



Management Liability Insurance Policy

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Policy wording

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

Each of the following Insuring Clauses is only applicable if shown as 'Included' in the **Policy Schedule**. If an Insuring Clause is not shown in the **Policy Schedule**, then that Insuring Clause is not included.

Insuring Clause 1: Directors and officers liability

The **Insurer** will pay, on behalf of **Insured Persons**, **Loss** resulting from **Claims** first made against **Insured Persons** and notified to the **Insurer** within the **Policy Period** arising from **Management Wrongful Acts** for which the **Company** has not agreed to provide indemnity.

An **Excess** does not apply to this Insuring Clause.

Insuring Clause 2: Company reimbursement

The **Insurer** will pay, on behalf of the **Company**, **Loss** resulting from **Claims** first made against **Insured Persons** and notified to the **Insurer** within the **Policy Period** arising from **Management Wrongful Acts** for which the **Company** has agreed to provide indemnity to the **Insured Persons** for such **Loss**.

Insuring Clause 3: Company liability

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

Insuring Clause 4: Employment practices liability

The **Insurer** will pay, on behalf of the **Insured**, **Loss** resulting from **Claims** first made against the **Insured** and notified to the **Insurer** within the **Policy Period** arising from **Employment Wrongful Acts**.

The total liability of the **Insurer** under this Insuring Clause will not exceed the 'Employment Practices Liability Sub-limit' stated in the **Policy Schedule** in the aggregate for the **Policy Period**.

The 'Employment Practices Liability Excess' applies to this Insuring Clause. However, no **Excess** shall apply under this Insuring Clause to **Loss** payable by any **Insured Person** when the **Company** has not agreed to indemnify that **Insured Person**.

Insuring Clause 5: Crime

The **Insurer** will pay the **Company** for **Crime Loss** first **Discovered** and notified to the **Insurer** within the **Policy Period**.

The total liability of the **Insurer** under this Insuring Clause will not exceed the 'Crime Sub-limit' stated in the **Policy Schedule** in the aggregate for the **Policy Period**.

The 'Crime Excess' applies to this Insuring Clause.

Insuring Clause 6: Tax audit

The **Insurer** will pay the **Company** for **Tax Adviser Fees** incurred by the **Company** with the prior written consent of the **Insurer** in connection with a **Tax Audit** commenced and notified to the **Insurer** within the **Policy Period**.

Provided that the **Tax Audit** commences at the time the **Company** or its **Tax Adviser** first receives notice that the **Auditor** proposes to conduct a **Tax Audit** and is completed when:

- (a) the **Auditor** has given written notice to that effect; or
- (b) the **Auditor** notifies the **Company** that it has made a **Concluded Decision**; or
- (c) the **Auditor** has issued an assessment or an amended assessment of the **Company's Returns**; or
- (d) in the absence of (a), (b) or (c), where the **Company's Tax 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 the 'Tax Audit Sub-limit' stated in the **Policy Schedule** in the aggregate for the **Policy Period**.

The 'Tax Audit Excess' applies to this Insuring Clause.

Insuring Clause 7: Legal consultation

The **Insured** is entitled to up to a maximum of two hours legal advice for the **Policy Period** from the legal firm specified in the **Policy Schedule** on matters 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 details of the policy number, **Policy Period** and name of the **Policyholder**; 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**.

An **Excess** does not apply to this Insuring Clause.

2. Extensions

Each of the following Extensions is only applicable if shown as 'Included' in the **Policy Schedule**. If an Extension is not shown in the **Policy Schedule**, then that Extension is not included.

The Extensions are only applicable to the stated Insuring Clauses.

The Extensions are subject to all the terms and conditions of the **Policy**, unless otherwise stated.

If an Insuring Clause is not shown in the **Policy Schedule**, then it is not included and any Extensions to that Insuring Clause do not apply.

The total of all payments made under these Extensions, including under any applicable Sub-limit will be part of and not in addition to the **Limit of Liability**, unless otherwise stated.

2.1 Advancement of defence costs and rep expenses

Insuring Clauses 1, 2, 3, 4, 5 and 6 are extended as follows:

The **Insurer** will advance **Defence Costs, Representation Expenses, Workplace Health and Safety Expenses, Pollution Expenses, Business Crisis Consultant Fees, Public Relations Expenses, Bail Bond and Civil Bonds Costs, Prosecution Costs**, the reasonable expenses prescribed under Extension 2.14 'Fraud investigator expenses' and **Tax Adviser Fees** within 30 days of the receipt by the **Insurer** of sufficiently detailed invoices for the same and until such time as it is determined that the **Insured** is not entitled to coverage for **Loss** under the terms and conditions of the **Policy**.

If and to the extent it is determined that any **Insured** is not entitled to coverage for **Loss** under the **Policy** then all amounts advanced shall be repaid to the **Insurer** by that **Insured**.

2.2 Automatic reinstatement of Limit for D&O claims

Insuring Clauses 1 and 2 are extended as follows:

Notwithstanding 7.1 'Limit of Liability', in the event that:

- (a) the **Limit of Liability**; and
- (b) any valid and collectible insurance that is specifically excess of this **Policy**; and
- (c) all other indemnification available to an **Insured Person**

are exhausted (or partially exhausted) by **Loss** resulting from **Claims** first made and notified to the **Insurer** during the **Policy Period**, one additional **Limit of Liability** shall apply for any subsequent **Claims** but only in respect of **Loss** covered under Insuring Clauses 1 and 2 and only for **Loss** that results from **Claims** that are not **Related Claims**.

2.3 Bail bond and civil bond costs

Insuring Clauses 1 and 2 are extended as follows:

The Definition of **Loss** is extended to include **Bail Bond and Civil Bond Costs**.

2.4 Breach of contract defence costs

Insuring Clause 3 is extended as follows:

Notwithstanding Exclusion 4.1 'Contractual liability', the **Insurer** will pay **Defence Costs** incurred with the prior written consent of the **Insurer** arising from a **Claim** in connection with the alleged breach by the **Company** of any express contract or agreement.

The total liability of the **Insurer** under this Extension will not exceed \$100,000 in the aggregate for the **Policy Period**.

2.5 Business crisis consultant fees

Insuring Clause 3 is extended as follows:

The **Insurer** will pay **Business Crisis Consultant Fees** incurred by the **Company** with the prior written consent of the **Insurer** in responding to a **Business Crisis Event** that first occurs and is notified to the **Insurer** during the **Policy Period**.

The total liability of the **Insurer** under this Extension will not exceed \$50,000 in the aggregate for the **Policy Period**.

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

2.6 Company failure to indemnify an insured person

Insuring Clause 2 is extended as follows:

If the **Company** becomes insolvent and is consequently unable to indemnify an **Insured Person** for an **Excess**, then the **Excess** will not be payable to the **Insurer**.

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

2.7 Continuity

Insuring Clauses 1, 2, 3 and 4 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 Exclusion 3.6 'Known claims and circumstances', then cover is provided under this **Policy**, provided that:

- (a) the **Insured** first became aware of the fact, event, circumstance, allegation or **Management Wrongful Act, Company Wrongful Act or Employment Wrongful Act** that gave rise to the **Claim** after the Continuity Date specified in the **Policy Schedule**; and
- (b) the **Insured** was insured against the **Management Wrongful Act, Company Wrongful Act or Employment Wrongful Act** by the **Insurer** at the time when the **Insured** first became aware of such fact, event, circumstance, allegation or **Management Wrongful Act, Company Wrongful Act or Employment 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, allegation or **Management Wrongful Act, Company Wrongful Act or Employment Wrongful Act** was higher than the **Excess**, then that higher amount will be deemed to be the **Excess** in respect of such **Claim**; and
- (ii) if the amount of the limit of liability or any relevant sub limit applicable to the policy in force at the time when the **Insured** first became aware of such fact, event, circumstance, allegation or **Management Wrongful Act, Company Wrongful Act or Employment Wrongful Act** was lower than the **Limit of Liability**, then that lower amount will be deemed to be the amount of the **Limit of Liability** or Sub-limit in respect of such **Claim**.

2.8 Court attendance costs

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

The **Insurer** will pay as **Loss** the court attendance costs of any **Insured Person**, who, acting on behalf of the **Insured** and with the prior written consent of the **Insurer**, attends court as a witness in connection with a **Claim** covered under this **Policy**.

Such compensation by the **Insurer** will be at the rate equivalent to the daily take home salary or wage for that **Insured Person** up to a maximum of \$500 per person for each day on which attendance is required.

The total liability of the **Insurer** under this Extension will not exceed \$100,000 in the aggregate for the **Policy Period**.

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

2.9 Emergency defence costs & representation expenses

Insuring Clauses 1 and 2 are extended as follows:

Notwithstanding Claims Condition 8.4 'Settlement', if, due to an emergency, the **Insured** is unable to request the **Insurer's** prior written consent to the incurring of **Defence Costs, Representation Expenses, Workplace Health and Safety Expenses or Pollution Expenses** then the **Insured Persons** may incur reasonable **Defence Costs, Representation Expenses, Workplace Health and Safety Expenses or Pollution Expenses** without the **Insurer's** prior written consent until such time as the **Insured** contacts or could reasonably have contacted the **Insurer**.

The total liability of the **Insurer** under this Extension will not exceed \$100,000 in the aggregate for the **Policy Period**.

2.10 Employment practices liability – third party cover

Insuring Clause 4 is extended as follows:

The **Insurer** will pay, on behalf of the **Insured**, **Loss** resulting from any **Claim** brought by a **Third Party** first made against the **Insured** and notified to the **Insurer** during the **Policy Period** arising from an **Employment Wrongful Act**.

2.11 Extended reporting period

Insuring Clauses 1, 2, 3, 4, 5 and 6 are extended as follows:

In the event that this **Policy** is neither renewed nor replaced with insurance that covers substantially the same risk exposure as this **Policy** at the end of the **Policy Period**, the **Policyholder** will be entitled to:

1. an automatic Extended Reporting Period of 90 days at nil additional premium. Such automatic Extended Reporting Period shall begin immediately following the expiry of the **Policy Period** and end at 4.p.m. L.S.T. on the ninetieth day thereafter; or
2. purchase an Extended Reporting Period of 365 days at an additional premium of 100 % of the **Full Annual Premium**. Such Extended Reporting Period shall begin immediately following the expiry of the **Policy Period** and end at 4.p.m. L.S.T. on the three hundred and sixty-fifth day thereafter.

Notwithstanding 1. and 2. above, in the event that the **Policyholder** obtains insurance that covers substantially the same risk exposure as this **Policy**, then any Extended Reporting Period effective by virtue of either 1. or 2. above will cease on the date that such insurance incept.

The entitlement to purchase the Extended Reporting Period under 2. above lapses upon expiry of the **Policy Period**. The payment of the additional premium must be made to the **Insurer** within sixty days of the expiry of the **Policy Period**.

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

During this Extended Reporting Period the **Insured** may continue to notify the **Insurer**, in accordance with Claims Condition 8.1 'Notification', of any **Claim** made against any **Insured**, **Discovery of any Crime Loss**, any **Tax Audit**, any **Business Crisis Event**, any notice received of an official investigation, examination or inquiry that may result in any **Insured** incurring **Workplace Health and Safety Expenses, Pollution Expenses or Representation Expenses**.

Cover under this Extended Reporting Period does not apply to any **Loss** arising directly or indirectly from or in respect of:

- (a) **Management Wrongful Acts, Company Wrongful Acts or Employment Wrongful Acts** or any dishonest or fraudulent acts committed (or alleged to have been committed); or
- (b) any **Return** required to be lodged in respect of any tax period; or
- (c) a **Business Crisis Event** occurring; or
- (d) under Insuring Clause 7, any legal advice sought; or
- (e) **Workplace Health and Safety Expenses** pursuant to any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred); or
- (f) **Pollution Expenses** pursuant to any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred); or
- (g) **Representation Expenses** pursuant to business conducted or any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred)

after the expiry of the **Policy Period**.

Any notification made to the **Insurer** during this Extended Reporting Period will be deemed to have been made to the **Insurer** during the **Policy Period**.

2.12 Extended reporting period: retiring D&Os

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

In the event that this **Policy** is neither renewed or replaced at the end of the **Policy Period** with insurance covering substantially the same risk exposure as Insuring Clauses 1 and 2, then any **Director** or **Officer** who retires from all paid employment and office during the **Policy Period**, but prior to a **Merger or Acquisition**, shall be entitled to an Extended Reporting Period of 120 months immediately following expiry of the **Policy Period** (such Extended Reporting Period not to be in addition to any Extended Reporting Period effected pursuant to Extension 2.11 'Extended reporting period').

During this Extended Reporting Period the **Insured** may continue to notify the **Insurer**, in accordance with Claims Condition 8.1 'Notification', of any **Claim** made against any **Insured Person** or any notice received of an official investigation, examination or inquiry that may result in any **Insured Person** incurring **Workplace Health and Safety Expenses, Pollution Expenses or Representation Expenses**.

Cover under this Extended Reporting Period does not apply to any **Loss** arising directly or indirectly from or in respect of:

- (a) **Management Wrongful Acts or Employment Wrongful Acts**; or
- (b) **Workplace Health and Safety Expenses** pursuant to any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred); or
- (c) **Pollution Expenses** pursuant to any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred); or
- (d) **Representation Expenses** pursuant to business conducted or any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred)

after the expiry of the **Policy Period**.

Any notification made to the **Insurer** during this Extended Reporting Period will be deemed to have been made to the **Insurer** during the **Policy Period**.

2.13 Extradition expenses

Insuring Clauses 1 and 2 are extended to include:

- (a) the reasonable fees, costs and expenses (excluding wages, salaries, fees and other internal costs incurred in the normal course of business) incurred by any **Insured Person** with the prior consent of the **Insurer** in relation to an extradition proceeding brought against that **Insured Person**; and

(b) the reasonable fees incurred by any **Insured Person** with the prior consent of the **Insurer** in engaging an accredited counsellor, tax adviser or public relations consultant in direct connection to an extradition proceeding brought against that **Insured Person**.

The total liability of the **Insurer** under part (b) of this Extension will not exceed \$100,000 in the aggregate for the **Policy Period**.

2.14 Fraud investigator expenses

Insuring Clause 5 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 **Company** with the **Insurer's** prior written consent, solely to investigate, prove and substantiate **Crime Loss**.

The total liability of the **Insurer** under this Extension will not exceed \$100,000 in the aggregate for the **Policy Period**, this limit being in addition to the 'Crime Sub-limit' stated in the **Policy Schedule**.

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

2.15 Internet liability

Insuring Clause 3 is extended as follows:

The **Insurer** will pay **Loss** resulting from **Claims** first made against the **Insured** and notified to the **Insurer** within the **Policy Period**, where such **Loss** is in respect of or arising out of **Internet Liability**.

The total liability of the **Insurer** under this Extension will not exceed \$150,000 in the aggregate for the **Policy Period**.

2.16 Legal representatives and spouses

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

- (a) If an **Insured Person** dies or becomes legally incapable, insolvent or bankrupt, then this **Policy** will afford cover for **Loss** resulting from **Claims** first made against such **Insured Person's** estate, heirs, executors or other legal representatives during the **Policy Period** (or Extended Reporting Period, if applicable), provided that the estate, heirs, executors or other legal representatives must comply with the terms of this **Policy**.
- (b) 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**, except to the extent the **Claim** alleges any act, error or omission by such **Insured Person's Spouse**.

2.17 New subsidiaries

Insuring Clauses 1, 2, 3, 4, 5, 6 and 7 are extended as follows:

If, during the **Policy Period**, the **Company** 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 **Company** (by reference to the **Company's** most recent financial statements as at the time of acquisition or creation), then the definition of **Company** will be extended to include the new **Subsidiary**, but cover only applies in respect of:

- (a) **Management Wrongful Acts**, **Company Wrongful Acts** or **Employment Wrongful Acts** or any dishonest or fraudulent acts committed or alleged to have been committed; or
- (b) any **Return** required to be lodged in respect of any tax period; or
- (c) a **Business Crisis Event** occurring; or
- (d) under Insuring Clause 7, legal advice sought in relation to matters arising from business conducted; or
- (e) **Workplace Health and Safety Expenses** pursuant to any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred); or
- (f) **Pollution Expenses** pursuant to any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred); or
- (g) **Representation Expenses** pursuant to business conducted or any act, occurrence, incident or event committed or occurring (or alleged to have been committed or alleged to have occurred)

after the acquisition or creation of such **Subsidiary**.

The definition of **Company** will not be extended to include any new **Subsidiary** acquired or created by the **Company** that:

- (a) has any of its **Securities** listed on any exchange in the **United States of America**; or
- (b) is domiciled or incorporated in the **United States of America**; or
- (c) is a bank, building society, credit union, stockbroker, venture capital company, private equity company, insurance or reinsurance company, investment manager or fund manager.

2.18 Outside directorships

Insuring Clauses 1, 2 and 4 are extended to include as an **Insured Person** a person who, at the specific request of the **Company** 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 by this Extension will be specifically excess of:

- (a) any indemnity; or
- (b) any other applicable insurance in force, including any **Specified Policy** available from or through the **Outside Entity**.

2.19 Pecuniary penalties

Insuring Clauses 1, 2 and 4 are extended to cover, to the extent permitted by law, any pecuniary penalties imposed upon **Insured Persons** arising from **Management Wrongful Acts** or **Employment Wrongful Acts**.

2.20 Personal tax liability

Insuring Clauses 1 and 2 are extended as follows:

The definition of **Loss** is extended to include any personal liability an **Insured Person** incurs with respect to unpaid taxes if the **Company** becomes insolvent.

The total liability of the **Insurer** under this Extension will not exceed \$250,000 in the aggregate for the **Policy Period**.

2.21 Pollution defence costs and expenses

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

Notwithstanding Exclusion 3.3 'Bodily injury and property damage' and Exclusion 3.9 'Pollution', the **Insurer** will pay:

- (a) on behalf of the **Insured**, **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**, resulting from **Pollution** arising from **Management Wrongful Acts** or **Company Wrongful Acts**; and
- (b) **Pollution Expenses**.

The cover provided under this Extension will only apply to **Claims** made 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 the 'Pollution Expenses Sub-limit' stated in the **Policy Schedule** in the aggregate for the **Policy Period**.

The 'Pollution Expenses Excess' applies to this Extension. However, no **Excess** shall apply under this Extension to **Loss** payable by any **Insured Person** when the **Company** has not agreed to indemnify that **Insured Person**.

2.22 Prosecution costs

Insuring Clauses 1 and 2 are extended as follows:

The Definition of **Loss** is extended to include **Prosecution Costs**.

2.23 Public relations expenses

Insuring Clauses 1 and 2 are extended as follows:

The **Insurer** will pay **Public Relations Expenses** on behalf of **Insured Persons** to:

- (a) prevent or limit the adverse effects or negative publicity which results from or is anticipated to result from a **Claim**; or
- (b) disseminate the findings of a final adjudication in favour of such **Insured Person**.

The total liability of the **Insurer** under this Extension will not exceed \$50,000 in the aggregate for the **Policy Period**.

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

2.24 Representation expenses

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

The **Insurer** will pay **Representation Expenses** on behalf of **Insured Persons**.

No **Excess** shall apply under this Extension to **Loss** payable by any **Insured Person** when the **Company** is not liable to indemnify that **Insured Person**.

2.25 Statutory liability

Insuring Clauses 3 and 4 are extended to cover, to the extent permitted by law, any pecuniary penalties imposed upon the **Company** arising from **Company Wrongful Acts** or **Employment Wrongful Acts**, except for any pecuniary penalties imposed:

- (a) pursuant to the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth) or any similar legislation enacted for the protection of consumers and the provision of fair trading, including any amendment, consolidation or re-enactment of those acts or legislation; or

- (b) pursuant to any law regulating air, marine or vehicular traffic; or
- (c) 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
- (d) as a result of further **Company Wrongful Acts** or **Employment Wrongful Acts** committed after the **Company** first knew, or where a reasonable person in the circumstances ought reasonably to have known, that the **Company** had contravened a law and committed an offence pursuant to that law, and which led to the imposition of increased or additional pecuniary penalties.

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

In the event of any conflict between this Extension and the Exclusion 3.3 'Bodily injury and property damage', this Extension shall apply.

In the event of any conflict between this Extension and the Exclusion 3.9 'Pollution', this Extension shall apply, except where **Pollution** arises 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.

The total liability of the **Insurer** under this Extension will not exceed the 'Statutory Liability Sub-limit' stated in the **Policy Schedule** in the aggregate for the **Policy Period**.

The 'Statutory Liability Excess' applies to this Extension.

2.26 Superannuation trustees

Insuring Clauses 1 and 2 are extended as follows:

The definition of **Insured Person** is extended to include any natural person who was prior to the **Policy Period**, or is during or after the **Policy Period**:

- (a) a trustee, constructive trustee or administrator of a **Superannuation Fund**; or
- (b) a director or officer of a trustee company established to act as a trustee or administrator of a **Superannuation Fund**; or
- (c) a member of the **Policy Committee** of a **Superannuation Fund**, to the extent that such natural person's activities concern the administration of that **Superannuation Fund** as is contemplated under the Superannuation Industry (Supervision) Act 1993

but only whilst acting in such capacity.

2.27 Travel and accommodation expenses

Insuring Clauses 1 and 2 are extended as follows:

The definition of **Representation Expenses** is extended to include reasonable travel and accommodation expenses (other than regular or overtime wages, salaries, fees or other remuneration of the **Insured Persons**, or costs or overheads of the **Company**) incurred by an **Insured Person** in attending an official investigation, examination or inquiry in a state, territory or country in which they do not normally reside, but only to the extent that the **Company** is unable to indemnify the **Insured Person** for such costs as a result of insolvency or legal or regulatory prohibition.

2.28 Workplace health and safety defence costs/expenses

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

Notwithstanding the Exclusion 3.3 'Bodily injury and property damage', 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** within the **Policy Period**, in relation to any alleged breach of any workplace health and safety law arising from a **Management Wrongful Act** or **Company Wrongful Act**; and
- (b) **Workplace Health and Safety Expenses**.

This Extension includes **Defence Costs** in relation to any **Corporate Manslaughter Proceeding**.

The cover provided under this Extension will only apply to **Claims** made 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 the 'Workplace Health and Safety Expenses Sub-limit' stated in the **Policy Schedule** in the aggregate for the **Policy Period**.

The 'WH&S Excess' applies to this Extension. However, no **Excess** shall apply under this Extension to **Loss** payable by any **Insured Person** when the **Company** has not agreed to indemnify that **Insured Person**.

3. Exclusions

These Exclusions apply to all the Insuring Clauses and Extensions of the **Policy** unless otherwise stated.

Where an Exclusion applies to a particular Insuring Clause then it also applies to the Extensions to that Insuring Clause.

The **Insurer** will not be liable for any **Claim** or **Loss**:

3.1 Asbestos

arising directly or indirectly from or in respect of asbestos, asbestos fibres or derivatives of asbestos.

3.2 Benefits

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 1 and 2.

3.3 Bodily injury and property damage

resulting from 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 consequential loss of use thereof.

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**.

3.4 Capital raising

arising directly or indirectly from any public offer of **Securities**.

3.5 Intentional misconduct

arising directly or indirectly from or in respect of:

- (a) any deliberately fraudulent or deliberately dishonest act or omission by an **Insured**; or
- (b) any wilful violation of law or wilful breach of duty imposed by any law by an **Insured**

provided that this Exclusion shall not apply until the conduct described in (a) or (b) above is established by a formal written admission by the **Insured** or by final, non-appealable adjudication of a judicial or arbitral tribunal (other than in a proceeding brought by the **Insurer**).

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

This Exclusion will not apply to any dishonest or fraudulent act committed by an **Employee, Officer or Third Party** (whether acting alone or in collusion with any other person) that results in a **Crime Loss**.

3.6 Known claims and circumstances

arising directly or indirectly from or in respect of any fact, event, circumstance, allegation or **Claim**:

- (a) known to any **Insured** at the inception of this **Policy** which a reasonable person in the circumstances would have thought might give rise to a **Loss**; or
- (b) which has been or should reasonably have been notified under Claims Condition 8.1 'Notification' or should have been notified under any policy of which this **Policy** is a 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**.

3.7 Major shareholder

resulting from any **Claim** (whether in the name of the **Company** or not) by or on behalf of any shareholder:

- (a) having direct or indirect ownership or control of 20% or more of the voting shares or rights of the **Company**; and
- (b) having a board position within the **Company**

at the time or times that the **Management Wrongful Act, Company Wrongful Act** or **Employment Wrongful Act** from which the **Claim** arises from was actually or allegedly committed.

3.8 Nuclear

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.

3.9 Pollution

arising directly or indirectly from or in respect of **Pollution**.

3.10 Professional services

arising directly or indirectly from or in respect of:

- (a) any breach of duty or alleged breach of duty in respect of any professional services or professional advice by the **Insured**; or

(b) any breach or alleged breach of any contract for the provision of professional services or professional advice by the **Insured**

except that this Exclusion will not apply in respect of professional services or professional advice provided by an **Insured Person** when acting solely in their capacity as an **Insured Person** in circumstances where such professional services or professional advice are provided to the **Insured** and not to any third party.

3.11 Sanctions

arising directly or indirectly from the contravention of any sanction, prohibition or restriction under United Nations resolutions or trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or the **United States of America**.

3.12 War and terrorism

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. Additional Exclusions applicable to Insuring Clause 3: Company Liability

Under Insuring Clause 3, the **Insurer** will not be liable for any **Claim** or **Loss**:

4.1 Contractual liability

arising directly or indirectly from or in respect of the liability of the **Company** under any contract or agreement, other than liability that would have attached in the absence of such contract or agreement.

4.2 Cyber attack

arising directly or indirectly from or in respect of any unauthorised instructions or code that are designed to alter, modify, destroy, damage, delete, record, contaminate or transmit any information, data or computer programmes within the **Company's** website, intranet, network or systems.

4.3 Intellectual property rights

arising directly or indirectly from or in respect of any alleged or actual breach of any other party's intellectual property rights, or infringement or violation of any trade secret.

This Exclusion shall not apply to Extension 2.15 'Internet liability'.

4.4 Insured person claim

arising directly or indirectly from or in respect of a claim solicited or brought by or on behalf of an **Insured Person**.

4.5 Licensing fees

arising directly or indirectly from or in respect of any licensing fees or royalties ordered or agreed to be paid by the **Insured** for the continued use of a person or entity's copyright, trade name, trade mark or any other protected intellectual property.

This Exclusion shall not apply to Extension 2.15 'Internet liability'.

4.6 Privacy rights

arising directly or indirectly from or in respect of any alleged or actual breach of any other party's privacy.

This Exclusion shall not apply to Extension 2.15 'Internet liability'.

4.7 Product liability and product recall

arising directly or indirectly from or in respect of:

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

4.8 Restrictive trade practices

arising directly or indirectly from or in respect of any alleged or actual violation of any law, regulation or by-law anywhere in the world which governs, regulates or restricts monopolistic or anti-trust behaviour or practices, price fixing, price discrimination, predatory pricing, unfair or restrictive trade practices or tortious interference with another party's business or contractual relationships.

4.9 Spam

arising directly or indirectly from or in respect of the unsolicited dissemination by the **Insured** of emails, faxes or other communications, including an actual or alleged breach of the Spam Act (2003) or any other equivalent or succeeding law or regulation.

4.10 Superannuation funds

arising directly or indirectly from or in respect of any alleged or actual **Company Wrongful Act** in connection with any superannuation fund.

5. Additional Exclusions Applicable to Insuring Clause 5: Crime

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

5.1 Confidential information

Crime 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 committing of any act otherwise covered under Insuring Clause 5.

5.2 Damage to premises

Crime Loss arising directly or indirectly from or in respect of damage or destruction to the **Insured's** premises, including forcible entry.

5.3 Discovery outside the policy period

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

5.4 Dishonesty or fraud of director or employee shareholder

Crime Loss arising directly or indirectly from or in respect of any dishonest or fraudulent act committed by:

- (a) a **Director**; or
- (b) an **Employee, Officer** or **Third Party** acting in collusion with a **Director**; or
- (c) an **Employee** or **Officer** having at any time more than five per cent **Control** of or interest in the **Company**.

5.5 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.

5.6 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.

5.7 Loss sustained after discovery

Crime Loss, or any part of **Crime Loss**, caused by an **Employee** sustained after **Discovery** of any fraudulent or dishonest act committed by that **Employee**.

5.8 Profit and loss computation and inventory comparison

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

- (a) profit and loss computation or comparison; or
- (b) a comparison of inventory records with an actual physical count.

Provided that where the **Company** establishes wholly apart from such computation or comparison that it has sustained **Crime Loss**, then it may offer its inventory records and actual physical count of inventory in support of the amount of **Crime Loss** claimed.

5.9 Retroactive date

Crime Loss sustained prior to the **Crime Retroactive Date**.

5.10 Territory

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

5.11 Trading loss

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

6. Additional Exclusions Applicable to Insuring Clause 6: Tax audit

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

6.1 Amended notices/additional tax/fine/legal costs

arising directly or indirectly from or in respect of 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 by or against the **Company**.

6.2 APRA or customs audit

arising directly or indirectly from or in respect of any **Tax Audit**:

- (a) conducted by the Australian Prudential Regulation Authority; or
- (b) conducted under customs legislation.

6.3 Criminal prosecution/foreign return or entity/tax return

- (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 **Company's** accounts, **Returns**, taxation and financial records prior to the lodgement of the **Company's Returns**, taxation and financial records, or any document required by the relevant legislation in connection with its **Returns**.

6.4 Dishonest returns

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

6.5 Failure by Insured

arising directly or indirectly from or in respect of the failure of the **Insured**, or any party acting on behalf of the **Insured**, to:

- (a) respond to letters, requests or enquiries from the **Auditor** within a reasonable time; or
- (b) make 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.

6.6 Fraud/prior circumstances

arising directly or indirectly from:

- (a) any circumstances known to the **Insured** which a reasonable person would have thought might give rise to a **Tax Audit**; or
- (b) any verbal or written notice of an impending **Tax Audit** given to the **Insured** or any person acting on its behalf, prior to the **Company** taking out this **Policy**; or
- (c) a **Tax Audit** with a commencement date prior to the **Company** taking out this **Policy**.

6.7 Late lodgement

arising directly or indirectly from or 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.

6.8 Managed investment

arising directly or indirectly from or in respect of a **Tax Audit** arising from any managed investment scheme or activities.

6.9 Deliberate evasion or recklessness

arising directly or indirectly from or in respect of any **Tax Audit** where the **Auditor** assesses the **Insured's** behaviour as being deliberately evasive or reckless.

6.10 Routine enquiries

arising directly or indirectly from or 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**.

6.11 Tax minimisation schemes

arising directly or indirectly from or 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 **Company** or the general public.

7. Limit of Liability and Excess

If the **Insured** is comprised of more than one entity, the **Limit of Liability** and **Excess** applies to the group of such entities as a whole.

7.1 Limit of liability

Except as provided in Extension 2.2 'Automatic reinstatement of Limit for D&O claims' and Extension 2.14 'Fraud investigator expenses', the **Insurer's** liability under this **Policy** will not exceed the **Limit of Liability** in the aggregate for all **Loss**.

The **Limit of Liability** stated in the **Policy Schedule** and in any certificate of insurance issued by the **Insurer** is exclusive of GST.

Any Extension Period under either Extension 2.11 'Extended reporting period' or Extension 2.12 'Extended reporting period: retiring D&Os' will not increase or reinstate the **Limit of Liability** or any Sub-limit.

7.2 Excess

The **Insured** is liable for the amount of **Loss** that is less than the **Excess** for each **Claim, Crime Loss or Tax Audit**.

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

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.

Unless otherwise indicated within each Insuring Clause or Extension, an **Excess** is applicable to all Insuring Clauses and Extensions.

Unless otherwise indicated within each Insuring Clause or Extension, the **Excess** applicable under each Insuring Clause and/or Extension where an **Excess** is applicable shall be the 'Excess' stated in the **Policy Schedule**.

7.3 Related claims, crime losses, tax audits

For the purpose of the calculation of the **Limit of Liability**, any Sub-limit 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 the **Policy Period** and notified to the **Insurer** during the **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 the **Insurer** during a period prior to the **Policy Period**, during which the **Insured** had cover with the **Insurer**, then cover for all **Related Claims** will only be provided under that earlier policy with the **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 the **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**.

For the purpose of the application of the Crime Sub-limit or Crime Excess, all **Crime Loss** sustained as a result of the same or causally related acts, causes or events will be deemed to be one **Crime Loss** regardless of when during the **Policy Period** or prior thereto such acts occurred.

For the purpose of the application of the Tax Audit Sub-limit or Tax Audit Excess applicable under Insuring Clause 6 'Tax audit', all **Tax Audits** commenced and notified to the **Insurer** within the **Policy Period**, irrespective of the number of **Returns** and irrespective of which taxation periods the **Returns** relate to, shall be deemed to be one **Tax Audit**.

8. Claims Conditions

8.1 Notification

The **Policyholder** must give to the **Insurer** notification of any **Claim** made against any **Insured, Discovery** of any **Crime Loss**, any **Tax Audit**, any **Business Crisis Event**, any notice received of an official investigation, examination or inquiry that may result in any **Insured** incurring **Workplace Health and Safety Expenses, Pollution Expenses or Representation Expenses** as soon as reasonably practicable within the **Policy Period** (or within any applicable Extended Reporting Period) to the Claims Notification address specified in the **Policy Schedule**.

Each notification must include so far as practicable:

- (a) the identity of the claimant or potential claimant; and
- (b) the nature and particulars of the **Claim** or any other event that may give rise to a **Loss**; and
- (c) the likely quantum of the **Loss**.

Each notification of a **Crime Loss** must include affirmative proof of the **Crime Loss**, with full particulars of the **Money, Securities or Covered Property** involved.

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

8.2 Co-operation

In the event of a **Claim, Discovery of a Crime Loss, Tax Audit, Business Crisis Event**, notice received of an official investigation, examination or inquiry that may result in any **Insured** incurring **Workplace Health and Safety Expenses, Pollution Expenses or Representation Expenses** the **Insured** will at all times and at its own cost provide the **Insurer** with all information, evidence, documentation, assistance and co-operation and will execute such documents, including signed statements and affidavits, which the **Insurer** reasonably requires.

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**.

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

8.3 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 identity of the Senior Counsel shall be mutually agreed upon, or in the absence of agreement, shall be nominated by the President of the NSW Bar Association. The cost of obtaining the opinion will be advanced by the **Insurer** and treated as **Defence Costs**.

The Senior Counsel shall provide the opinion in writing. In formulating the opinion the 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. The 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 the 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.

8.4 Settlement

The **Insured** must not settle or offer to settle any **Claim** or incur any:

- (a) **Defence Costs**; or
- (b) **Tax Adviser Fees**; or
- (c) **Business Crisis Consultant Fees**; or
- (d) under Extension 2.8 'Court attendance costs', court attendance costs of any **Insured Person** acting as a witness in connection with a **Claim**; or
- (e) under Extension 2.13 'Extradition expenses', the reasonable fees, costs and expenses incurred by an **Insured Person** in relation to an extradition proceeding; or
- (f) under Extension 2.14 'Fraud investigator expenses', the reasonable expenses incurred by the **Company** to investigate, prove and substantiate **Crime Loss**; or
- (g) **Prosecution Expenses**; or
- (h) **Public Relations Expenses**; or
- (i) **Pollution Expenses**; or
- (j) **Workplace Health and Safety Expenses**; or
- (k) **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.

8.5 Basis of valuation of crime loss

In respect of **Crime Loss of Money** the **Insurer** will be liable for the face value of **Money** at the time of **Crime Loss**. In respect of **Crime Loss of Money** in a currency other than the Australian dollar, the **Insurer** will not be liable for more than the value of any such foreign currency calculated in Australian dollars at the rate of exchange published in The Australian Financial Review as the wholesale market closing rate on the date or date nearest to the date when the **Crime Loss** was **Discovered**.

Notwithstanding Exclusion 5.5 'Indirect or consequential loss', in respect of **Crime Loss** of **Securities** the **Insurer** will be liable for the actual market value of the **Securities** at the close of business on the business day immediately preceding the day on which the **Crime 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**).

In respect of **Crime Loss** of **Covered Property** the **Insurer** will be liable for the actual cash value of **Covered Property** at the time of **Crime Loss** or the actual cost of repairing or replacing the **Covered Property** with property of similar quality or value, whichever is the lesser.

8.6 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 shall include without limitation, the following factors:

- (a) the nature of the **Claim** against each **Insured**; and
- (b) the issues of fact and law in relation to each **Insured**; and
- (c) the content and the manner of the conduct of any defence of the **Claim**; and
- (d) the relative degree of personal responsibility for the **Loss**; and
- (e) the extent to which the **Insured's** responsibility for the **Loss** is joint, several or shared; and
- (f) the extent to which any person or entity, other than that **Insured**, would obtain a benefit from the payment by the **Insurer**; and
- (g) the extent to which the **Loss** is solely of that **Insured**; and
- (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; and
- (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 provide a decision 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 Extension 2.1 'Advancement of defence costs and rep expenses' and Claims Condition 8.7 'Subrogation and recoveries'.

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**.

8.7 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 the **Insurer** in the exercise of its rights of recovery.

Crime recoveries

In the event of any payment in respect of a **Crime Loss**:

- (a) the **Company** must, if requested by the **Insurer**, take all reasonable steps to make recovery from any person committing or condoning the dishonest or fraudulent 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 **Crime Loss** caused by or resulting from a dishonest or fraudulent act:
 - (i) any monies which but for such dishonest or fraudulent act would be due from the **Company** to the person committing or condoning such act; and
 - (ii) any monies held by the **Company** and belonging to such person; and
 - (iii) any monies recovered under (a) above

and all such monies will be applied towards reducing the amount of the **Crime Loss**.

All recoveries

All recoveries obtained by the **Insured** from other parties will be allocated, after the settlement of any **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** 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** 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, surety, reinsurance, security or indemnity taken for the benefit of the **Insurer**.

Under Insuring Clause 1 'Directors and officers liability', Insuring Clause 2 'Company reimbursement', Insuring Clause 3 'Company liability' and Insuring Clause 4 'Employment practices liability', the **Insurer** shall not exercise its rights of subrogation against an **Insured Person** in connection with a **Claim**, unless it can establish that Exclusion 3.5 'Intentional misconduct' applies to that **Claim** and to that **Insured Person**.

9. General Conditions

9.1 Acquisition, merger or winding up of policyholder

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

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

then this **Policy** will remain in force until the expiry of the **Policy Period**, during which time the **Insured** may continue to notify the **Insurer**, in accordance with Claims Condition 8.1 'Notification', of any **Claim** made against any **Insured**, **Discovery** of any **Crime Loss**, any **Tax Audit**, any **Business Crisis Event**, any notice received of an official investigation, examination or inquiry that may result in any **Insured** incurring **Workplace Health and Safety Expenses**, **Pollution Expenses** or **Representation Expenses**.

Provided that there shall be no cover for **Loss** arising directly or indirectly from or in respect of:

- (i) **Management Wrongful Acts, Company Wrongful Acts or Employment Wrongful Acts** or any dishonest or fraudulent acts committed or alleged to have been committed; or
 - (ii) any **Return** required to be lodged in respect of any tax period; or
 - (iii) a **Business Crisis Event** occurring; or
 - (iv) under Insuring Clause 7, legal advice sought in relation to matters arising from business conducted; or
 - (v) **Workplace Health and Safety Expenses** pursuant to an event taking place; or
 - (vi) **Pollution Expenses** pursuant to an event taking place; or
 - (vii) **Representation Expenses** pursuant to an event taking place
- after, or as a result of, the events described in (a) or (b) above.

9.2 Assignment

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

9.3 Cancellation

The **Policyholder** is entitled to cancel this **Policy** by giving notice to the **Insurer**.

Upon receipt of such request the **Insurer** will retain a short period premium calculated at pro rata the **Full Annual Premium** for the time it has been on risk plus ten per cent. The **Insurer** will refund to the **Policyholder** the balance of the premium less any non-refundable government charges.

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

9.4 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 to do so; or
- (b) the **Insurer** provides its prior written consent to such disclosure; or
- (c) the intended recipient is a professional adviser to the **Insured**.

9.5 Severability and non-imputation

For the purposes of this **Policy**, any knowledge or information possessed by any past, present or future chief executive officer, chief operating officer, chief financial officer, chief legal officer, chairman of the board of directors or a substantially equivalent position to any of these shall be imputed to the **Company**.

The **Proposal** made to the **Insurer** prior to entering into this **Policy** shall be construed as separate applications for cover by the **Company** and each **Insured Person** and, except as provided for above, 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 the **Company** or any **Insured Person** shall be imputed to another except as provided for above.

9.6 Goods and services tax

As part of the premium, the **Insurer** will charge the **Policyholder** an amount on account of GST, stamp duty and any other government charges that apply.

The **Policyholder** 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** under this **Policy**. No payment will be made to the **Policyholder** for any GST liability that it may incur on the settlement of a **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 **Policyholder** will be calculated taking into account any input tax credit to which the **Policyholder** is entitled for any acquisition which is relevant to the **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.

9.7 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.

9.8 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**.

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.

9.9 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 the **United States of 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 **United States of America**.

9.10 Non-avoidance

If the **Insurer** has a right to reduce its liability under Section 28(3) of the Insurance Contracts Act 1984 (Commonwealth) for any fraudulent misrepresentation or fraudulent non-disclosure of a matter or fact by any **Insured Person**, the **Insurer** will not exercise such right against any other **Insured Person**.

9.11 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 **Policyholder** 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.

9.12 Other notices

Any communications to the **Insurer** under this **Policy**, including any application to purchase an Extended Reporting Period, must be sent by the **Policyholder** 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 **Policyholder** or its agent.

9.13 Payment of premium

The **Policyholder** 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 **Policyholder** fails to pay the premium within that period, the **Insurer** is entitled to cancel this **Policy** in accordance with the Insurance Contracts Act 1984.

9.14 Variation of the policy

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

9.15 Words with special meaning

Some of the words in this insurance policy have special meanings. These meanings can be found in Section 10 'Definitions' of the **Policy**. If a word has a special meaning, it appears in this **Policy** in bold type and with a capital letter. Capitalised words used in the **Endorsements** and in the **Policy Schedule** without bolding have the same meaning given to them as in Section 10 'Definitions' of the **Policy** unless they are defined differently in an **Endorsement**. If the words are defined differently in an **Endorsement** that definition only applies to that **Endorsement**.

10. Definitions

When used in this **Policy**:

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.

Auditor means an officer who is authorised under Commonwealth, State or Territory legislation to carry out a **Tax Audit**.

Bail Bond and Civil Bond Costs means the reasonable premium, including any fees but not any required collateral, to purchase a bond or similar financial instrument that guarantees an **Insured Person's** contingent obligation for bail or equivalent in any jurisdiction required by a court in respect of any **Claim**.

Benefits means:

- (a) fringe benefits and perquisites; or
- (b) amounts due or payments made in connection with superannuation or 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) bonuses, or employee or management incentive schemes or similar.

Business Crisis Consultant Fees means the reasonable costs, charges, fees and expenses of a third party public relations consultant to mitigate the effect of the **Business Crisis Event**, but only during the first thirty days immediately following a **Business Crisis Event**.

Business Crisis Event means any one of the following unforeseen events which, if left unmanaged, in the reasonable opinion of the Chief Executive Officer (or equivalent) of the **Company**, would have the potential to have a material impact on the **Company's** consolidated revenue or the reputation of the **Company**:

- (a) the loss of a major customer or contract of the **Company**; or
- (b) the sudden and unexpected death or injury of any **Insured Person**; or
- (c) the unexpected imposition of a tax bill; or
- (d) the recall of any product manufactured, distributed or sold by the **Insured**; or
- (e) the illegal tampering with or contamination of any product manufactured, distributed or sold by the **Insured**;
or
- (f) man-made disaster.

Claim means:

- (a) a written communication, including electronic communication, to an **Insured** alleging an act, error, omission, conduct, facts or circumstances that may constitute a **Management Wrongful Act** or **Employment Wrongful Act**; or
- (b) a written communication, including electronic communication, to an **Insured**, containing a demand for compensation or damages, alleging an act, error, omission, conduct, facts or circumstances that may constitute a **Company Wrongful Act**; or
- (c) 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 **Management Wrongful Act**, **Company Wrongful Act** or **Employment Wrongful Act**; or
- (d) any criminal proceeding commenced by a summons or charge of an **Insured Person** arising from a **Management Wrongful Act** or **Employment Wrongful Act**; or
- (e) any official investigation, examination, inquiry or other proceedings which gives rise to **Representation Expenses**; or
- (f) any official investigation, examination or inquiry which gives rise to **Workplace Health and Safety Representation Expenses**; or
- (g) any official investigation, examination or inquiry where the subject matter of the official investigation, examination, inquiry or other proceedings is **Pollution** which gives rise to **Pollution Expenses**.

Under Insuring Clause 3, **Claim** does not mean an action for injunctive or non-monetary relief where there is no demand for compensation or damages.

Company means

- (a) the **Policyholder**; and
- (b) **Subsidiaries** of the **Policyholder** prior to or as at the commencement of the **Policy Period**, but cover only applies in respect of **Management Wrongful Acts**, **Company Wrongful Acts** or **Employment Wrongful Acts** or any dishonest or fraudulent act committed or alleged to have been committed subsequent to the acquisition or creation of such **Subsidiary**.

Company Wrongful Act means any act, error, omission, conduct, misstatement, misleading statement, neglect or breach of: duty; trust; contract; warranty of authority; statute or confidentiality, actually or allegedly committed by the **Company**.

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**.

Control means the definition of control in the Corporations Act 2001.

Corporate Manslaughter Proceeding means any formal criminal proceeding against an **Insured Person** for involuntary manslaughter (including constructive manslaughter or gross negligence manslaughter) in their capacity as such for the **Company** and directly related to the business of the **Company**.

Covered Property means tangible property other than **Money** and **Securities**.

Crime 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 **Company**, sustained by the **Company** and caused by any dishonest or fraudulent act committed by an **Employee**, **Officer** or **Third Party** (whether acting alone or in collusion with any other person) with the intent to cause the **Company** to sustain such loss or to obtain a financial gain for themselves or any **Third Party**.

Crime 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.

Crime Retroactive Date means the date stated in the **Policy Schedule**.

Defence Costs means the necessary and reasonable costs, charges, fees and expenses (other than regular or overtime wages, salaries, fees or **Benefits** of the **Insured Persons**) incurred by that **Insured** with the **Insurer's** prior written consent, in defending, investigating or settling covered **Claims**.

Director means any natural person who was prior to the **Policy Period**, or is during or after the **Policy Period** a validly appointed director (as defined in the Corporations Act 2001 or any equivalent provision in the jurisdiction in which the company is incorporated) of the **Company**.

Discovered/Discovery means the date when a **Director**, **Officer** or senior manager of the **Insured**, not in collusion with an **Employee**, **Officer** or **Third Party** committing any dishonest or fraudulent act, first becomes aware of facts which would cause a reasonable person in the circumstances to believe that **Crime Loss** covered by this **Policy** has occurred, or is likely to occur, regardless of when the act or acts causing or contributing to such **Crime Loss** occurred and even though the exact amount or details of **Crime Loss** may not then be known.

Employee means any natural person who was prior to the **Policy Period**, or is during or after the **Policy Period** an employee of the **Company**, (which will include trainees, casual, part time, seasonal, temporary, voluntary and work experience personnel) acting in such capacity, but excludes **Directors** and independent contractors.

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 an **Insured**.

Endorsement means any document which is described as an endorsement to this **Policy** and intends to vary it.

Excess means:

- (a) the amount stated under 'Excess' in the **Policy Schedule**; or
- (b) under Insuring Clause 4 'Employment Practices Liability', the amount stated under 'Employment Practices Liability Excess' in the **Policy Schedule**; or
- (c) under Insuring Clause 5 'Crime', the amount stated under 'Crime Excess' in the **Policy Schedule**; or
- (d) under Insuring Clause 6, 'Tax audit', the amount stated under 'Tax Audit Excess' in the **Policy Schedule**; or
- (e) under Extension 2.21 'Pollution defence costs and expenses', the amount stated under 'Pollution Expenses Excess' in the **Policy Schedule**; or
- (f) under Extension 2.25 'Statutory liability', the amount stated under 'Statutory Liability Excess' in the **Policy Schedule**; or
- (g) under Extension 2.28 'Workplace health and safety defence costs/expenses', the amount stated under 'WH&S Excess' in the **Policy Schedule**.

Full Annual Premium means the annual premium payable by the **Policyholder**, including any additional premium which becomes payable in respect of the **Policy Period**.

Insured means:

- (a) the **Company**; and
- (b) **Insured Persons**.

Insured Person means:

- (a) a **Director** or **Officer** but only in his or her capacity as such; or
- (b) any natural person who was prior to the **Policy Period**, or is during or after the **Policy Period** a member of a committee established by or approved by the **Company** whether by statute or otherwise but only in his or her capacity as such; or
- (c) an **Employee** (whether salaried or not) of the **Company**:
 - (i) to the extent that such **Employee** is acting in a managerial or supervisory capacity; or
 - (ii) with respect to any **Claim** alleging an **Employment Wrongful Act**; or
 - (iii) in connection with the Extension 2.24 'Representation expenses'; or
 - (iv) to the extent that such **Employee** is implicated in a **Claim** along with a **Director** or **Officer**; or
- (d) any natural person who prior to the **Policy Period**, or during or after the **Policy Period** acts on behalf of the **Company** at the direction of an officer or board or committee of management of the **Company** but only in his or her capacity as such.

Insurer means AAI Limited ABN 48 005 297 807 trading as Vero Insurance.

Internet Liability means:

- (a) any unintentional defamatory statement contained on the **Company's** website, intranet or contained in an email sent to a **Third Party** by an **Insured Person**; or
- (b) any unintentional plagiarism, infringement of copyright, trademark or trade name; or
- (c) any unintentional breach of privacy or unauthorised collection of data concerning the **Company's** customers or potential customers.

Limit of Liability means the 'Limit of Liability' specified in the **Policy Schedule**.

Loss means:

- (a) the amount for which an **Insured** is legally liable to a third party for a **Claim**, including damages, compensation orders, interest and claimant's costs and expenses and, under Insuring Clauses 1, 2 and 4 only, including punitive, exemplary, multiplied and aggravated damages; or
- (b) **Defence costs**; or
- (c) under Insuring Clause 5, **Crime Loss**; or
- (d) under Insuring Clause 6, **Tax Adviser Fees**; or
- (e) under Extension 2.3 'Bail bond and civil bonds costs', **Bail Bond and Civil Bond Costs**; or
- (f) under Extension 2.5 'Business crisis consultant fees', **Business Crisis Consultant Fees**; or
- (g) under Extension 2.8 'Court attendance costs', the court attendance costs of any **Insured Person** acting as a witness in connection with a **Claim**; or
- (h) under Extension 2.13 'Extradition expenses', the reasonable fees, costs and expenses incurred by an **Insured Person** in relation to an extradition proceeding; or
- (i) under Extension 2.14 'Fraud investigator expenses', the reasonable expenses incurred by the **Company** to investigate, prove and substantiate **Crime Loss**; or
- (j) under Extension 2.19 'Pecuniary penalties', pecuniary penalties imposed upon **Insured Persons**; or
- (k) under Extension 2.20 'Personal tax liability', the personal tax liability of an **Insured Person** with respect to unpaid tax if the **Company** becomes insolvent; or
- (l) under Extension 2.21 'Pollution defence costs and expenses', **Pollution Expenses**; or
- (m) under Extension 2.22 'Prosecution costs', **Prosecution Costs**; or
- (n) under Extension 2.23 'Public relations expenses', **Public Relations Expenses**; or
- (o) under Extension 2.24 'Representation expenses', **Representation Expenses**; or
- (p) under Extension 2.25 'Statutory liability', pecuniary penalties imposed upon the **Company**; or
- (q) under Extension 2.28 'Workplace health and safety defence costs/expenses', **Workplace Health and Safety Expenses**

each subject to Claims Condition 8.6 'Allocation of Loss'.

Loss does not mean

- (r) taxes, fines and penalties imposed by law, other than those covered under Extension 2.19 'Pecuniary penalties, and/or Extension 2.25 'Statutory liability'; or
- (s) punitive, exemplary, multiplied or aggravated damages, except as specified under (a) above; or
- (t) the cost of complying with any injunctive or other non-monetary relief or any agreement to provide any such relief.

Additionally, under Insuring Clause 4 **Loss** does not mean:

- (u) costs incurred by the **Company** 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 to anti-discrimination; or
- (v) **Benefits** or damages calculated by reference to **Benefits**; or
- (w) compensation for the salary or wages of any **Insured Person**; or
- (x) any amount the **Company** is required to pay pursuant to a contract of employment, whether express or implied; or
- (y) compensation in respect of a contractual or statutory notice period.

Management Wrongful Act means any act, error, omission, conduct, misstatement, misleading statement, neglect 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 as an **Insured Person**, including any matter claimed against an **Insured Person** solely by reason of his/her status as such.

Merger or Acquisition means:

- (a) the **Policyholder** or the **Company** consolidating with, merging into or selling all or substantially all of its assets such that the **Policyholder** or the **Company** is not the majority surviving entity; or
- (b) any entity obtaining **Control** of the **Policyholder** or the **Company**.

Money means, without limitation, legal tender including bank notes, coins, bullion, cheques, bills of exchange, promissory notes, and claims on bank deposits and accounts.

Officer means any natural person who was prior to the **Policy Period**, or is during the **Policy Period**:

- (a) a company secretary of the **Company**; or
- (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part of the business of the **Company**; or
 - (ii) who has the capacity to affect significantly the **Company's** financial standing; or
 - (iii) in accordance with whose instructions or wishes the **Directors** are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the **Directors** or the **Company**).

Officer does not include:

- (iv) a receiver, or receiver and manager; or
- (v) an administrator or an administrator of a deed of company arrangement; or
- (vi) a liquidator; or
- (vii) a trustee or other person administering a compromise or arrangement made between the **Company** and someone else.

Outside Entity means any entity, other than a **Subsidiary**, that:

- (a) has no securities listed on any exchange in the **United States of America**; and
- (b) is not a bank, building society, credit union, stockbroker, venture capital company, private equity company, insurance or reinsurance company, investment manager, fund manager or similar entity; and
- (c) is specified by **Endorsement**.

Policy means and consists of this Management Liability Insurance policy wording, the **Policy Schedule** and any **Endorsements**.

Policy Committee means a prescribed policy committee for the purposes of Part 9 of the Superannuation Industry (Supervision) Act 1993.

Policyholder means the organisation specified in the **Policy Schedule**.

Policy Period means the period of time specified in the **Policy Schedule**.

Policy Schedule means the schedule of insurance issued by the **Insurer** attaching to the **Policy**.

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.

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**.

Pollution Expenses means the necessary and reasonable costs, charges and expenses (other than regular or overtime wages, salary, fees or **Benefits** of the **Insured Person**) of an **Insured Person**, incurred with the **Insurer's** prior consent, in preparing for, attending and being represented at any official investigation, examination or inquiry (other than the **Company's** own internal investigation) where the subject matter of the official investigation, examination or inquiry is **Pollution**.

Provided that the notice of the investigation, examination or inquiry is first received by the **Insured** and notified to the **Insurer** during the **Policy Period**.

Pollution Expenses does not mean **Representation Expenses**.

Proposal means the proposal and/or any declaration or renewal declaration completed in respect of this **Policy**, including any information supplied by the **Insured**.

Prosecution Costs means the reasonable costs, charges, fees and expenses incurred by an **Insured Person** with the **Insurer's** prior consent to bring legal proceedings to overturn, or obtain the discharge, revocation or stay of any judicial order by a regulator, government body or authority, governmental or authoritative agency, body or institution that is to the detriment of such **Insured Person** and arises from a **Claim**.

Public Relations Expenses means the reasonable costs, charges, fees and expenses incurred by an **Insured Person** with the **Insurer's** prior consent of a public relations firm or consultant engaged by an **Insured Person**.

Related Claims means all **Claims** arising directly or indirectly from or in respect of the same or causally related or continuous or repeated **Company Wrongful Acts, Management Wrongful Acts** or **Employment 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.

Record Keeping Audit means any inquiry or investigation by the Australian Taxation Office which is aimed at determining the extent of the **Company's** compliance with the record keeping requirements of relevant taxation legislation.

Representation Expenses means the necessary and reasonable costs, charges and expenses (other than regular or overtime wages, salary, fees or **Benefits** of the **Insured Person**) of an **Insured Person**, incurred with the **Insurer's** prior written consent, in preparing for, attending and being represented at any official investigation, examination or inquiry (other than the **Company's** own internal investigation) ordered or commissioned by any regulator, government body or authority, governmental or authoritative agency, body or institution, legally constituted industry or professional board into the affairs of the **Company** or the conduct of the **Insured Persons** in their capacity as such.

Provided that the notice of any such official investigation, examination or inquiry is first received by the **Insured** and notified to the **Insurer** during the **Policy Period**.

Representation Expenses does not mean **Workplace Health and Safety Expenses** or **Pollution Expenses**.

Return means any return, legally required to be, and actually lodged with, a government or government authority or agency by the **Company** or on its behalf.

Securities means shares, stocks, bearer instruments, derivatives, bonds, warrants, debentures, units in shares, units in trusts (including any evidence of indebtedness or other equity or debt security), rights under a depositary receipt or other securities (or interests therein) of whatever nature.

Specified Policy means:

- (a) any insurance contract under which any **Insured** is entitled to indemnity and which is specified in the **Proposal** or by any **Endorsement**; or
- (b) any renewal or replacement of that insurance contract.

Spouse means a lawful spouse, a domestic partner (including without limitation a same sex partner) or any person deriving similar status by reason of the common law or statute.

Subsidiary means:

- (a) a subsidiary as defined in the Corporations Act 2001 of the **Policyholder**; or
- (b) any body corporate in which the **Policyholder** controls the composition of the board; or
- (c) any body corporate in which the **Policyholder** is in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting; or
- (d) any body corporate in which the **Policyholder** holds more than one-half of the issued share capital (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
- (e) any body corporate which is a subsidiary as defined in the Corporations Act 2001 of a body corporate described in (a) or (b) above; or
- (f) any other body corporate whose accounts are consolidated into those of the **Policyholder** in accordance with the relevant Australian Accounting Standard.

Superannuation Fund means a corporate superannuation fund established for the benefit of **Employees** of the **Company**, but excludes an industry, master or self-managed superannuation fund.

Tax Adviser means:

- (a) an accountant who is a member of a nationally recognised accounting body; or
- (b) a registered tax agent, being a tax agent registered with the Tax Practitioners Board; or
- (c) any other professional person or consultant engaged by or at the recommendation of the person referred to in paragraph (a) or (b).

Tax Adviser does not mean an **Employee, Officer, Director** or the **Company**.

Tax Adviser Fees means reasonable and necessary fees, costs and disbursements incurred in connection with a **Tax Audit** that are payable by the **Company** to its **Tax Adviser** for work undertaken in connection with a **Tax Audit** but does not mean or include fees, costs and disbursements which:

- (a) form part of an annual or fixed fee or costs 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.

Tax Audit means the audit of a **Return** by the Australian Tax Office (ATO) or a **Record Keeping Audit**.

Third Party means any natural person other than any **Insured**.

United States of America means the United States of America and its territories and protectorates.

Workplace Health and Safety Expenses means the necessary and reasonable costs, charges and expenses (other than regular or overtime wages, salaries, fees or **Benefits** of an **Insured Person**) of an **Insured**, incurred with the **Insurer's** prior consent, in preparing for, attending and being represented at any official investigation, examination or inquiry (other than the **Company's** own internal investigation) held under the auspices of workplace health and safety law pursuant to a workplace safety incident.

Provided that the notice of the investigation, examination or inquiry is first received by the **Insured** and notified to the **Insurer** during the **Policy Period**.

Workplace Health and Safety Expenses does not mean **Representation Expenses**.

End of wording

Notices

These notices do not form part of the Policy.

Your duty of disclosure

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

You have this duty until we agree to insure you.

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

You do not need to tell us anything that:

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

If you do not tell us something

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

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

Claims made and notified basis of cover

Some sections of this Management 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 the 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.

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.

This 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 policyholder.

Preservation of rights of recovery

This policy contains a provision that has the effect of excluding or limiting the Insurer's 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.

Subrogation waiver

This policy contains a provision that has the effect of excluding or limiting the Insurer's 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.

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 Australian Financial Complaints Authority or any other external dispute resolution body;
- ▼ credit reporting agencies;
- ▼ other insurers, reinsurers, insurance investigators and claims or insurance reference services, loss assessors, financiers;
- ▼ legal and any other professional advisers or consultants;
- ▼ hospitals and, medical, health or wellbeing professionals;
- ▼ debt collection agencies;
- ▼ any other organisation or person, where you've asked them to provide your personal information to us or asked us to obtain personal information from them, eg your mother.

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

Overseas disclosure

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

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

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

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

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

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

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

Contact us

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

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

General Insurance Code of Practice

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

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

Complaints resolution

We are committed to:

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

If you have a complaint concerning this product or our services, please tell the people who provided your initial service or you can contact us by:

- ▼ Telephone: 1800 689 762
- ▼ Mail: Reply Paid 1453 Customer Relations Unit RE058,
GPO Box 1453 Brisbane QLD 4001 or
- ▼ Email: customer.relations@suncorp.com.au

What we will do to resolve your complaint

When you first let us know about your complaint or concern, we will review your complaint, consider the facts and attempt to resolve your complaint by the end of the next working day.

If we cannot resolve your complaint to your satisfaction within 5 working days we will contact you to agree reasonable alternative time frames.

We will endeavour to send you our final decision within 15 working days from the date you first made your complaint provided we have all necessary information and have completed any investigations required. If you are still unsatisfied with the final outcome at your request we can refer your complaint to our Internal Dispute Resolution (IDR) team. Our IDR team will review your dispute, and respond to the dispute within 15 working days of your complaint being referred to them provided they receive all necessary information and have completed any investigation required.

What if you are not satisfied with our final IDR 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 that you may pursue.

