calculation of total assets will be by reference to the most recent consolidated financial statements.

This thirty day period of cover does not apply if:

- (i) the other incorporated association with which the **Association** merges is the surviving entity after the merger; or
- (ii) the new entity created is incorporated outside of Australia or New Zealand; or
- (iii) the **Insurer** also provides Association Liability Insurance to such other incorporated entity at the time of the merger.

3. Exclusions

These Exclusions apply to all the terms of the **Policy** unless otherwise stated. Where an Exclusion applies to a particular Insuring Clause then it also applied to the Extensions to that Insuring Clause.

3.1 Asbestos

The **Insurer** will not be liable for **Loss** resulting from **Claims** or **Policy Claims** arising directly or indirectly from or in respect of **Asbestos**, **Asbestos** fibres or derivatives of **Asbestos**.

3.2 Assumed liability

- (a) Under Insuring Clause 1, the **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of any liability assumed by the **Insured** under any express warranty, guarantee, hold harmless agreement, indemnity clause or the like unless such liability would have attached to the **Insured** in the absence of such agreement; and

(b) under Insuring Clause 1, the **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of any liability assumed by the **Insured** outside the normal course of the **Professional Services**.

3.3 Benefits

The **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of an actual or alleged violation of the responsibilities, obligations or duties imposed by any law relating to workers compensation, unemployment insurance, retirement benefits, social security or disability benefits. This Exclusion will not apply to Insuring Clauses 2 and 3.

3.4 Bodily injury and property damage

(a) Under Insuring Clause 1, the **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of:

- (i) bodily injury, any form of psychiatric, psychological or mental injury, illness, disease or death of any **Insured Person**, or damage to or destruction of any tangible property of any **Insured Person**, including any consequent loss of use thereof, arising out of or in the course of or in respect of his or her employment with the **Association**; or
- (ii) a breach of any obligation owed by an **Insured** to an **Insured**; and

(b) Under Insuring Clauses, 2, 3 4 and 5, the **Insurer** will not be liable for **Loss** resulting from **Claims** for bodily injury, any form of psychiatric, psychological or mental injury, illness, disease or death of any person, or damage to or destruction of any tangible property, including any consequent loss of use thereof, except that this Exclusion will not apply in respect of any actual or alleged psychiatric, psychological or mental injury alleged in any **Claim** by any **Insured Person** resulting from any **Employment Wrongful Act**.

3.5 Dishonest or criminal intent/improper conduct

The **Insurer** will not be liable for **Loss** resulting from **Claims** against any **Insured** arising directly or indirectly from or in respect of:

- (a) any **Wrongful Act** committed by that **Insured** with wilful, reckless, dishonest, fraudulent, malicious or criminal intent; or
- (b) that **Insured** improperly using their position to gain an advantage for that **Insured** or someone else or to cause a detriment to the **Association**; or
- (c) that **Insured** improperly using information obtained as a result of their position to gain an advantage for that **Insured** or someone else or to cause a detriment to the **Association**,

in each case only if established by any admission by the **Insured**, judgment, or other adjudication.

For the purpose of this Exclusion, the fact that one **Insured** has committed or is alleged to have committed the conduct described in a, b or c above will not be imputed to any other **Insured**.

3.6 Fading and mould

The **Insurer** will not be liable under the Lost Documents Extension, for **Policy Claims** for costs and expenses incurred in replacing or restoring lost or damaged **Documents** where such loss or damage is caused by fading, mould, vermin, pest infestation, wear, tear or any other gradually operating cause.

3.7 Industrial relations

The **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of collective industrial or labour relations including but not limited to: strikes; lock-outs; demarcation disputes; negotiating awards or enterprise agreements; collective redundancies; obligations to consult representatives and employees in relation to redundancies and other actions that arise; other than **Claims** based on an individual employment relationship.

This Exclusion will not apply to Insuring Clauses 2 and 3.

3.8 Investment advice

Under Insuring Clause 1 and 4, the **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of any advice or forecast given by the **Insured** in relation to the performance of an asset or investment or in the making of any discretionary fund decision by the **Insured**.

3.9 Known claims and circumstances

The **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of any fact, event, circumstance or **Wrongful Act**:

- (a) known to any **Insured** at the inception of this **Policy** and which a reasonable person in the circumstances might reasonably expect to give rise to a **Claim**; or
- (b) which has been or should reasonably have been the subject of any written notice given under any policy of which this **Policy** is a direct or indirect renewal or replacement; or
- (c) alleged in, discovered in, relating to or underlying any **Claim** made against any **Insured** prior to the inception of this **Policy**.

3.10 Motor, marine, aircraft

The **Insurer** will not be liable for **Loss** resulting from **Claims** that are claims for compensation or damages arising directly or indirectly from or in respect of the Insured's liability as owner or operator of any aircraft, marine craft or motor vehicle of any kind.

3.11 Nuclear

The **Insurer** will not be liable for **Loss** resulting from **Claims** or **Policy Claims** arising directly or indirectly from or in respect of:

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

3.12 Occupational health and safety law

The **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of any breach of occupational health and safety law.

3.13 Occupiers liability

The **Insurer** will not be liable for **Loss** resulting from **Claims** that are claims for compensation or damages arising directly or indirectly from or in respect of the actual or alleged occupation of land or buildings by the **Insured**.

3.14 Pollution

The **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of **Pollution** including without limitation any **Claim** for financial loss to the **Association** arising directly or indirectly from **Pollution**.

3.15 Related parties

Under Insuring Clauses 1, 2, 3 and 4, the **Insurer** will not be liable for **Loss** resulting from **Claims** by any **Insured** or any company or trust of which an **Insured** has or has had **Control**.

3.16 Retroactive date

If a Retroactive Date is specified in the **Policy Schedule**, the **Insurer** will not be liable for **Loss** resulting from **Claims** based on **Wrongful Acts** committed or alleged to have been committed in whole or in part prior to such Retroactive Date.

If a Fidelity Retroactive Date is specified in the **Policy Schedule**, the **Insurer** will not be liable under Insuring Clause 6 for **Loss** sustained prior to the Retroactive Date specified in the **Policy Schedule**.

3.17 Return of remuneration

Under Insuring Clause 2, the **Insurer** will not be liable for **Loss** resulting from **Claims** for the return by the **Insured Persons** of any remuneration paid to them without the prior approval of the members of the **Association**, which payment, without such prior approval, shall be held by the Court to be in violation of the law.

3.18 Subrogation waiver

Under Insuring Clauses 1 and 4, the **Insurer** will not be liable for **Loss** to the extent that the **Insured** has limited or excluded its right to recover such **Loss** by way of deed, agreement or hold harmless or to claim an indemnity or contribution in respect of such **Loss** from another.

3.19 Trading debts, professional fees

The **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of any liability for:

- (a) any trading debt incurred, or any guarantee in respect of such debt given, by the **Insured**; or
- (b) refund of professional fees or charges (by way of damages or otherwise).

3.20 War and terrorism

The **Insurer** will not be liable for **Loss** resulting from **Claims** or **Policy Claims** arising directly or indirectly from or in respect of:

- (a) declared or undeclared war, civil war, insurrection, riot, rebellion or revolution, military, naval or usurped power, governmental intervention, expropriation or nationalisation or any **Act of Terrorism**, regardless of any other cause or event contributing concurrently or in any other sequence; or
- (b) any action taken in controlling, preventing, suppressing or in any way relating to any **Act of Terrorism**.

4. Exclusions applicable to insuring clause 4: Association liability

Under Insuring Clause 4, the **Insurer** will not be liable for **Loss** resulting from **Claims** arising directly or indirectly from or in respect of:

4.1 Contractual liability

any actual or alleged breach of any term of any contract, whether express or implied unless such liability would have attached to the **Insured** in the absence of such agreement.

4.2 Product liability and product recall

- (a) the **Insured's** manufacture, distribution and/or sale of products; or
- (b) the recall of any products manufactured, distributed and/or sold by the **Insured**.

5. Exclusions applicable to insuring clause 5: Employment practice liability

Under Insuring Clause 5, the **Insurer** will not be liable for:

5.1 Employee entitlements

Loss payable for, or in respect of, or calculated by reference to:

- (a) salary or wages earned prior to the date of termination; or
- (b) **Benefits**; or
- (c) any amount not indemnified by the **Association** for which any **Insured** is absolved for payment by reason of any covenant, agreement or court order; or
- (d) payment for time in lieu of notice, severance or redundancy.

5.2 Injunctive relief or accommodation

Loss payable for, or in respect of, or calculated by reference to:

- (a) the cost of complying with any injunctive or other non-monetary relief or any agreement to provide any such relief; or
- (b) costs incurred by any **Insured** to make any accommodation in respect of working practices or otherwise on the basis of a person's disability or family responsibilities or as may be required under any law relating anti-discrimination.

In the event of an inconsistency between this Exclusion and the definition of **Claim**, the provisions of this Exclusion shall prevail.

5.3 Specified period employment contract

- (a) **Loss**, other than **Defence Costs** and claimant's costs and expenses, resulting from **Claims** arising directly or indirectly from or in respect of a breach of a specified period employment contract; and
- (b) **Defence Costs** and claimant's costs and expenses resulting from **Claims** arising directly or indirectly from or in respect of a breach of a specified period employment contract:
 - (i) unless and until the **Insured** has received legal advice based on the facts as they existed as at time of the actual or alleged breach from a competent legal adviser stating that the **Insured** has reasonable legal grounds to amend or terminate such specified period employment contract; and
 - (ii) provided that the **Insured** has not received legal advice from a competent legal adviser stating that the **Insured** does not have reasonable legal grounds to terminate specified period employment contract.

For the purposes of this Exclusion a specified period employment contract will be a specified period employment contract irrespective of whether or not such contract provides for a qualified or unqualified right to terminate the contract on notice prior to its expiry date.

5.4 Unfair employment contract

Loss resulting from **Claims** arising directly or indirectly from or in respect of:

- (a) a contract of employment alleged to be unfair; or
- (b) the seeking of relief pursuant to Section 106 of the Industrial Relations Act (NSW) 1996 or Section 276 of the Industrial Relations Act (Queensland) or similar legislation in other jurisdictions.

6. Exclusions applicable to insuring clause 6: Fidelity

Under Insuring Clause 6, the **Insurer** will not be liable for **Policy Claims** for:

6.1 Brokers and factors

Fidelity Loss arising directly or indirectly from or in respect of crime or dishonesty committed by any person who is or acts on behalf of any:

- (a) broker, factor, commission merchant, consignee of the **Association** or other similar agent or representative of the **Association** of the same general character; or
- (b) auditor, accountant, solicitor, investment adviser or investment manager providing a service pursuant to and under a contract with the **Association**.

6.2 Confidential information

Fidelity Loss arising directly or indirectly from or in respect of the accessing or disclosure of any confidential information, including but not limited to trade secret information, computer programs, confidential processing methods or other confidential information of any kind except where such accessing or disclosure enables the commission of any act otherwise covered under Insuring Clause 6.

6.3 Damage to premises

Fidelity Loss arising directly or indirectly from or in respect of damage or destruction to the **Insured's** premises.

6.4 Discovery outside the policy period

Fidelity Loss first **Discovered** prior to the commencement of the **Policy Period** or after the expiry of the **Policy Period**.

6.5 Indirect or consequential loss

indirect or consequential loss of any kind, including but not limited to loss of income, potential income, interest, profits or dividends, whether or not earned or accrued.

6.6 Loss of records

loss of or damage to records, manuscripts, accounts, microfilms, tapes or other records or the cost of reproducing any information contained in such lost or damaged records.

6.7 Loss sustained after discovery

Fidelity Loss, or that part of any **Fidelity Loss**, which is sustained after **Discovery** by the **Association** of any dishonest, fraudulent, malicious or illegal act or omission which caused such **Fidelity Loss**.

6.8 Profit and loss computation and inventory comparison

Fidelity Loss, or that part of any **Fidelity Loss**, the proof of which is dependent solely upon:

(a) a profit and loss computation or comparison; or

(b) a comparison of inventory records with an actual physical count,

provided that where the **Association** establishes wholly apart from such computation or comparison that it has sustained **Fidelity Loss** caused by an identified **Insured Person**, then it may offer its inventory records and actual physical count of inventory in support of the amount of **Fidelity Loss** claimed.

6.9 Territory

Fidelity Loss arising directly or indirectly from or in respect of any dishonest or fraudulent act committed in whole or in part outside of Australia or New Zealand.

6.10 Trading loss

Fidelity Loss arising directly or indirectly from or in respect of any authorised or unauthorised trading in **Money**, **Securities** or **Covered Property** by an **Insured Person**, whether acting alone or in collusion with any other person and whether or not such trading is in the name of the **Association** and whether or not such trading is in a genuine or fictitious account.

7. Exclusions applicable to insuring clause 7: Tax audit

Under Insuring Clause 7, the **Insurer** will not be liable for **Policy Claims**:

7.1 Amended notices/additional tax/fine/legal costs

for any:

(a) amounts sought by any amended notice of assessment; or

(b) additional tax, duty, government impost or the like; or

(c) fine or penalty imposed; or

(d) costs in legally pursuing or defending any legal actions against the **Association**.

7.2 APRA

if the **Tax Audit** is conducted by the Australian Prudential Regulation Authority.

7.3 Criminal prosecution/foreign return or entity/tax return

for **Professional Adviser Fees**:

(a) arising directly or indirectly from or in respect of any criminal prosecution; or

(b) arising directly or indirectly from or in respect of any **Return** lodged outside Australia, its States or Territories; or

(c) arising directly or indirectly from or in respect of any person or organisation ordinarily resident outside Australia, its States or Territories; or

(d) incurred, that should have been incurred or that ordinarily would have been incurred for work done prior to or as part of the preparation of the **Association's** accounts, **Returns**, taxation and financial records prior to the lodgement of the **Association's Returns**, taxation and financial records, or any document required by the relevant legislation in connection with its **Returns**.

7.4 Dishonest returns

in respect of any **Tax Audit** where a **Return** has been prepared lodged or submitted dishonestly or fraudulently, and where the supporting documents have been falsely created or collected.

7.5 Fraud/prior circumstances

in respect of:

- (a) a fraudulent **Policy Claim**; or
- (b) a **Policy Claim** arising from any circumstances known to the **Insured**, or any person acting on its behalf, prior to the **Association** taking out this **Policy**; or
- (c) verbal or written notice of an impending **Tax Audit** given to the **Insured** or any person acting on its behalf, prior to the **Association** taking out this **Policy**; or
- (d) a **Tax Audit** with a commencement date prior to the **Association** taking out this **Policy**.

7.6 Late lodgement

in respect of any **Tax Audit** where a **Return** has been lodged:

- (a) more than three months after the lodgement date prescribed; or
- (b) after the date prescribed by an authorised extension.

7.7 Managed investment

in respect of any form of managed investment.

7.8 Penalty more than 40%

in respect of any **Tax Audit** where the Australian Taxation Office imposes penalties at greater than 40%, or where the **Auditor** assesses the **Insured's** behaviour as being a case of deliberate evasion or recklessness.

7.9 Routine enquiries

in respect of any routine enquiries, or enquiries from the **Auditor**, which are not identified as being either preliminary to, or relating to a **Tax Audit** of a **Return**.

7.10 Tax minimisation schemes

in respect of any **Tax Audit** that includes a refund or claim for tax or duty relief arising out of an arrangement, facility, financial structure or the like adopted for the principal purpose of obtaining that refund or relief, unless the arrangement has received prior written approval from the relevant government or government authority or agency before being offered to the **Association** or the general public.

8. Limit of liability and excess

8.1 Limit of liability

The **Insurer's** liability to the **Insured** under this **Policy** for **Loss** resulting from any one **Claim** will not exceed the **Limit of Liability**.

The **Insurer's** liability to the **Insured** under this **Policy** in the aggregate for all **Loss** resulting from **Claims** and all **Policy Claims** for **Loss** will not exceed the **Maximum Aggregate Limit of Liability**.

The **Insurer** has no liability for any one **Claim** for any amount above the **Limit of Liability**.

The **Insurer** has no liability for any amount above the **Maximum Aggregate Limit of Liability**.

The purchase of any Extended Reporting Period will not increase or reinstate the **Limit of Liability** or the **Maximum Aggregate Limit of Liability**, which will be the **Insurer's** maximum liability for the **Policy Period** and Extended Reporting Period, combined.

8.2 Excess

The **Insured** is liable for the amount of **Loss** that is less than the **Excess** for each **Claim** and **Policy Claim**.

The **Excess** is deducted from **Loss** payable before the application of the **Limit of Liability** or Sub-limit, as applicable.

The **Insurer** has no liability for the amount of **Loss** that is less than the **Excess**.

The **Insured** agrees that the **Excess** specified in the **Policy Schedule** must be retained by the **Insured** and is to remain uninsured.

The **Excess** will not apply to the Fraud Investigator Expenses Extension, the Lost Documents Extension, Insuring Clause 8 or any **Loss** directly payable by any **Insured** who is a natural person.

8.3 Related claims

For the purpose of the calculation of the **Limit of Liability** or **Excess**, all **Related Claims** will be deemed to be one **Claim** and cover for all **Related Claims** will be provided as follows:

- (a) if the first **Related Claim** is first made during this **Policy Period** and notified to the **Insurer** during this **Policy Period** or any applicable Extended Reporting Period, then cover for all subsequent **Related Claims** will only be provided under this **Policy**; and

- (b) if the first **Related Claim** was first made and notified to this **Insurer** during a period prior to this **Policy Period**, during which the **Insured** had cover with this **Insurer**, then cover for all **Related Claims** will only be provided under that earlier policy with this **Insurer**, subject to the terms, excess and limit of liability of that earlier policy; and
- (c) if the first **Related Claim** was first made during a period prior to this **Policy Period**, during which the **Insured** did not have cover with this **Insurer**, then no cover for any **Related Claim** will be provided under this **Policy**.

8.4 Related loss

For the purpose of the calculation of the **Excess**, all **Policy Claims** for **Loss** of any kind, sustained as a result of the same or causally related acts, causes or events will be deemed to be one **Policy Claim** for **Loss** regardless of when during the **Policy Period** or prior thereto such acts occurred.

9. Claims conditions

9.1 Notification

The **Association** must give to the **Insurer** notification of any **Claim** made against any **Insured**, **Discovery of Fidelity Loss** or discovery of loss of or damage to **Documents** as soon as reasonably practicable within the **Policy Period** or within any applicable Extended Reporting Period at the Claims Notification address or facsimile number specified in the **Policy Schedule**.

Each notification must include so far as practicable:

- (a) if a **Claim**, the identity of the claimant or potential claimant; and
- (b) the nature of the **Claim** or **Loss**; and
- (c) the likely quantum of the **Claim** or **Loss**.

The **Association** must provide the **Insurer** with such further information and documentation as it may reasonably require.

The **Association** must provide the **Insurer** with affirmative proof of **Loss** under Insuring Clause 5 and the Lost Documents Extension, duly sworn and with full particulars as soon as reasonably practicable within the **Policy Period** but in no event later than six months after **Discovery** of such **Loss**.

9.2 Notification of Tax Audit

The **Association** must give to the **Insurer** notification of any **Tax Audit** immediately the **Association** becomes aware of it.

The **Association** must obtain the **Insurer's** prior written approval of the engagement in connection with a **Tax Audit** of any professional other than the **Association's** accountant and of the fees and disbursements likely to be incurred before engaging that professional.

The **Association** must:

- (a) keep the **Insurer** fully informed of all material developments in relation to the **Tax Audit**; and
- (b) take all reasonable steps to minimise cost and delay; and
- (c) submit to the **Insurer** all accounts for **Professional Adviser Fees** immediately after receiving them and provide full itemised details of accounts so that the **Insurer** can determine the nature of the work done.

The **Insurer** may investigate any matter that is or may be the subject of a **Policy Claim** for **Professional Adviser Fees**.

The **Association** will provide the **Insurer** with direct access at all times to its **Professional Adviser**.

If the **Insurer** so requests, the **Association** must instruct its **Professional Adviser** to assist us in connection with the **Policy Claim** for **Professional Adviser Fees**.

The **Association** must instruct its **Professional Adviser** to assist us with any matter we seek to pursue with the department, body or agency conducting the **Tax Audit** which is or may be the subject of a **Policy Claim** for **Professional Adviser Fees**.

9.3 Co-operation

In the event of a **Claim**, **Policy Claim** or **Loss**, the **Insured** will at all times and at its own cost provide the **Insurer** with all information, evidence, documentation, assistance and cooperation and will execute such documents, including signed statements and affidavits, which the **Insurer** reasonably requests.

The **Insured** will at all times and at its own cost use reasonable endeavours to do and concur in doing everything reasonably practicable to avoid or diminish **Loss** and to assist with the defence, investigation or settlement of any **Claim** or **Policy Claim**.

The **Insurer** may make any investigation it deems necessary.

9.4 Claims conduct

The **Insurer** is entitled to take over and conduct in the name of the **Insured** the defence or settlement of any **Claim** and will have full discretion in the conduct of any proceedings and in the settlement of any **Claim**.

The **Insurer** reserves entirely its rights under this **Policy**, including its right to agree or deny cover while it assesses a **Claim** or conducts the defence. The **Insurer's** rights under this **Policy** are not affected if it does not conduct the defence.

Neither the **Insured** nor the **Insurer** will be required to contest or litigate any **Claim** if, in the opinion of a Senior Counsel, reasonable attempts should be made to settle the **Claim**. The cost to obtain the opinion will be advanced by the **Insurer** and treated as **Defence Costs**. Senior Counsel is to be mutually agreed, or in the absence of such agreement, as nominated by the President of the NSW Bar Association.

Senior Counsel shall provide the opinion in writing. In formulating the opinion Senior Counsel shall consider commercial matters including the amount of the **Claim**, the actual and potential **Loss** (including **Defence Costs**) that may reasonably be incurred in contesting the **Claim**, the liability prospects and the prospect of recovering costs against the claimant in the event that the defence is successful. Senior Counsel shall also provide a settlement range within which reasonable attempts should be made to settle the **Claim**.

If it is the opinion of Senior Counsel that reasonable attempts should be made to settle the **Claim**, the **Insured** shall not object to the **Insurer's** attempt to do so.

9.5 Settlement

The **Insured** must not settle or offer to settle any **Claim**, incur any **Defence Costs**, or **Representation Expenses** or otherwise assume any contractual obligation or admit any liability in respect of any **Claim** without the **Insurer's** prior written consent.

If the **Insured** objects to a proposal by the **Insurer** to settle or compromise any **Claim** payable under this **Policy** and wishes to contest or litigate the matter, then the **Insured** may so elect, but the **Insurer's** liability in respect of any such **Claim** so contested or litigated will not exceed the amount for which, but for such election, it could have been settled or compromised by the **Insurer**, together with **Defence Costs** payable in accordance with the terms of this **Policy** and incurred up to the time of such election.

9.6 Basis of valuation of loss

Securities

In respect of **Loss** of **Securities** the **Insurer** will not be liable for more than the actual market value of the **Securities** at the close of business on the business day immediately preceding the day on which the **Loss** was **Discovered** or the actual cost of replacing the **Securities**, whichever is less, plus the cost of posting any required lost instrument bond (which cost will be paid by the **Insurer** on behalf of the **Insured**).

The Indirect or Consequential Loss Exclusion does not apply to the calculation of **Loss** of **Securities**.

Covered property

In respect of **Loss** of **Covered Property** the **Insurer** will not be liable under Insuring Clause 6 for more than the actual cash value of **Covered Property** at the time of **Loss** or the actual cost of repairing or replacing the **Covered Property** with property of similar quality or value whichever is the lesser.

9.7 Allocation of loss

This Claims Condition applies to any part of any **Loss** resulting from a **Claim** which is in respect:

- (a) of one **Insured** only; or
- (b) of more than one **Insured**, whether jointly or severally; or
- (c) of one or more **Insured** and one or more persons or entities who is or are not an **Insured**, whether jointly or severally,

and which is partly covered and partly not covered under this **Policy**,

(together 'Loss to be Allocated').

The **Insurer** must determine a fair and reasonable allocation of the covered part of the Loss to be Allocated among the relevant **Insureds** and the **Insurer** having regard to the extent of each **Insured's** comparative responsibility for the Loss to be Allocated. The **Insurer's** consideration of what is fair and reasonable should 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 the **Insurer**;
- (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.

If the **Insured** wishes to dispute the **Insurer's** determination of the allocation, each party agrees that the dispute must be referred for expert determination in accordance with the Australian Commercial Disputes Centre ("ACDC") Mediation Guidelines, to an expert agreed by the parties, or if the parties do not agree on an expert, an expert nominated by the then current CEO of ACDC or the CEO's nominee.

Each party agrees to sign an agreement with the expert that confirms the following:

- (a) each party will pay an equal share of the fees for the appointed expert (to be charged at the expert's usual rate); and
- (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;
 - (iv) request a meeting with the parties (to which they may bring their lawyers); and
- (c) the expert must decide within thirty days after the agreement is signed, and need not give reasons; and
- (d) the expert's decision will be binding on the parties and final; and
- (e) the expert will exclude all liability of the expert to either party (including liability for negligence) to the full extent permitted by law.

This allocation applies for all purposes under this **Policy** including the Advancement of Defence Costs and Representation Expenses Extension and the Subrogation and Recoveries Claims Condition.

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**.

9.8 Subrogation and recoveries

Preservation of rights of recovery

The **Insured** will take all necessary steps to preserve its rights of recovery. The **Insured** will not, without the **Insurer's** prior consent in writing:

- (a) release, agree not to sue on, waive or prejudice, any such rights; or
- (b) enter into any arrangement or compromise or do any act whereby any rights or remedies to which the **Insurer** would be subrogated are or may be prejudiced.

Provision of information and assistance

The **Insured** agrees to provide the **Insurer** with all information, evidence, documentation, assistance and co-operation and to execute such documents, including signed statements and affidavits, which the **Insurer** reasonably requests in the exercise of its rights of recovery.

The **Insured** will at all times and at its own cost use reasonable endeavours to do and concur in doing everything reasonably practicable to assist in the exercise of its rights of recovery.

Fidelity recoveries

In the event of any payment in respect of a **Policy Claim** under Insuring Clause 6:

- (a) the **Association** must, if requested by the **Insurer**, take all reasonable steps to make recovery from any person committing or condoning the fraudulent or dishonest act or from the legal representatives of such person; and
- (b) to the extent allowed by law, the **Insurer** will deduct the following from any amount payable in respect of **Fidelity Loss** caused by or resulting from the fraudulent or dishonest act:
 - (i) any monies which but for such fraudulent or dishonest act would be due from the **Insured** to the person committing or condoning such act; and
 - (ii) any monies held by the **Insured** and belonging to such person; and
 - (iii) any monies recovered under a above; andall such monies will be applied towards reducing the amount of the **Loss**.

All recoveries

All recoveries obtained by the **Insured** from other parties will be allocated, after the settlement of any **Claim** or **Policy Claim** under this **Policy** as follows:

- (a) firstly, to the benefit of the **Insured** to reduce or extinguish the amount of the **Insured's Loss** to the extent that it would have been paid under this **Policy** but for the fact that such **Loss** exceeds the sum of the **Limit of Liability** and the **Excess**, the **Maximum Aggregate Limit of Liability** and the **Excess** or any Sub-limit and the **Excess** where applicable; and
- (b) secondly, to the benefit of the **Insurer** for all sums paid in settlement of **Loss** arising under this **Policy**; and

(c) thirdly, to the benefit of the **Insured** for the **Excess** under this **Policy**.

All recoveries will be applied as herein only after deduction of the reasonable cost of obtaining such recovery. All recoveries made prior to settlement of any **Claim** or **Policy Claim** under this **Policy** will be held for the benefit of the **Insurer** and applied as stated herein after settlement if any is made.

Recoveries do not include any amount recovered from insurance, suretyship, reinsurance, security or indemnity taken for the benefit of the **Insurer**.

10. General terms

10.1 Acquisition, merger or winding up of association

If, during the **Policy Period**, any of the following events occur:

- (a) a **Merger or Acquisition** of the **Association**; or
- (b) the appointment of a receiver, controller, administrator or liquidator to the **Association** or, the commencement of a scheme of arrangement or compromise or a winding up process in respect of the **Association**,

then this **Policy** will remain in force until the expiry of the **Policy Period**,

- (c) but under Insuring Clauses 1, 2, 3, 4 and 5, only in respect of **Loss** resulting from **Claims** based on **Wrongful Acts** committed or alleged to have been committed prior to the event described in a or b above; and
- (d) under Insuring Clause 6, only in respect of **Loss** sustained prior to the event described in a or b above.

There shall be no cover under Insuring Clause 8 for legal advice sought as a result of, or after, the events described in a or b above.

10.2 Assignment

This **Policy** cannot be assigned by the **Association**.

10.3 Association failure to indemnify

Where Insuring Clause 3 applies and the **Association** is in liquidation (other than voluntary liquidation) and has insufficient funds available to indemnify the **Insured Persons** for **Loss** as agreed, then the **Excess** applicable to the **Association** specified in the **Policy Schedule** is not payable to the **Insurer**.

10.4 Authorisation

The **Association** is the agent for each **Insured** and each **Insured** is bound by any statement, act or omission of the **Association** for all purposes under this **Policy**, subject to the Claims Conduct or Settlement Claims Conditions and the Disclosure and Severability and Non-imputation General Terms.

If the **Association** is more than one entity, then the first entity listed in the **Policy Schedule** will be deemed to be the **Association**.

10.5 Cancellation

The **Association** is entitled to cancel this **Policy** at any time, by notice, to the **Insurer**. Upon receipt of such request the **Insurer** will retain a short period premium calculated at a pro rate of the **Full Annual Premium** for the time it has been on risk plus ten per cent and the **Association** will receive a refund of any balance of the premium.

The **Insurer** may cancel this **Policy** in accordance with the Insurance Contracts Act 1984.

10.6 Confidentiality

The **Insured** must not disclose the existence or terms of this **Policy**, including without limitation the **Limit of Liability**, the nature of the insurance or the premium payable under the **Policy** to any person who is not an **Insured** except where:

- (a) the **Insured** is required by law or stock exchange rules to do so; or
- (b) the **Insurer** provides its prior written consent to such disclosure.

10.7 Disclosure

Each **Insured** represents that the information about that **Insured** supplied to the **Insurer** before the **Policy Period** in respect of this **Policy** is correct, true and complete. The **Insured** acknowledges that the **Insurer** relies on this information and this representation.

10.8 Goods and services tax

As part of the premium, the **Insurer** will charge the **Association** an amount on account of GST.

The **Association** must inform the **Insurer** of the extent to which it is entitled to an input tax credit for that GST amount each time that it notifies a **Claim** or makes a **Policy Claim** under this **Policy**. No payment will be made to the **Association** for any GST liability that it may incur on the settlement of a **Claim** or **Policy Claim** if it does not inform the **Insurer** of its entitlement or correct entitlement to an input tax credit.

Despite the other terms of this **Policy**, the **Insurer's** liability to the **Association** will be calculated taking into account any input tax credit to which the **Association** is entitled for any acquisition which is relevant to the **Claim** or **Policy Claim**, or to which it would have been entitled had it made a relevant acquisition.

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

10.9 Governing law

The construction, interpretation and meaning of the terms of this **Policy** will be determined in accordance with the laws of the Commonwealth of Australia and the State or Territory where the **Policy** was issued. Any disputes relating to the construction, interpretation and meaning of the terms of this **Policy** will be submitted to the exclusive jurisdiction of the courts of the Commonwealth of Australia.

10.10 Interpretation

In this **Policy** the singular includes the plural and vice versa. The male gender includes the female and neutral genders. Person includes bodies corporate, except in the term **Insured Person** when it does not include bodies corporate.

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).

The titles and headings to the various sections of the **Policy** are included solely for ease of reference and do not in any way limit or expand or otherwise affect the terms of such sections.

10.11 Jurisdiction

Except where otherwise provided, this **Policy** provides cover for **Claims** made anywhere in the world except for those **Claims**:

- (a) brought in a court of law, arbitration, tribunal forum or other body entitled to impose enforceable orders against the **Insured** in **North America**; or
- (b) arising from the enforcement of any judgment, order or award in respect of any action brought in any court of law in **North America**.

10.12 Material change

The **Insured** must notify the **Insurer** as soon as reasonably practicable of any material change in the risk insured by this **Policy**. The **Insurer** is entitled to amend the terms of this **Policy** and/or charge an additional premium based on the **Insurer's** assessment of any change in the risk insured by this **Policy**.

10.13 Other insurance

If, at the time any **Loss** arises under this **Policy**, there is any other insurance contract in force covering the same **Loss**, the **Association** must notify the **Insurer** as soon as reasonably practicable providing full details of such other insurance contract, including the identity of the insurer, the policy number and such further information as the **Insurer** may reasonably require.

10.14 Other notices

Any communications (other than notifications described in the Notification Claims Condition) to the **Insurer** under this **Policy**, including any application to purchase an Extended Reporting Period, must be sent by the **Association** to the **Insurer** at the **Insurer's** address or facsimile number specified in the **Policy Schedule**.

Notice to the **Insured** may be given to the **Association** or its agent at the Broker Name and Address specified in the **Policy Schedule**.

10.15 Payment of premium

The **Association** must pay the premium specified in the **Policy Schedule** on or before ninety days after the inception of the **Policy Period** or such other time that the **Insurer** agrees in writing. If the **Association** fails to pay the premium within that period, the **Insurer** is entitled to cancel this **Policy** in accordance with the Insurance Contracts Act 1984.

10.16 Severability and non-imputation

The **Proposal** made to the **Insurer** prior to entering into this **Policy** shall be construed as a separate application for cover by each **Insured Person** and no information provided by or representation made by one shall be imputed to another.

No breach of this **Policy** or knowledge or information possessed by any **Insured Person** shall be imputed to another.

10.17 Variation of the policy

No variation of this **Policy** will be effective, except when made by written **Endorsement**.

11. Definitions

When used in this **Policy**:

- 11.1 **Act of Terrorism** means an act, including but not limited to the use of force or violence 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), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government or to put the public, or any section of the public, in fear.

- 11.2 **Asbestos** means asbestos in whatever form including, without limitation, asbestos products or products containing asbestos.
- 11.3 **Association** means:
- (a) the organisation specified as the Association in the **Policy Schedule**; and
 - (b) subsidiaries of such Association existing prior to or as at the commencement of the **Policy Period**.
- 11.4 **Association Wrongful Act** means any act, error, omission, conduct, misstatement, misleading statement, neglect, defamation, infringement of rights of intellectual property or breach of: duty; trust; warranty of authority; statute or confidentiality, actually or allegedly committed by the Association, but does not include a Professional Wrongful Act or an Employment Wrongful Act.
- 11.5 **Auditor** means an officer who is authorised under Commonwealth, State or Territory legislation to carry out a **Tax Audit** of the **Association's** taxation or financial affairs or **Return**.
- 11.6 **Benefits** means:
- (a) fringe benefits and perquisites; or
 - (b) amounts due or payments made in connection with superannuation, an employee benefit plan or pension scheme; or
 - (c) share or stock options or any other right to purchase, acquire or sell shares or stock; or
 - (d) any other payment, other than salary or wages, to or for the benefit of an employee arising out of the employment relationship.
- 11.7 **Claim** means:
- (a) a written communication, including electronic communications, to an **Insured**, containing a demand for compensation or damages, alleging an act, error, omission, conduct, facts or circumstances that may constitute a **Wrongful Act**; or
 - (b) a civil proceeding commenced by the service of a written complaint, summons, statement of claim, writ or similar pleading or an arbitral process, cross-claim, or counter claim against an **Insured** alleging an act, error, omission, conduct, facts or circumstances that may constitute a **Wrongful Act**; or
 - (c) any criminal proceeding commenced by a summons or charge of an **Insured Person** arising from a **Wrongful Act**; or
 - (d) any official investigation, examination, inquiry or other proceedings which gives rise to **Representation Expenses**.
- Claim** does not mean an action solely for declaratory or injunctive relief where there is no demand for compensation or damages.
- 11.8 **Concluded Decision** means written notification of the **Auditor's** concluded views in connection with a **Tax Audit** and includes any written statement which is intended by the **Auditor** to be its findings in connection with a **Tax Audit** or the basis upon which it proposes to act in connection with a **Tax Audit**.
- 11.9 **Control** means the definition of control in the Corporations Act 2001.
- 11.10 **Covered Property** means tangible property other than **Money** and **Securities**.
- 11.11 **Defence Costs** means the **Insured's** share, according to the Allocation of Loss Claims Condition, of necessary and reasonable costs, charges, fees and expenses (other than regular or overtime wages, salaries, fees or **Benefits** of the **Insured Persons**) incurred by the **Insured** with the **Insurer's** prior written consent, in defending, investigating or settling covered **Claims**.
- 11.12 **Discovered / Discovery** means when any director, officer or senior manager of the **Insured**, not in collusion with an **Insured Person** committing a dishonest or criminal act, first becomes aware of facts which would cause a reasonable person in the circumstances to believe that **Loss** covered by this **Policy** has occurred, or is likely to occur, regardless of when the act or acts causing or contributing to such **Loss** occurred and even though the exact amount or details of Loss may not then be known.
- 11.13 **Documents** means deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature (excluding any bearer bonds, coupons, bank or currency notes or other negotiable instruments), electronically stored data, software or computer records, which are the property of the **Association** or for which the **Association** is responsible.
- 11.14 **Employment Wrongful Act** means any employment related act, error, omission or conduct constituting actual, constructive or alleged: wrongful dismissal, discharge or termination of employment; wrongful failure to employ or promote; wrongful deprivation of career opportunity; misleading representation or advertising in respect of employment; wrongful disciplinary action; negligent employee evaluation; wrongful demotion; breach of employment contract; sexual or workplace harassment (including the creation of a workplace environment conducive to such harassment); wrongful discrimination; failure to grant tenure; invasion of privacy or defamation, committed by the **Insured**.
- 11.15 **Endorsement** means any document which is described as an endorsement to this **Policy** and intends to vary it. An **Endorsement** does not affect or increase the **Limit of Liability**, the **Maximum Aggregate Limit of Liability** or any other term, except to the extent specifically provided in the **Endorsement**. For the avoidance of doubt, each **Endorsement** is otherwise subject to all the terms of this **Policy**.

- 11.16 **Excess** means the sum of:
- (a) the Excess specified in the **Policy Schedule**; and
 - (b) any amount payable under a **Specified Policy**; and
 - (c) under the Outside Directorships (Past and Current) Extension, any other indemnity available from an **Outside Entity**.
- 11.17 **Fidelity Loss** means direct financial or physical loss of **Money, Securities and Covered Property** belonging to, leased by or in the care, custody or control of the **Association**, sustained by the **Association** caused by any dishonest or fraudulent act committed by an **Insured Person** (whether acting alone or in collusion with any other person). **Fidelity Loss** does not mean:
- (a) regular or overtime wages, salaries, fees or **Benefits** earned in the normal course of employment; or
 - (b) damages of any type, including but not limited to punitive, exemplary or aggravated damages.
- 11.18 **Full Annual Premium** means the annual premium payable by the **Association**, including any additional premium which becomes payable in respect of the **Policy Period** in question.
- 11.19 **Insured** means:
- (a) the **Association**; and
 - (b) the **Insured Persons**.
- 11.20 **Insured Person** means any natural person who was prior to the **Policy Period**, or is during or after the **Policy Period**:
- (a) a director, secretary, officer, trustee, committee member, employee (whether salaried or not) or volunteer of the **Association**; or
 - (b) a person acting on behalf of the **Association** at the direction of an officer or board or committee of management of the **Association**,
but only in his or her capacity as such.
- 11.21 **Insurer** means AAI Limited ABN 48 005 297 807 trading as Vero Insurance.
- 11.22 **Limit of Liability** means the Limit of Liability specified in the **Policy Schedule**.
- 11.23 **Loss** means:
- (a) the amount, whether determined by judgment, verdict or award for which the **Insured** is legally liable to a third party for a **Claim** and includes damages, compensation orders, interest and claimant's costs and expenses; and
 - (b) a settlement of a **Claim** by a third party against the **Insured**, which complies with the Settlement Claims Condition; and
 - (c) **Defence Costs**; and
 - (d) Under Insuring Clause 5, in the event that the **Association** is ordered to reinstate or re-employ an employee, the cost to the **Association** of complying with any order to pay salary or wages, or damages calculated by reference to salary or wages, to an employee for the period from the date of the purported dismissal or termination to the date on which the court, tribunal or similar body delivered its judgment to the parties; and
 - (e) under Insuring Clause 6, **Fidelity Loss**; and
 - (f) under Insuring Clause 7, **Professional Adviser Fees**; and
 - (g) Under the Fraud Investigator Expenses Extension, the reasonable expenses; and
 - (h) under the Lost Documents Extension, costs and expenses reasonably incurred in replacing or restoring lost or damaged **Documents**; and
 - (i) under the Occupational Health and Safety Expenses, Pollution Expenses and Representation Expenses Extensions, **Representation Expenses**; and
 - (j) under the Pecuniary Penalties Extension, pecuniary penalties, each subject to the Allocation of Loss Claims Condition.
- Loss** does not mean:
- (k) taxes, fines and penalties imposed by law, other than those covered under the Pecuniary Penalties Extension; or
 - (l) punitive, exemplary or aggravated damages.
- 11.24 **Maximum Aggregate Limit of Liability** means the Maximum Aggregate Limit of Liability specified in the **Policy Schedule**.

- 11.25 **Merger or Acquisition** means:
- (a) the **Association** consolidating with, merging into or selling all or substantially all of its assets such that the **Association** is not the surviving entity; or
 - (b) any entity obtaining **Control** of the **Association**.
- 11.26 **Money** means, without limitation, legal tender including bank notes, coins, bullion, cheques, bills of exchange, promissory notes, and claims on bank deposits and accounts.
- 11.27 **North America** means the United States of America and Canada and in each case its territories and protectorates.
- 11.28 **Office Bearer's Wrongful Act** means any act, error, omission, conduct, misstatement, misleading statement, neglect, defamation, infringement of rights of intellectual property or breach of: duty; trust; contract; warranty of authority; statute or confidentiality, actually or allegedly committed by any **Insured Person** in his or her capacity:
- (a) as an **Insured Person**; or
 - (b) under the Outside Directorships (Past and Current) Extension, as a director or officer of, or as the holder of a position of equivalent status in, any **Outside Entity**,
or any matter claimed against any **Insured Person** solely by reason of his or her serving in such capacities, but does not include a **Professional Wrongful Act** or an **Employment Wrongful Act**.
- 11.29 **Outside Entity** means any non-profit organisation of any kind that is exempt from the payment of income tax, other than a subsidiary of the **Association**.
- 11.30 **Policy** means and consists of this Association Liability Insurance Policy wording, the **Policy Schedule** and any **Endorsement** and their terms are incorporated into the terms of this **Policy**.
- 11.31 **Policy Claim** means a written demand by or on behalf of the **Association** to the **Insurer** for payment of **Loss** under this **Policy**.
- 11.32 **Policy Period** means the period of time specified as the Policy Period in the **Policy Schedule**.
- 11.33 **Policy Schedule** means the schedule attaching to the **Policy**.
- 11.34 **Pollutants** means any solids, liquids, gaseous or thermal irritants, contaminants, smoke, vapour, soot, fumes, odour or any other air emission, acids, alkalis, chemicals, waste materials, waste water, oil or oil products, infectious biological or medical waste, **Asbestos**, electric or magnetic or electromagnetic fields, noise and any ionising radiations or contamination by radioactivity.
- 11.35 **Pollution** means:
- (a) the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of **Pollutants** into or on real or personal property, water or the atmosphere; or
 - (b) any direction or request to test for, monitor, clean up, treat, detoxify or neutralise **Pollutants**.
- 11.36 **Professional Adviser** means
- (a) an accountant who is a member of a nationally recognised accounting body, a registered tax agent or tax consultant; and
 - (b) any other professional person or consultant engaged by or at the recommendation of the person referred to in paragraph a, but does not mean the **Association** or any person working for the **Association** under a contract of employment.
- 11.37 **Professional Adviser Fees** means reasonable and necessary fees, cost and disbursements incurred in connection with a **Tax Audit** that are payable by the **Association** to its **Professional Adviser** for work undertaken in connection with a **Tax Audit** but does not mean or include fees, cost and disbursements which:
- (a) form part of an annual or fixed fee or cost arrangement; or
 - (b) relate to any subsequent objection or appeal or request for review in respect of the **Tax Audit**, or any assessment, amended assessment or **Concluded Decision** of the **Auditor**; or
 - (c) relate to or are associated with the preparation of any accounts, financial statements and/or documents or to any attendance or service which would have been or would or should ordinarily or prudently have been prepared prior to or at the time that the lodgement of any **Return** and/or document was required to be lodged.
- 11.38 **Professional Services** means the professional business described in the **Policy Schedule**, and no other, of the **Association**.
- 11.39 **Professional Wrongful Act** means an act, error, omission, conduct, misstatement, misleading statement, neglect, defamation, infringement of rights of intellectual property or breach of: duty; trust; contract; warranty of authority; statute or confidentiality, actually or allegedly committed by the **Insured** in the conduct of the **Professional Services**, but does not include an **Employment Wrongful Act**.

- 11.40 **Proposal** means the signed proposal form and declaration completed in respect of this Policy, including any renewal declaration and any information supplied by the **Insured** about any matter or risk the subject of or relevant to this insurance or **Policy**.
- 11.41 **Record Keeping Audit** means any enquiry or investigation by the Australian Taxation Office which is aimed at determining the extent of the **Association's** compliance with the record keeping requirements of relevant taxation legislation.
- 11.42 **Related Claims** means all **Claims** arising directly or indirectly from or in respect of the same or causally related or continuous or repeated **Wrongful Acts** whether committed by one or more of the **Insured** and whether directed to or affecting one or more than one person or legal entity.
- 11.43 **Representation Expenses** means the **Insured's** share, according to the Allocation of Loss Claims Condition, of necessary and reasonable costs, charges and expenses (other than regular or overtime wages, salaries, fees or **Benefits** of an **Insured Person**) incurred by the **Insured** with the **Insurer's** prior written consent, in preparing for, attending and being represented at any official investigation, examination, inquiry or other proceedings (other than the **Association's** own internal investigation) ordered or commissioned by any regulator, government body or authority, governmental or administrative agency, official body, legally constituted industry or professional board, that:
- (a) the **Insured** is legally required to attend and that has as its subject matter:
 - (i) the affairs of the **Association**; or
 - (ii) the conduct of an **Insured Person** in their capacity as such; or
 - (iii) conduct allegedly committed by the **Insured** in the conduct of the **Professional Services**, or
 - (b) an **Insured Person** is legally required to attend by virtue of their role as an **Insured Person**, provided that the notice requiring the **Insured** to attend is first received by the **Insured** and notified to the **Insurer** during the **Policy Period**.
- 11.44 **Return** means any return, legally required to be, and actually lodged with, a government or government authority or agency by the **Association** on its behalf.
- 11.45 **Securities** means all shares, debentures, units in shares, units in trusts (including any stock, bond, debenture, evidence of indebtedness or other equity or debt security), representing either **Money** or **Covered Property** owned or held by the **Insured** but does not include **Money**.
- 11.46 **Specified Policy** means:
- (a) any insurance contract under which the **Insured** is entitled to an indemnity and which is specified in the **Proposal** or by **Endorsement**; or
 - (b) any renewal or replacement of that insurance contract.
- 11.47 **Spouse** means a lawful spouse or any person deriving similar status by reason of the common law or statute.
- 11.48 **Tax Audit** means the audit of a **Return** submitted by the **Association**, or on its behalf, by the Australian Tax Office (ATO), or any Australian Commonwealth, State or Territory department, body or agency, or authority which is duly authorised to conduct such an audit, or a **Record Keeping Audit**.
- 11.49 **Wrongful Act** means:
- (a) Professional Wrongful Act; or
 - (b) an **Office Bearer's Wrongful Act**; or
 - (c) an **Association Wrongful Act**; or
 - (d) an **Employment Wrongful Act**.

End of wording

